

SUPPLEMENTAL REPORTS & COMMUNICATIONS II
Office of the City Clerk

City Council of the City of Napa
Special Meeting

March 4, 2020

FOR THE CITY COUNCIL OF THE CITY OF NAPA:

EVENING SESSION:

3. PUBLIC HEARINGS/APPEALS:

3.A. Transition to District-Based Elections for Councilmembers.

- Written communication from Robert Van Der Velde received on March 4, 2020 titled "Statement to Napa City Council on Districting".

Statement to Napa City Council on Districting

Robert J. Van Der Velde [REDACTED]

March 4, 2020

Mayor and Council,

This is to follow up on my remarks to the February 11, 2020 City Council hearing on districting. This is a topic I have followed closely ever since writing my first law review article more than 35 years ago.¹

Following your February 11th meeting, I continued to do some research regarding creating municipal districts in California and elsewhere, particularly regarding tools for ordinary citizens to help with this process. I came across Metric Geometry and Gerrymandering Group (MGGG)², a Boston-based organization whose mission includes building open-source tools and resources to create public access and analytical tools for districting. Led by Professors Moon Duchin of Tufts University and Justin Solomon of MIT, and with support from the Jonathan M. Tisch College of Civic Life at Tufts University and the Lawyers' Committee for Civil Rights Under Law, they created "DistrictR", a simple web-based tool to allow users to create their own districting proposals. At my request, the brilliant Professor Duchin graciously added Napa 2010 census data to the tool in just one day, and this tool is now publicly available for free at <http://districtr.org/new/CA>.

Napa is not MGGG's first foray into California. In Ladonna Yumori Kaku v. City of Santa Clara plaintiffs contended that at-large elections violated the California Voting Rights Act, citing that Santa Clara had never elected an Asian City Council member despite the fact that nearly 40% of the population is Asian. MGGG analyzed Santa Clara election results as well as several proposed remedies, ultimately recommending development of a transferable vote system where voters would rank their choices and if no one candidate gets a majority, the final selection takes into account second choices and beyond, as is used in San Francisco, Oakland, and Berkeley elections.³ The Santa Clara Superior Court concluded⁴ in May 2018 that Santa Clara's at-large voting for City Council violated the CVRA and ordered establishment of six Council districts for the November 2018 election, notably not including the ranked-choice transferable vote system.

In November 2018, Measure N was adopted to establish a public process to amend the Santa Clara City Charter, a process ending in the March 2, 2020 primary where Santa Clara voters were asked to vote on Measure C, to establish six districts for one council member each, and then in 2022 to establish three

¹ Robert J. Van Der Velde, "One Person, One Vote, Round III: Legal Challenges to the 1980 Redistricting", 34 Cleveland St. L. Rev. 569 (1984).

² www.mggg.org

³ Metric Geometry and Gerrymandering Group, "Study of voting systems for Santa Clara, CA" (February 2018) available at <https://mggg.org/SantaClara.pdf> (visited March 1, 2020)

