

RESOLUTION R2020-__

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, DECLARING THE CITY'S INTENTION TO TRANSITION FROM AT-LARGE ELECTIONS TO DISTRICT-BASED ELECTIONS OF COUNCILMEMBERS; OUTLINING SPECIFIC STEPS TO FACILITATE THE TRANSITION (INCLUDING PUBLIC OUTREACH TO SOLICIT PUBLIC INPUT, AND PUBLIC HEARINGS); AND ESTIMATING A TIMEFRAME FOR THE TRANSITION

WHEREAS, the City Council is comprised of five members of Council, including the directly elected Mayor and four Councilmembers, each of whom are currently elected in at-large elections, in which each member of Council is elected by the registered voters of the entire City; and

WHEREAS, on January 2, 2020, the City received a certified letter from Scott J. Rafferty (an attorney representing the Napa County Progressive Alliance), asserting that the City's at-large Councilmember electoral system violates the California Voting Rights Act ("CVRA"), including some supporting evidence for that assertion, and arguing that litigation will be avoided if the City transitions from an at-large to a district-based system for electing its four Councilmembers (the CVRA is codified at California Elections Code Sections 14025 – 14032); and

WHEREAS, a violation of the CVRA may be established if it is shown that "racially polarized voting" occurs in elections in which the voters of the City vote, and "racially polarized voting" means voting in which there is a difference between: (a) the choice of candidates or other electoral choices that are preferred by voters in a protected class, and (b) the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate (see California Elections Code Sections 14026(e) and 14028); and

WHEREAS, as a charter city, the City has broad constitutional "home rule" authority (under California Constitution Article XI, Section 5, as implemented by City Charter Section 4), which generally includes the authority to adopt ordinances related to the conduct of elections; however, that authority is subject to limitations set forth in the City Charter, and it is subject to limitations established by state statutes that are narrowly drawn to address a "statewide concern"; and

WHEREAS, the CVRA is a matter of statewide concern in that it implements the equal protection and voting rights provisions of California Constitution Article I, Section 7, and Article II, Section 2 by providing a remedy for vote dilution; and the CVRA is narrowly drawn and reasonably related to elimination of dilution of the votes of protected classes (see Jauregui v. City of Palmdale (2014) 226 Cal.App.4th 781, 798-802); and

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WHEREAS, based on the holding in the Palmdale case, notwithstanding the City's home rule authority to adopt ordinances related to the conduct of elections, the City is not authorized to exercise its authority in a manner that is in conflict with the CVRA (e.g., at-large elections that dilute the voting rights of a protected class); and

WHEREAS, California Government Code Section 34886 provides that, notwithstanding any other law, the City Council may adopt an ordinance that requires Councilmembers to be elected in a district-based election system, without being required to submit the ordinance to the voters for approval; and

WHEREAS, based on the holding in the Palmdale case, and California Government Code Section 34886, the City Council is authorized to adopt an ordinance to establish a district-based election system for Councilmembers; and

WHEREAS, the City is committed to diversity and inclusion with respect to its elections and the Council has determined that the public interest is better served by initiating a process for transition to a district-based election system and thereby avoiding the high costs associated with defending a lawsuit under the CVRA; and

WHEREAS, the California Legislature enacted Elections Code Section 10010 to provide a method whereby a jurisdiction can expeditiously transition to a district-based election system and thereby avoid the high cost of litigation under the CVRA if the jurisdiction complies with the "safe harbor" provisions of Elections Code Section 10010; and

WHEREAS, California Elections Code Section 10010 will delay CVRA litigation and place a cap on the recovery of attorneys' fees associated with a CVRA claim at a maximum of \$30,000 (with statutory cost of living adjustments since 2017, based on the Consumer Price Index), if: (a) within forty-five (45) days of receipt of a claim under the CVRA, the City adopts a resolution declaring its intent to transition to district-based elections, and (b) within ninety (90) days thereafter (or as otherwise stipulated by the parties), the City adopts an ordinance transitioning to a district-based election system consistent with the intent and purpose of the CVRA; and

WHEREAS, prior to the City Council's consideration of an ordinance to establish district boundaries for a district-based electoral system, California Elections Code Section 10010 requires Council to do the following:

- A. Prior to drawing a draft map or maps of the proposed boundaries of the districts, the City shall hold at least two (2) public hearings over a period of no more than thirty (30) days, at which the public will be invited to provide input regarding the composition of the districts.
- B. After all draft maps are drawn, at least 7 days before the 3rd public hearing, the City shall publish and make available for release at least one draft map and, if Councilmembers will be elected in their districts at

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different times to provide for staggered terms of office, the potential sequence of the elections shall also be published.

