



Fremont City Council

3300 Capitol Avenue
Fremont, CA 94538

SCHEDULED

Meeting: 04/18/17 07:00 PM
Div/Dept: City Manager's Office
Category: Presentations

STAFF REPORT (ID # 3047)

Sponsors:
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DISTRICT-BASED ELECTIONS/COMPOSITION OF DISTRICTS - Public Hearing (Published Notice) to receive input from the community regarding boundaries and composition of districts to be established for district based elections pursuant to Elections Code Section 10010

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Executive Summary: On March 21, 2017, the City adopted a resolution of intention to transition from at-large to district-based elections. Pursuant to Elections Code Section 10010, the City is required to hold five (5) public hearings within the allotted 90-day "safe-harbor" framework of AB 350. The public hearings will give the community an opportunity to weigh in on the composition of the districts during the first two (2) public hearings. Subsequently, draft district maps will be drawn and two additional public hearings will be held for the public to provide input regarding the content of the draft maps and the proposed sequence of elections. The final public hearing will be when the Council votes to consider an ordinance establishing district-based elections. Tonight's public meeting is the City's second required hearing.

On April 4, 2017, the first of five (5) public hearings pursuant to Elections Code 10010 was held. Council received public input and discussed the number of potential districts to form and considered a variety of components, elements, and factors that might be considered when composing districts.

Pulling from the public input and Council discussion at that first meeting, the City's consultant team has developed a series of building block maps and additional informative mapping to assist with the continuing conversation about determining the number of districts desired by the community and their placement within the City.

The City's consultant team will be taking into consideration feedback provided at tonight's second public hearing to help guide the formulation of district composition and their potential locations. The remaining required public meetings are scheduled for May 2 and 16, 2017 where draft maps displaying this information will be available for City Council consideration and public input and June 6, 2017 when the Council votes to consider an ordinance establishing district-based elections.

BACKGROUND: On March 21, 2017, the City adopted a resolution of intention to transition from at-large to district-based elections. Pursuant to Elections Code Section 10010, the City is required to hold five (5) public hearings within the allotted 90-day "safe-harbor" framework of AB 350. The public hearings will give the community an opportunity to weigh in on the composition of the districts during the first two (2) public hearings. Subsequently, draft district maps will be drawn and two additional public hearings will be held for the

public to provide input regarding the content of the draft maps and the proposed sequence of elections. The final public hearing will be when the Council votes to consider an ordinance establishing district-based elections. Tonight's public meeting is the City's second required hearing.

The purpose of the first two public meetings is to inform the public about the districting process, present options, and hear from the residents on what factors should be taken into consideration when creating the new voting districts, including the following legally required criteria that apply to the creation of the actual districts:

- Each council district shall contain a nearly equal population;
- A districting plan shall be drawn in a manner that complies with the Federal Voting Rights Act; and
- Each council district shall not be drawn with race as the predominate factor in violation of the principles established by the United States Supreme Court in *Shaw v. Reno*, 509 U.S. 630 (1993).

Additional criteria have been used by other communities when defining districts including topographical and geographical boundaries (major roads, freeways, creeks, railroad lines or other barriers) and communities of interest (school district boundaries, neighborhood boundaries, retail/commercial districts, voting precincts etc.). At this meeting, the public is encouraged to provide further input on other criteria that should be considered. The Council may choose to include some, all, or none of any additional criteria brought forth, or may choose to develop alternative criteria that Council believes are applicable to the City.

Since adoption of the resolution of intent, the City has been engaging in public outreach efforts to help inform the public on district-based elections and the process associated with their formation. A separate webpage to the City's website has been set up to provide information related to district-based elections including opportunities for when and how the public can contribute to the dialog.

DISCUSSION: On April 4, 2017, the first of five (5) public hearings pursuant to Elections Code 10010 was held. Council received public input and discussed the number of potential districts to form and considered a variety of components, elements, and factors that might be considered when composing districts. The City's consultant team consisting of legal and demographic expertise presented six (6) demographic baseline maps including 2010 census data, Fremont's 28 neighborhood districts, Fremont Unified School District attendance boundaries for high school and elementary schools, and general demographic distribution considerations. All maps are available for review on the City's website at www.fremont.gov/districtelections.