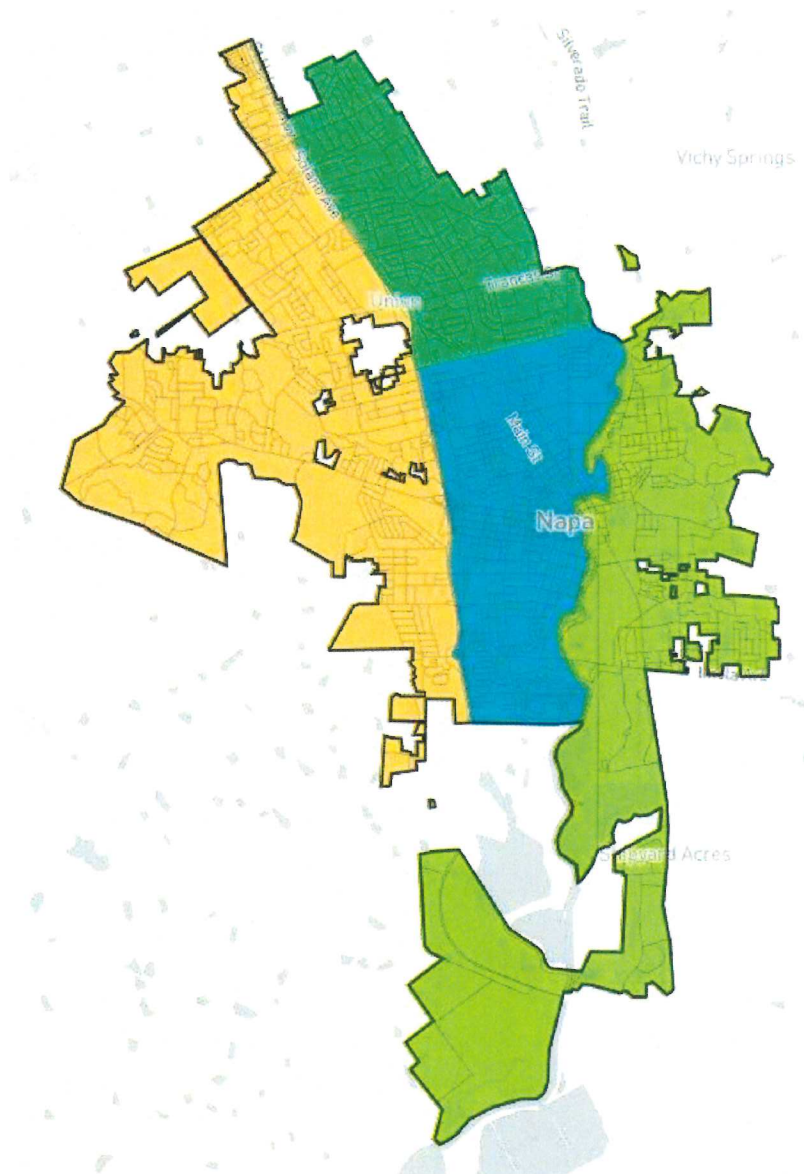
⁴ The Proposed Statement of Decision in the Santa Clara case is available at <https://assets.documentcloud.org/documents/4464238/Santa-Clara-Court-Rules-City-Violated-CVRA.pdf> (visited February 29, 2020)

districts with two members each, to be created by an Independent Districting Committee.⁵ Results of that election are not available as of this writing.

Sample Napa Maps

The DistrictR tool is a relatively simple way to create four City Council districts for Napa and analyze the size and racial/ethnic breakdown of proposed districts, using 2010 Census blocks. Map 1 below uses major geographic features as boundaries: one district west of Highway 29, one district east of the Napa River and Soscol Avenue, and the two districts in between divided by Pueblo Avenue.

Map 1: Major Geographic Feature Boundaries



⁵ City of Santa Clara, City Clerk's Office, March 3, 2020 Special Election, <https://www.santaclaraca.gov/our-city/departments-a-f/city-clerk-s-office/election-information/march-3-2020-special-election> (visited March 1, 2020).

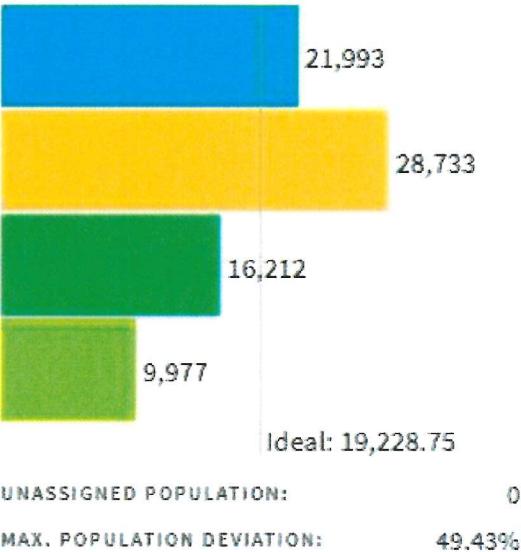
This map is available at <http://districtr.org/edit/2820>. Unfortunately, while the geographic boundaries are well-known and clear, this map creates districts with unconstitutionally large population deviations, with the west-of-29 district more than double the size of the east-of-Soscol district:

Map 1 analysis:

Racial Balance

COMPARE	White population		
WITH	Hispanic population		
AND	Asian population		
	White	Hispanic	Asian
1	48.8%	46.2%	1.9%
2	62.4%	32.7%	1.9%
3	57.8%	36.2%	3.2%
4	59.7%	35.2%	2%
Overall	57.2%	37.6%	2.2%

