



STAFF REPORT

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TO: Andrew P. Powers, City Manager

FROM: Tracy M. Noonan, City Attorney

DATE: May 9, 2023

SUBJECT: Transition to District Elections - Map Criteria Hearing #1

RECOMMENDATION:

1. Receive report from National Demographics Corporation (NDC) on districting process and permissible criteria to be considered should district boundaries be created.
2. Conduct public hearing to receive public input on district boundaries.
3. Find that this action is not a project as defined in the California Environmental Quality Act.

FINANCIAL IMPACT:

No Additional Funding Requested. Minimal staff time to write the report is included in the Adopted FY 2022-23 General Fund Budget.

BACKGROUND:

The City of Thousand Oaks currently uses an "at-large" election system, in which all voters in the City have the opportunity to vote for candidates for all five seats on the City Council. City Council candidates may reside anywhere in the City, and they each provide citywide representation. A district-based election system is one in which the City is physically divided into voting districts, each with one council member who resides in the district and is chosen by the electors residing in that particular district.

On March 15, 2023, the City received a letter alleging the City's at-large method of electing members of City Council violates the California Voting Rights Act (CVRA/the Act). The letter demanded the City transition to district-based elections or face litigation under the CVRA.

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At the April 4, 2023, City Council meeting, staff presented a variety of options and issues associated with the CVRA challenge to the City's current at-large method of electing members of City Council. After considering all the information and options presented, City Council voted to initiate the transition to district-based elections, authorizing staff to bring back a resolution declaring City Council's intent to transition to districts pursuant to Elections Code Section 10010(e)(3)(A).

On April 25, 2023, City Council adopted Resolution No. 2023-011 (Attachment #1) initiating the process to transition from an at-large election system to a district-based election system. A key reason that the City is proceeding with district-based elections is the threat of significant litigation under the CVRA. Faced with potentially hundreds of thousands, or even millions, of dollars in legal fees and damages (as some cities have experienced), the City decided to voluntarily proceed with transitioning to district-based elections. This allows the City to retain its own ability to determine and adopt an appropriate district map instead of having the risk of a court doing so.

DISCUSSION/ANALYSIS:

The first step in the transition process is to hold two public hearings to invite public input regarding the composition of the City's voting districts before any draft maps are drawn. After these two public hearings are complete, the City Council must hold at least two additional public hearings on the map(s) of the districts themselves. The maps must be publicly available for at least seven days before the public hearing, and if a change is made to the map after the first public hearing, the revised map must be available at least seven days before the districts are adopted by ordinance.

The purpose of the first two public hearings is to inform the public about the districting process and to hear from the community on what factors should be taken into consideration when creating voting district boundaries before any maps are drawn. The public is requested to provide input regarding communities of interest and other local factors that should be considered while drafting district maps. A "community of interest" is a neighborhood or group that would benefit from being in the same district because of shared interests, views, or characteristics. Relationships with political parties, incumbents, or political candidates are not a basis for identifying a community of interest. Possible community features include, but are not limited to:

1. School attendance areas;
2. Natural dividing lines such as major roads, hills, or highways;
3. Areas around parks and other neighborhood landmarks;
4. Common issues, neighborhood activities, or legislative/election concerns;

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and

5. Shared demographic characteristics, such as:
 - a. Similar levels of income, education, or linguistic isolation;
 - b. Languages spoken at home; and
 - c. Single-family and multi-family housing unit areas.

In creating the district boundaries, the City must ensure compliance with the following State- and federally-mandated criteria:

Federal Criteria for Cities:

1. Each council district shall contain a nearly equal population as required by law; and
2. Each council district shall be drawn in a manner that complies with the Federal Voting Rights Act. No council district shall be drawn with race as the predominant factor in violation of the principles established by the United States Supreme Court in *Shaw v. Reno*, 509 U.S. 630 (1993), and its progeny.

California Criteria for Cities:

1. Geographically contiguous;
2. Undivided neighborhoods and "communities of interest" (socio-economic geographic areas that should be kept together);
3. Easily identifiable boundaries; and
4. Compact (do not bypass one group of people to get to a more distant group of people).

Other Traditional Districting Principles:

1. Respect voters' choices / continuity in office; and
2. Future population growth.

Next Steps

At the May 16, 2023, City Council Meeting, the City Council will conduct Public Hearing #2 to seek additional public input and provide direction on criteria to be considered while drafting district maps. Following that hearing, draft district maps and proposed election sequencing will be posted to the dedicated districting website at maptoaks.org and available at City Hall. The first draft maps will be posted no later than June 13, 2023, seven days prior to Public Hearing #3 on June 20, 2023. Revised maps will be posted no later than July 4, 2023, seven days prior to Public Hearing #4 on July 11, 2023. Additional workshops will be held in the community, as detailed on the City's districting website, including a virtual workshop on May 11, 2023.