- C. The City Council shall also hold at least two (2) additional hearings over a period of no more than forty-five (45) days, at which the public shall be invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable.
- D. The first version of a draft map shall be published at least seven (7) days before consideration at a hearing. If a draft map is revised at or following a hearing, it shall be published and made available to the public for at least seven (7) days before being adopted.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Napa, as follows:

1. The City Council hereby finds that the facts set forth in the recitals to this Resolution are true and correct, and establish the factual basis for the City Council's adoption of this Resolution.

2. The City Council hereby declares its intent to transition from an at-large election system to a district-based election system for its four Councilmembers, for use in the City's General Municipal Election on November 3, 2020. The City Council hereby declares its intent to maintain the existing process for directly electing the Mayor by all the City voters. The City Council adopts this resolution in accordance with Elections Code Section 10010(e)(3).

3. The City Clerk is directed to: (a) publicize and post information regarding the proposed transition to a district-based election system, including relevant maps, notices, agendas, and other information; and (b) establish a means of communication to receive and respond to comments and questions from the public.

4. The City Council hereby outlines the specific steps the City will undertake to facilitate the transition to district-based elections for Councilmembers, and the estimated timeframe for doing so, as set forth in Exhibit "A," attached hereto and incorporated herein by reference. As set forth in Exhibit "A," the specific steps include conducting public hearings and meetings: (a) to solicit and receive public input and testimony on the composition of proposed district-based electoral maps, and (b) for the City Council to consider public input and testimony, to evaluate and deliberate on proposed district-based electoral maps, including potential refinements, and (c) to adopt an ordinance to establish the district-based electoral map and district-based election system for election of four Councilmembers.

5. The estimated timeframe set forth in Exhibit "A" may be adjusted by the City Manager as he deems necessary or appropriate, provided that such adjustments shall

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not prevent the City from complying with the timeframes specified by Elections Code Section 10010, or such other timeframes as may be stipulated by claimants under the CVRA.

6. This Resolution shall take effect immediately upon its adoption.

I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the City Council of the City of Napa at a public meeting of said City Council held on the 11th day of February, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
Tiffany Carranza
City Clerk

Approved as to form:

Michael W. Barrett
City Attorney

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EXHIBIT A TO RESOLUTION DRAFT TENTATIVE TIMELINE*

Date	Hearing Type	Purpose of Hearing
Tuesday, February 25, 2020	1 st Public Hearing	Public Hearing without maps of proposed district boundaries, to provide information to the public and solicit input from the public and Council on composition of the districts
Tuesday, March 3, 2020	2 nd Public Hearing	Public Hearing without maps of proposed district boundaries, to provide information to the public and solicit input from the public and Council on composition of the districts
Saturday, March 7, 2020	Community Workshop (Public Event)	Public Meeting where Consultant will provide a presentation to the public, and solicit input from the public regarding proposed district boundaries
Tuesday, March 17, 2020	3 rd Public Hearing	Public Hearing with maps of proposed district boundaries produced by the demographer and published seven days in advance, and with a summary of comments received during the Community Workshop, for consideration and feedback by the public and Council
Tuesday, April 7, 2020	4 th Public Hearing	Public Hearing with revised map(s) of proposed district boundaries produced by the demographer and published seven days in advance; consideration of public input regarding the revised map(s), and introduction an ordinance establishing a district-based election system and map of district boundaries for Councilmembers
Tuesday, April 21, 2020	5 th Public Hearing	Public Hearing to adopt an ordinance establishing a district-based election system and map of district boundaries for Councilmembers

****Please note that the above dates will be subject to discussion and potential modification at the February 11, 2020 Special Meeting of the City Council.***