Population Balance

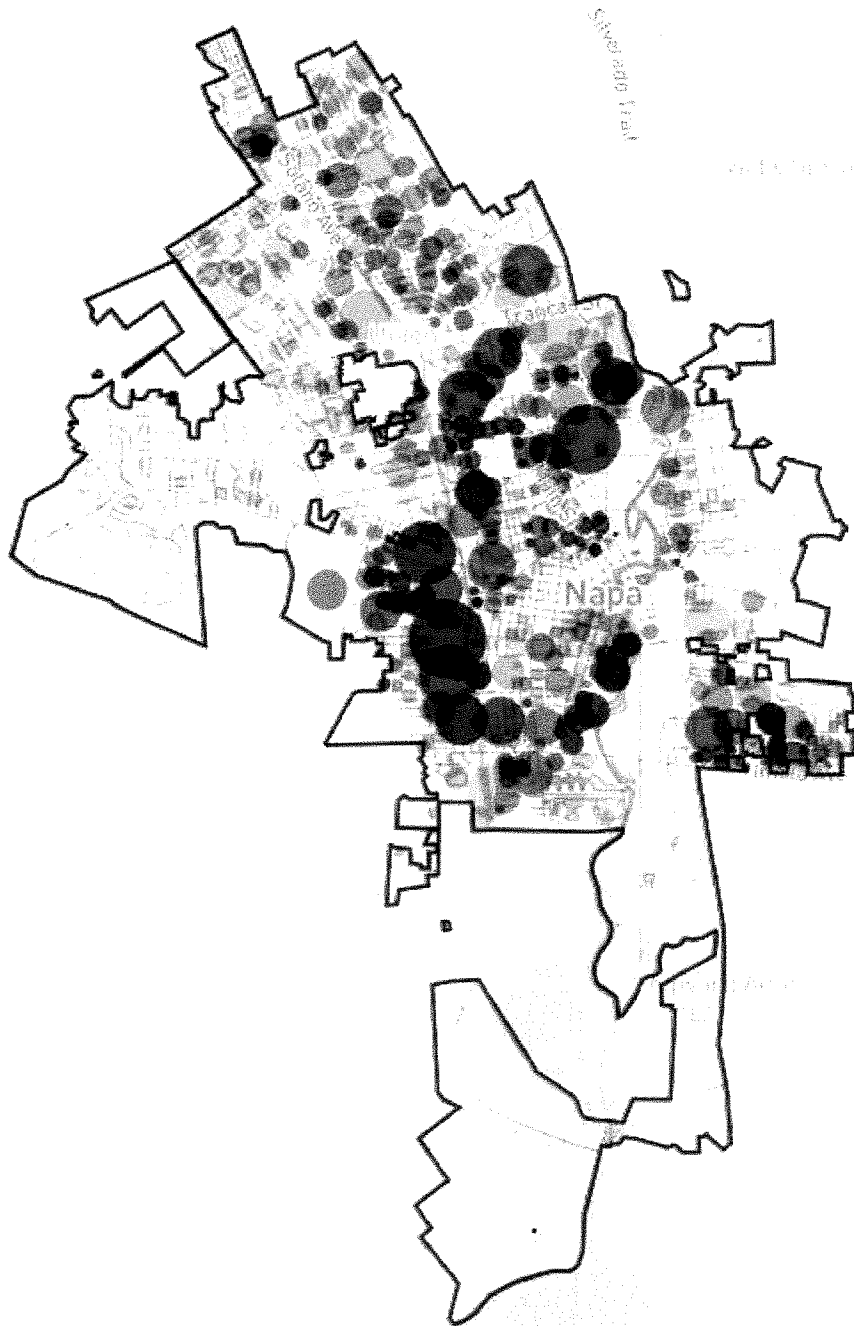


VAP Balance

COMPARE	White voting age populatio		
WITH	Hispanic voting age populatio		
AND	Asian voting age populatio		
	WVAP	HVAP	AVAP
1	55.4%	39.6%	2.2%
2	67.4%	27.7%	2.2%
3	62.8%	31.3%	3.5%
4	65.2%	29.8%	2.2%
Overall	62.7%	32.1%	2.5%