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Outreach

To engage the community, City staff launched a full marketing campaign. Staff created a dedicated website on the districting process, maptoaks.org, which is currently featured on the City website's home page. Staff has, and will continue to, conduct community outreach via email, print signage, social media, City newsletters, and announcements at City Council Meetings. Public hearing notices are published in the local newspaper: The Ventura County Star. The City also established a specific email address for members of the public wishing to submit feedback via email: districtelections@toaks.org. Additional outreach efforts will continue throughout the districting process. Staff invites the public to spread the message to friends and neighbors to help inform the process.

COUNCIL GOAL COMPLIANCE:

Meets the following City Council goals:

A. Create a more equitable, accessible, safe, welcoming, and inclusive government and community regardless of race, color, ethnicity, religion, sex, physical or mental ability, sexual orientation, gender identity and expression, age, language, education, and/or socio-economic status.

B. Provide municipal government leadership which is open and responsive to residents, and is characterized by ethical behavior, stability, promoting public trust, transparency, confidence in the future, and cooperative interaction among civic leaders, residents, business representatives, and staff, while recognizing and respecting legitimate differences of opinion on critical issues facing the City.

C. Operate City government in a fiscally and managerially responsible and prudent manner to ensure that the City of Thousand Oaks remains one of California's most desirable places to live, work, visit, recreate, and raise a family.

SUBMITTED BY: Laura B. Maguire, City Clerk

Attachments:

Attachment #1 – Resolution No. 2023-011 Resolution of Intention

ATTACHMENT #1

RESOLUTION NO. 2023-011

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF THOUSAND OAKS, CALIFORNIA
DECLARING ITS INTENT TO TRANSITION
FROM AT-LARGE TO DISTRICT-BASED
ELECTIONS PURSUANT TO ELECTIONS CODE
SECTION 10010(e)(3)(A) FOR CITY COUNCIL
ELECTIONS, TO INITIATE PROCEDURES AND
IMPLEMENTATION OF DISTRICT-BASED
ELECTIONS FOR CITY COUNCILMEMBERS

WHEREAS, the City of Thousand Oaks, is a general law city duly organized and existing under and pursuant to the Constitution and laws of the State of California; and

WHEREAS, the five Members of the City Council of the City of Thousand Oaks are currently elected in "at-large" elections, in which each City Councilmember may reside in any part of the City and each City Councilmember is elected by the registered voters of the entire City; and

WHEREAS, the City received a letter on March 15, 2023, from Jason Dominguez, Radcliff Mayes, LLP, asserting that the City's at-large city council electoral system violates the California Voting Rights Act (CVRA) and threatened litigation against the City if it does not convert to district-based elections for Members of the City Council; and

WHEREAS, a violation of the CVRA is established if it can be proven that "racially polarized voting" occurs in elections [Elections Code Section 14028(a)]. Racially polarized voting means voting in which there is a difference in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate [Elections Code Section 14026(e)]; and

WHEREAS, the City Council, without comment on the merits of the claims alleging a CVRA violation, has directed staff to initiate the process to establish district-based elections, as it is in the best interest of the City to move from its current at-large electoral system to a district-based election for Members of the City Council in furtherance of the purposes of the CVRA; and

WHEREAS, Elections Code Section 10010 provides a "safe harbor" and process for expeditiously changing to a district-based election system to avoid the high cost of litigation under the CVRA; and

WHEREAS, City Council moves to make this transition from an at-large election system to a district-based election system in accordance with the procedural rules outlined in Elections Code Section 10010; and

WHEREAS, prior to City Council's approval of a proposal to establish district boundaries for a district-based electoral system, California Elections Code Section 10010 requires all of the following:

1. 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;
2. After all draft maps are drawn, the City shall publish and make available for release at least one draft map and, if Members of the City Council will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections shall also be published. 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. 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; and

WHEREAS, in determining the final sequence of staggered district elections, City Council will give special consideration to the purposes of the CVRA and will take into account the preferences expressed by the members of the districts.

NOW, THEREFORE, the City Council of the City of Thousand Oaks resolves as follows:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. The City Council hereby resolves, pursuant to Elections Code Section 10010, to adopt a district-based election system by ordinance for use in the City's General Municipal Election for City Councilmembers effective November 2024.