Council Questions/Concerns and Public Input

Listed below are questions/comments from the first public meeting on April 4, 2017 raised during the City Council discussion and from public:

Question 1: Can the City form an Independent Commission to draft maps?

The City has hired a consultant team made up of legal counsel and a demographic research firm. Both provide an unbiased and informed perspective and specialize in assisting

communities in assimilating public input and formulating district maps, formulating election sequencing procedure, and drafting ordinances effectively transitioning communities from at-large to district-based election systems. Given the short "safe-harbor" time frame set forth in Elections Code Section 10010, there is not sufficient time to create a separate commission for this task. Members of the public, however, will have a number of opportunities to provide suggestions for drafting and revising maps.

Question 2: What are the costs associated with changing from an at-large to a district-based election system with respect to the 2018 election?

The City Clerk met with the Alameda County Registrar's Office to discuss potential costs associated with transitioning from an at-large to a district-based election system. Costs for elections are generally associated with the number of registered voters. At this point, if the City moves forward with the transition, the Registrar does not anticipate increases. However, communities that utilize rank-choice voting do experience higher costs due to the complexity of administering this type of voting system.

Question 3: What is the process for selecting an election rotation /sequence?

Government Code Sections 34871 and 34886 permit a general law city, either by action of its voters or by ordinance, in some circumstances, to decide whether to conduct elections by- or from districts. Section 34878 permits the City Council to specify transitional provisions resulting in an election rotation or sequencing in the new districts. However, the timing of the City Council's exercise of discretion and the scope of its discretion is limited by other statutory sections. These are the rules:

For each draft redistricting plan, a proposed election sequence must be specified for that plan at the time the plan is published. (Elec. Code § 10010(a).)

No term of office may be cut short. (Gov. Code §34873.)

The City Council may consider the expiration of terms of office in setting the election rotation. (Gov. Code § 34878.)

In determining the final sequence of the district elections, the City Council must give special consideration to the purposes of the California Voting Rights Act. This may require that the election in a district with a majority of voters of a protected class be scheduled in the presidential election year when voter turnout is typically much higher than in the gubernatorial election year. (Elec. Code § 10010(b).)

Finally, the City Council shall take into account the preferences expressed by members of the districts. (Elec. Code § 10010(b).)

If the City Council decides to expand the size of the council to six members and an elected Mayor, there will be more districts (six) than there are current Council Members who would be elected by-district in 2018. It would be advisable to get all seats filled at the earliest election. In other words, four City Council seats (two incumbent seats and two new seats) would be on the ballot in 2018. To maintain an even staggering of the election cycle for the City Council seats, Government Code section 34906 provides a model that can be followed: "[T]he city council may, prior to the first day for circulating nomination papers for the

general municipal election, designate one of the city council offices appearing on the general municipal ballot, other than the office of the mayor, to serve a two-year term.”

Question 4: What have other Cities done in regards to election rotation and sequencing?

Within the rules stated above, there is no uniform approach.

The City of Fullerton has five new districts. For the 2018 election, the ballot included one new district without a resident incumbent and another in which the incumbent decided not to seek re-election in 2018. Two council members are paired in a district that will be on the ballot in 2020, one with a term ending in 2018, and one with a term ending in 2020. The former can run for the district seat, but not until 2020.

The City of Garden Grove expanded its City Council to six members and a Mayor from four council seats and a Mayor. The Council placed four districts on the ballot in 2016, including one with a Latino plurality of voters. One of the seats was designated to have a short term of two years, and will be up for election again in 2020.

The City of Costa Mesa expanded its City Council to six members and a Mayor from five council seats with a rotating mayor selected by council members. The Council placed three districts on the ballot in 2018, when the terms of two of the incumbents expires. The other three seats are scheduled for election in 2020. The Mayor has a two year term.