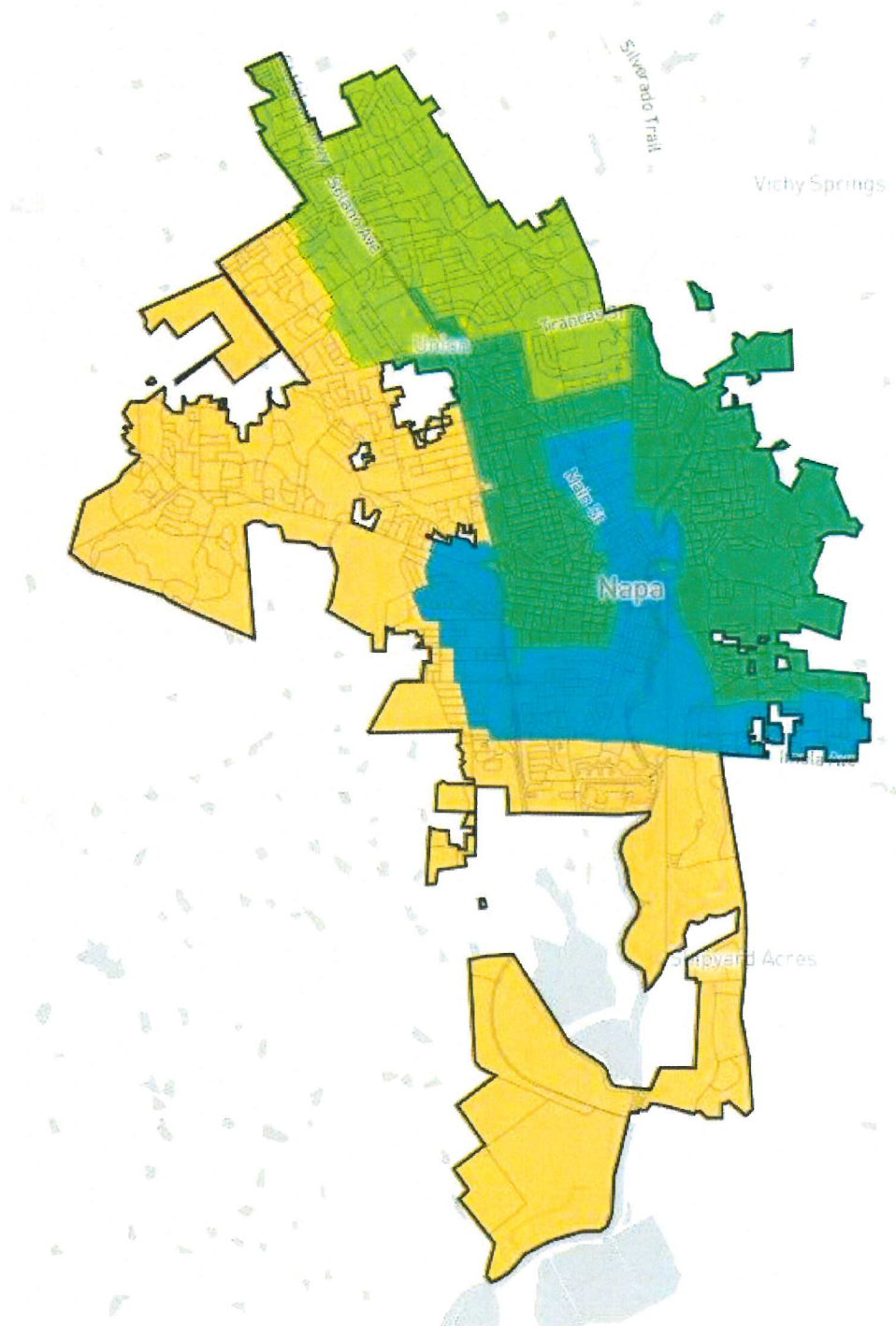
The DistrictR tool also allows the user to display population density by shaded regions or sized circles for Total Population, White, Hispanic, Asian, Two or More Races, Black, American Indian, Native Hawaiian and Pacific Islander Populations, as well as the Voting Age Population for the Census demographic groups. Map 2 below shows the total Hispanic Population for the City of Napa, with the larger circles showing the largest number of Hispanic residents and the darker circles showing the larger percentages of Hispanic residents.

Map 2: Total Hispanic Population displayed as Sized Circles



Using these circles as a guide, I drew one district linking large areas of Hispanic population, and three remaining districts generally following major streets and geographic boundaries, with some exceptions to achieve population balance and the required contiguity. (This took about 20 minutes.)

Map 3: Proposed Districts with one Hispanic-Majority District



This map achieves near-equality in total population for the four districts, with a population variance of less than 1%. One district achieves a 60.7% Hispanic population and 54% Hispanic Voting Age population. The detailed map is available at <http://distrctr.org/edit/2801>.

