



AGENCY: City Council
MEETING DATE: August 13, 2018
DEPARTMENT: City Manager
PRESENTED BY: Tabatha Miller
EMAIL ADDRESS: tmiller@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Conduct Public Hearing No. 3 Regarding the City's Intention to Transition from At-Large to District-Based City Councilmember Elections

ISSUE:

On July 9, 2018, the City Council adopted Resolution No. 4109-2018 declaring its intent to transition from at-large to district-based elections for City Councilmembers. That action was consistent with the "Safe Harbor" provision set forth in Section 10010 of the California Elections Code. Section 10010 bars the potential plaintiff, Coast Committee for Responsive Representation (Committee), from commencing a legal action under the California Voting Rights Act (CVRA) against the City, for 90 days after the Resolution was adopted. Section 10010 also outlines the additional steps required for a jurisdiction to cap the potential plaintiff's legal fees at \$30,000 by implementing district-based elections within 90 days of adopting the intent resolution.

Under the Safe Harbor provision, before drawing maps or proposing boundaries for districts, a jurisdiction must hold at least two public hearings over a period of no more than 30 days. The purpose of those hearings is to invite the public to provide input on the maps and the proposed sequence of elections. The first of these two hearings was held on July 23, 2018. This is the second public hearing for input on the maps and the proposed sequence of elections, prior to drawing maps.

ANALYSIS:

Adoption of Resolution No. 4109-2018 was prompted by Attorney Jacob Patterson alleging, on behalf of the Committee, that the City's current at-large election system violates the CVRA. Preliminary evidence gathered by the City does not indicate that racially polarized voting exists in Fort Bragg.

However, no jurisdiction has successfully defended a CVRA lawsuit and those jurisdictions have had to pay not only their own legal fees but also plaintiff's legal fees and costs. Only two cities have fully litigated CVRA lawsuits and only Modesto argued the merits of the claims, so the case law is limited and there is no blue print for a successful defense. The protection offered from those fees under the "Safe Harbor" provision persuaded Fort Bragg to follow the vast majority of jurisdictions facing CVRA claims and opt to initiate the process to "voluntarily" adopt a district-based election system.

The City currently uses an at-large election system with a rotating mayor. Voters choose each of the five Councilmembers and the Councilmembers choose the mayor amongst themselves. Elections are held every other even numbered year. Three seats are selected in one election cycle and two seats in the next election cycle. In a by-district election system, the City is divided up into five geographic districts with approximately equal population and one Councilmember is elected by the registered voters in that particular district. District voters cast one vote every four years. Typically, district-based election systems work better in larger cities with distinct neighborhoods and individual district needs and issues. By-district election systems are the only form of election immune from a CVRA challenge.

The purpose of this public hearing is to inform the public about the districting process and hear from the public on what factors should be taken into consideration in creating new voting districts.

District Parameters

In considering public input on how the district boundaries should be drawn, there is certain legal criterion that needs to be observed:

1. Each council district needs to be made up of nearly equal population. Fort Bragg's estimated population is 7,273. Thus, each district needs to contain approximately 1,455 residents,
2. Districting must be drawn to comply with the Federal Voting Rights Act and the Equal Protection Clause of the U.S. Constitution, and
3. Districts cannot be drawn with race as the predominate factor.

Other criteria that have and may be used include:

1. Communities of interest, such as neighborhood boundaries, retail/commercial districts, voting precincts, or shared demographic characteristics (similar levels of income or education)
2. Topographical and geographical boundaries, such as major roads, highways, creeks, rivers, railroad lines, and hills or valleys
3. Cohesiveness, contiguity, integrity, and compactness of territory
4. Future Growth. Note that if the City transitions to district-based elections, the districts will require updating after the next census data is published in 2021.

The purpose of this public hearing is to inform the public about districting and hear from members of the public, especially City residents, on what factors they believe should be taken into consideration when creating new voting districts.

At the July 23rd public hearing, a few members of the public addressed the Council. The general theme was not support but resignation on the issue of districting elections. Input regarding how to draw the district maps was limited to the suggestion to have the boundary lines run west to east, so that each district would include a portion of the Mill Site and a portion of Highway 1.