SECTION 3. The City has retained a qualified demographer and expert counsel to assist in establishing a district-based electoral system.

SECTION 4. The City's demographic consulting firm, acting under the supervision of the City Attorney, is hereby authorized to direct and formulate one or more electoral district scenarios for review by the public and City Council at two or more public hearings, if necessary, in accordance with the City's proposed timeline.

SECTION 5. The City Council hereby approves the tentative timeline as set forth in Exhibit A, attached to and made a part of this resolution, for conducting a public process to solicit public input and testimony on proposed district-based electoral maps before adopting any such map.

SECTION 6. Working with a demographic consulting firm and a community education and outreach consulting firm, staff is directed to publicize relevant maps, information, notices, agendas, and other materials regarding district-based elections and to establish means of communication to answer questions from the public.

SECTION 7. The City Clerk shall certify as to the passage of this Resolution and cause it to be maintained in the official records of the City.

PASSED AND ADOPTED this 25th day of April, 2023, by the following vote:

Ayes: Councilmembers Engler, Newman, Taylor, Adam, and Mayor McNamee

Noes: None

Absent: None

DocuSigned by:

Kevin McNamee

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Kevin McNamee, Mayor
City of Thousand Oaks, California

ATTEST/CERTIFY:

DocuSigned by:

Laura B. Maguire

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Laura B. Maguire, City Clerk

Date Attested: 4/27/2023

APPROVED AS TO FORM
Office of the City Attorney

DocuSigned by:

David Womack

ECFF0D79C3D94FD...

David Womack, Assistant City Attorney

APPROVED AS TO ADMINISTRATION:

DocuSigned by:


3002472D3E6C49D...

Andrew P. Powers, City Manager

The presence of electronic signature certifies that the foregoing is a true and correct copy as approved by the City of Thousand Oaks City Council on the date cited above.

EXHIBIT A**CVRA DISTRICT PROCESS – DRAFT TIMELINE**

Letter Received by City Clerk Department: March 15, 2023

45-Day Deadline [E.C. 10010(e)(3)(A)]: April 29, 2023

90-Day Deadline [E.C. 10010(e)(3)(B)]: July 24, 2023

No.	Task	Date	Notes
1	City Council Regular Meeting – Item to Introduce Topic	April 4, 2023	Council to provide staff direction on topic; public will have an opportunity to voice their opinion
2	City Council Regular Meeting – Adopt Resolution of Intent	April 25, 2023	E.C. 10010(e)(3)(A) - Must adopt Resolution within 45 days. Starts the 90-day timeline for Public Hearings
3	City Council Regular Meeting I Public Hearing #1 – Introduce Public Engagement Process	May 9, 2023	Before Map(s) Drawn - E.C. 10010(a)(1) - hold two public hearings on composition of districts within 30 days of adopting Resolution. First Public Hearing can be conducted on same night as Adoption of Resolution. <u>During these two Public Hearings NO maps may be released.</u>
4	Public Workshop	May 11, 2023	Community Information meeting with an overview of CVRA, at-large vs. district-based elections, and opportunity for the community to provide input.
5	City Council Regular Meeting I Public Hearing #2 – Public Engagement Process	May TBD, 2023	Before Map(s) Drawn – E.C. 10010(a)(1) - must be held within 30 days of adopting resolution (April 25, 2023). <u>No drawn maps may be released until after this Public Hearing.</u>
6	Public Workshop	June 3, 2023	Community Information meeting with an overview of CVRA, at-large vs. district-based elections, and opportunity for the community to provide input.
7	City Council Regular Meeting I Public Hearing #3 – Public Input	June 20, 2023	After Map(s) and Sequencing Published E.C. 10010(a)(2) - at least 7 Days After Draft Map(s) and Sequencing Publication. Discuss the draft map(s) and proposed sequence of elections.
8	Public Workshop	June 22, 2023	Community Information meeting with opportunity for the community to provide input regarding draft district maps.
9	Public Workshop	June 24, 2023	Community Information meeting with opportunity for the community to provide input regarding draft district maps.
10	City Council Regular Meeting I Public Hearing #4 – Map Approval and Introduction/First Reading of Ordinance	July 11, 2023	After Map(s) and Sequencing Published E.C. 10010(a)(2) - within 45 days of Public Hearing #3. Council adopts a single map / introduces ordinance
11	City Council Regular Meeting – Second Reading of Ordinance; Ordinance Adoption	July 18, 2023	Publish Entire Adopted Ordinance; G.C. 36937 (Election Ordinance Effective Immediately).