Map 3 analysis:

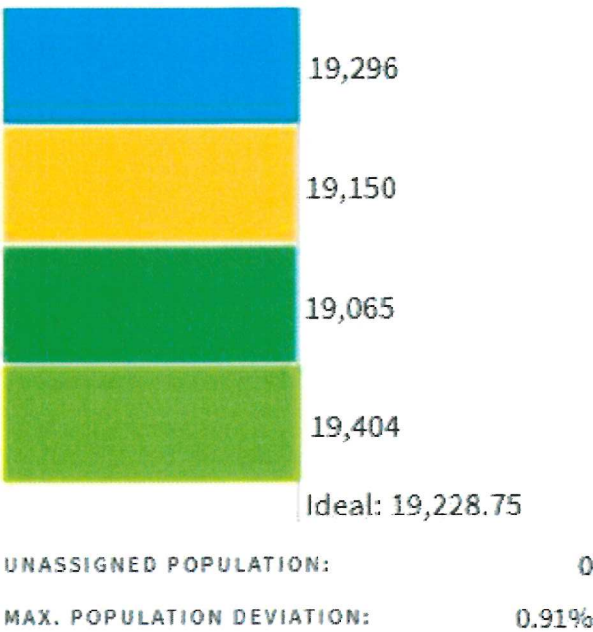
Racial Balance

COMPARE	White population		
WITH	Hispanic population		
AND	Asian population		
	White	Hispanic	Asian
1	35.5%	60.7%	1%
2	74.1%	19.9%	2.6%
3	56.7%	37.8%	2.4%
4	62.4%	31.9%	2.7%
Overall	57.2%	37.6%	2.2%

VAP Balance

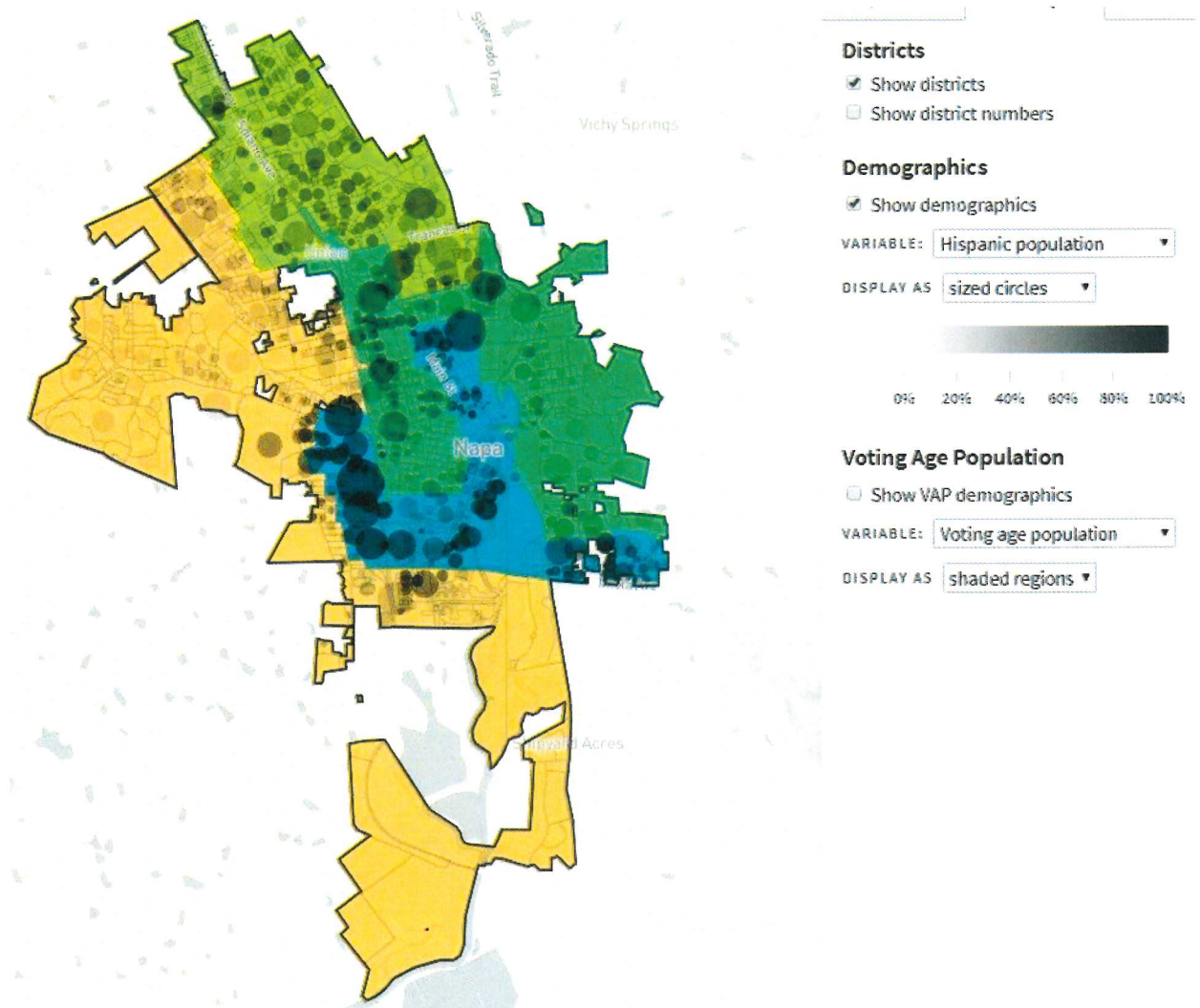
COMPARE	White voting age populatic		
WITH	Hispanic voting age popul:		
AND	Asian voting age populatio		
	WVAP	HVAP	AVAP
1	42%	54%	1.2%
2	77.7%	16.6%	2.8%
3	62.2%	32.4%	2.8%
4	67.2%	27.3%	3%
Overall	62.7%	32.1%	2.5%