Alternative Voting Systems

Several members of the public individually or representing groups such as Californians for Electoral Reform, have discussed alternatives to at-large or by-district elections. As a general law city, Fort Bragg is limited to the following election systems:

1. At-large, where voters of the entire city elect all members of the council (the current election system for Fort Bragg),
2. From-district, where each councilmember is elected by voters from the entire city, but the city is divided into districts and each councilmember is from a different district, or
3. By-District, where a city is divided into districts and one councilmember is elected by only the registered voters in that particular district. This is the only form of election that is immunized from a CVRA challenge. As an alternative to this type of election system, the mayor may be elected at-large and one district is eliminated, but this alternative is not immune from a CVRA challenge.

In order to implement an alternative voting system, such as cumulative voting or ranked choice voting, the City would need to convert to a Charter City and this would require City voter approval. This is an election that must coincide with City Councilmember elections. August 10 was the last day to submit a measure to the County for the November 6, 2018 ballot.

Mr. Patterson, in response to a question by the Mayor, has indicated support by his committee for an alternative form of voting system but will not agree to withdrawal his letter, even if the Council commits to evaluating and considering alternative election systems.

RECOMMENDED ACTION:

Conduct Public Hearing and take input on the drawing of the district maps and boundaries, and sequencing of elections. No additional City Council action is necessary.

ALTERNATIVE ACTION(S):

1. Do not hold a public hearing, and/or
2. Make a motion to revoke Resolution No. 4109-2018, which sets forth the City's intent to transition from at-large elections for City Council to district-based elections for City Council.

FISCAL IMPACT:

Staff estimates that a demographer will cost between \$40,000 and \$50,000 to complete preliminary analysis and to prepare draft district maps and assist with public input. Potential plaintiff's legal fees and costs are capped at \$30,000, if the City meets the safe harbor provision requirements. City attorney's fees are estimated at \$20,000, if the safe harbor provision is selected. If the City elects not to implement district-based elections per the safe harbor provision and the City is sued, attorneys' fees for both City representation and potential plaintiffs' fees could potentially reach hundreds of thousands of dollars. Funds of \$200,000 have been set aside in the City's Litigation Reserve.

CONSISTENCY:

N/A

IMPLEMENTATION/TIMEFRAMES:

The estimated time table for implementing a district-based election system within the parameter of the safe harbor provision is outlined below:

No.	Task	Date/Timeline	Notes
1	Revised Patterson Letter of 5/24/18 Received	May 25, 2018	
2	City Council Closed Session	June 25, 2018	
3	Council Meeting to Adopt Resolution / Public Hearing #1	July 9, 2018	Before Map(s) Drawn – EC 10010(a)(l)
4	Council Meeting / Public Hearing #2	July 23, 2018	Before Map(s) Drawn – EC 10010(a)(l). Within 30 days of Public Hearing #1
5	Council Meeting / Public Hearing #3	August 13, 2018	Within 30 days of Public Hearing #2
6	Publish Draft Map(s) and Sequencing	August 31, 2018	EC 10010(a)(2).

		(September 3, 2018 is a holiday)	Published Once at Least 7 Days Prior to Public Hearing #4
7	Council Meeting / Public Hearing #4	September 10, 2018	After Map(s) and Sequencing Published, EC 10010(a)(2), More than 7 Days After Draft Map(s) and Sequencing Publication
8	Council Meeting / Public Hearing #5 – Introduction / First Reading of Ordinance	September 24, 2018	After Map(s) and Sequencing Published, EC 10010(a)(2), within 45 days of Public Hearing #4
9	Council Meeting – Adoption / Second Reading of Ordinance	October 1, 2018 <i>Special Meeting</i>	
10	Ordinance Effective 30 Days After Adoption	October 31, 2018	
11	Councilmembers Transition to Representing their Respective Districts via Ordinance	November 2020 (or sooner if special election)	

ATTACHMENTS:

1. Notice of Public Hearing No. 3

NOTIFICATION:

Jacob Patterson