Question 5: What options are there for determining the Mayor’s position?

General law cities, like Fremont, have two options: 1) a mayor selected by the members of the City Council that rotates among the membership of the council; or 2) a Mayor directly elected by the voters.

The position of Mayor of the City of Fremont as a separately elected office was instituted in 1977. The proposal was placed on the ballot by voter-circulated initiative petition. Voter-circulated initiatives approved by the voters can only be changed by the voters at an election held for that purpose. (Elec. Code § 9217.) For purposes of complying with the California Voting Rights Act in general law cities with at-large election systems, Government Code Section 34886 does away with the requirement of a vote to establish either an electoral system with all the members of the legislative body elected by-district, or by-district with an elective mayor. The City Council may do so by ordinance, notwithstanding Government Code Section 34871 or any other law. There is no authority, however, for eliminating the Office of Mayor instituted by voter initiative pursuant to the constitutional initiative power without a vote of the electorate.

Question 6: Does the Mayor represent a district?

A separately elected mayor does not represent a district, but rather is elected by all the voters and represents the entire City.

Question 7: Is the Mayor Elected “at-large”?

Yes. As a separate office with a single occupant, the office of Mayor is elected by all the voters of Fremont.

Question 8-9: Is a rotational Mayor an option and how would that operate?

Please see response to Question 5 above. A rotational Mayor is not an option for Fremont.

Potential Criteria to Consider and New Mapping Information

The demographers have developed a list of criteria that may be used to guide the drawing of election district boundaries (in addition to the legal requirements). The list was developed using information gathered at the April 4th hearing as well as criteria other jurisdictions have used when drawing election district scenarios. Of course, additional criteria may be suggested. In any case, tradeoffs among the criteria will be required when devising boundaries. The following criteria may serve as guidelines when deciding which subareas of the city to combine in order to form Council districts, and include:

- The City's 28 neighborhoods (possible communities of interest)
- Fremont Unified School District's elementary and high school attendance areas (possible communities of interest)
- The City's nine Business Districts (possible communities of interest)
- U.S. Census Bureau's Census blocks (cannot be split when drawing election district boundaries)
- Alameda County voting precincts (all else being equal, use these boundaries so that the Registrar of Voters will be able to implement the adopted districting plan more easily)

The demographers have used these criteria as guidelines when dividing the City into subareas ("pieces") that can be combined to draft election district scenarios. They also used highways, major roads, creeks, and railroads as (recognizable) boundaries, when possible. The resulting pieces are intended to be somewhat homogeneous with respect to the criteria listed above.

The demographers have created a series of maps (with accompanying data) that show these small subareas of the City. These baseline informational maps and accompanying data are available for review on the City's website at www.fremont.gov/districtelections. The demographers and community members can combine the pieces when devising or modifying election district scenarios, and can use the database to calculate populations of the combined pieces. Upon request, the demographers will reconfigure pieces to help modify scenarios.

Desired Outcomes

Pursuant to Elections Code Section 10010, the next two public meetings are to focus on receiving public input on draft maps. In order to create those maps, it is the goal of this meeting for Council to take action on the following:

1. Determine the number of Districts the demographer should create; and
2. Identify a list of criteria to be given to the demographer to create draft maps for public review and input. Public meetings to receive input are scheduled for May 2 and May 16, 2017 at 7:00 p.m. in the City Hall Council Chambers.
3. Establish criteria for determining election rotation and sequencing.

FISCAL IMPACT: There are no significant fiscal impacts associated with the holding of this public hearing.

ENVIRONMENTAL REVIEW: N/A

RECOMMENDATION: That the City Council:

1. Receive a report from staff concerning the process for obtaining public input on the composition of voting districts for a district-based election process pursuant to Elections Code Section 10010;
2. Open a public hearing and invite members of the public to speak on the issue of how the voting districts should be composed; and
3. Close the public hearing when there is no more input from the public, and direct staff to forward all public comments to (demographic firm), the City's demographics consultant.