Population Balance



Map 4 shows these same districts overlaid on the Total Hispanic Population map:

Map 4: Map 3 Districts with Total Hispanic Population indicated by Sized Circles



Note that these data are from the 2010 Census, where race (e.g. White, Black, etc.) and ethnicity (e.g. Hispanic or Latino) were two different questions.⁶ The DistrictR tool also allows one to examine the demographics of each individual one of the 885 separate census blocks. Because the data herein reflect the City of Napa population of 2010, they do not include the “unincorporated islands” in any of the calculations, nor any areas incorporated since the 2010 Census.

These maps demonstrate that it is entirely possible to create a majority-Hispanic district, using the 2010 Census data, for Napa City Council elections. The DistrictR tool is simple, easy to use, and could be a valuable tool for our community as we tackle this issue. Many thanks to our friends in Massachusetts at Tufts and MIT for this valuable resource.

⁶ See generally, U.S. Census Bureau, “2010 Census Briefs - Overview of Race and Hispanic Origin: 2010”, available at <https://www.census.gov/prod/cen2010/briefs/c2010br-02.pdf> (visited March 1, 2020).

Other Important Issues

There are a few other important issues as we move forward with the transition to district-based elections. You should make clear that the non-expiring 4-yr terms (Alessio and Luros) should continue regardless of in which new district those members live. Your transition plan should address this, and not contravene the intent of the voters that the two newest members here were elected to represent the entire City for a four-year term. It also must be clear what happens if one of the continuing term members decides to seek a new four-year term in one of the 2020 districts. Would there then be a city-wide appointment to a resulting vacancy, or a district appointment? Some may be assuming that the newest members would not be affected by the districting plan, but there are many scenarios that could affect them.

It is probably too late for this round unless petitioners and their attorney agree, but we really should have an independent citizens commission drawing these lines. We are blessed with a very engaged community who are more than capable of performing this important task. California voters followed this principle in enacting Proposition 11, the Voters First Act, and Proposition 20, the Voters First Act of Congress, both of which passed in Napa, resulting in an independent commission being used to redistrict state legislative and congressional seats following each Decennial Census.

The DistrictR tool is like any other tool, it can be used for good as well as for ill. With your home addresses, in minutes district lines could be drawn that would result in equal size districts but with four or five current council members in the same one. This possibility for political mischief is an example of why lines should be drawn by an independent body, and why I agree with petitioners that we should not use precinct data, which in any event aren't as relevant in the vote-by-mail elections that we now have.

You shouldn't get to choose your voters, your voters should choose you. I know this year's process is likely to be less than optimal because of the timeline that has been forced upon us, but make some key decisions now, while you are still in these seats, to set us on the path to do it the right way – an independent way -- for 2022.

Robert J. Van Der Velde
March 4, 2020