



# CITY OF CARSON

## Legislation Text

File #: 2019-733, Version: 1

### Report to Mayor and City Council

Tuesday, September 17, 2019

Special Orders of the Day

#### SUBJECT:

**PUBLIC HEARING NO. 6 RELATED TO CHANGING FROM AN AT-LARGE TO A BY-DISTRICT SYSTEM FOR ELECTION OF CITY COUNCIL MEMBERS, PURSUANT TO THE CALIFORNIA VOTING RIGHTS ACT: CONSIDERATION OF DEMOGRAPHER'S RECOMMENDED MAPS AND REVIEW OF POTENTIAL ELECTION SEQUENCING (CITY COUNCIL)**

#### I. SUMMARY

On May 22, 2018, the City received a letter from Shenkman and Hughes, PC, demanding that the City Council elections transition from the current “at-large” method to “by-district” in order to conform to the California Voting Rights Act (CVRA) of 2001. Shenkman asserts that the City of Carson is in violation of the CVRA because “racially polarized voting” occurs in the city.

A by-district election process means voters within a designated Council electoral district elect one City Council member who must also reside in and be a registered voter of that district. The City of Carson currently elects City Council members through an at-large election process, which means that each voter elects all members of the City Council. The Mayor would continue to be elected at large.

A professional demographer was hired by the City to create proposed district boundaries. A public electronic “participation toolkit” was made available on the City’s website during the public hearing period for the public to draw and submit maps. Residents were able to provide input on boundaries and suggest criteria for creating boundaries. A total of eight (8) submissions were received from members of the public.

#### **Initial Preliminary Map Discussion**

To move from at-large elections to by-district voting the City needed to establish the data necessary to complete the process that meets state and federal requirements for the transition to districts. The City’s demographer prepared the preliminary Council district maps, which were presented in a public hearing at the August 6 City Council meeting and a Special meeting on August 17. Additionally, the City had also received (by the August 17 meeting) six separate submissions from community members who used the Participation

Toolkit posted on the City's web site; those maps were also discussed at the public hearing.

Since August 17 the City has received two additional submissions, which are included in the Exhibits. One submission, Submission 7, was considered "unbalanced" in that the proposer had moved a neighborhood out of one district without realigning the other districts to rebalance the population. The demographer produced Submission 7B, which captures the proposer's recommended change but ends up with balanced districts. The final citizen's map, Submission 8, was received on September 9.

The intent when making the two presentations of the preliminary Council District maps was solicit input on issues the City Council and community felt needed to be prioritized in setting district maps, including the cohesiveness of neighborhoods and communities, other physical and geographic boundaries, and other factors. This was the sort of input that resulted in Submission 7, where the resident of a particular neighborhood pointed out the geographic and practical isolation from the remainder of her proposed district, and the natural relationship instead to the neighborhood to the south.

Otherwise, there was very little specific feedback for the demographer to refine the Draft maps based on community and City Council direction, so there was little information for the demographer to use to amend any of the existing draft maps or prepare new Draft Maps.

## II. RECOMMENDATION

TAKE the following actions:

1. OPEN the public hearing, *and*
2. TAKE public testimony *and*
3. MAKE a recommendation on a preferred Council District Map; *and*
4. MAKE a recommendation on a preferred Council District Election Sequencing Schedule; **and**
5. CONTINUE the public hearing to October 1, 2019 for Introduction of the City Council Districting Ordinance.

### OR

6. CONTINUE the public hearing to October 1, 2019 for discussion of new maps by NDC and further discussion on Council District Election Sequencing Schedule based on NDC maps as well.

## III. ALTERNATIVES

TAKE another action the City Council deems appropriate.

#### **IV. BACKGROUND**

Preliminary maps created by the demographer for discussion purposes have been posted since the beginning of August. The Draft Maps prepared by the demographer were originally exactly that: drafts prepared for discussion purposes. The demographer has offered feedback on the public Submissions and their compliance with both the CVRA and the federal Voting Rights Act. In some cases, the demographer has advised that several of the public Submissions may have issues complying with the Federal Voting Rights Act.

#### **Recommended Maps for Consideration Including Election Sequencing**

Pursuant to Section 10010(a)(2) of the California Elections Code, all of the maps were posted on the City's website by Monday, September 9. The demographer's Draft Maps have not changed since the prior meeting on August 17 and have remained on the City's web site since then.

In addition, this report contains the first discussion about election sequencing, which is required to be discussed along with sequencing maps prior to adoption of the Districting Ordinance. A draft ordinance is included for the Council to review but it would need to be finalized with the selection of a map and the selection of an election sequencing plan before it could be introduced. The proposed date of introduction would be on October 1.

The demographer has considered the elements of the CVRA and the federal Voting Rights Act, and considered any community input on communities of interest and other points as described above. The three draft maps are attached as Exhibit Nos. 1-3, while the nine (eight submissions plus amended No. 7B) citizen submissions are Exhibits 4-12. Also, per the Council's request is a table (Exhibit 13) that links the Exhibit number to the Draft Map or Submission number for easy cross reference. This table now includes the name of the person or organization which submitted the map.

On September 10, 2019, the City Council discussed a number of matters related to the current process of establishing District voting in Carson, including the status of the draft maps and the demographer; the overall timetable for adoption of a Council District Ordinance; the effect of the City of Carson Charter on the adoption of a Council District Ordinance; and, a timetable for bringing the Charter Amendment to the voters in either March, 2020 or November, 2020.

#### **Schedule and Next Steps**

While the Council expressed interest in pushing ahead on the district voting process, most members of the Council expressed a desire to not take an action that directly contravenes the City Charter, at least without being in litigation or ordered by a court to do so. The Council also does not wish to invite litigation solely for the purpose of resolving that question. To that end, the City Council requested the following:

- Timelines for both a March, 2020 election and November, 2020 election to amend the charter (April 8, 2019 City Council Staff Report including an election schedule for March

- 3, 2020 and November 3, 2020 elections, included as Exhibit 14); and
- Steps and timeline in general for Council to take council action to go to district elections via passage of the Ordinance (the Ordinance timeline):
    1. The CVRA requires a minimum of two public hearings during the initial process prior to the drafting of preliminary Council district maps by the City's demographer: the City held three. The first three noticed public hearing on district voting were held on May 21, 2019, June 13, 2019, and June 18, 2019.
    2. The CVRA also requires a minimum of two public hearings during the initial process after draft maps have been published. The City held a public hearing on August 6 and on August 17. This public hearing is the last of the scheduled public hearings after the publication of the preliminary maps. The Demographer's "Draft" maps have now become the "Recommended" maps for the Council to consider, since there was very little specific feedback for the demographer to refine or amend the Draft maps based on community and City Council direction.
    3. This report also contains the first recommendations about election sequencing, which is required to be discussed along with election sequencing maps prior to adoption of the Districting Ordinance. After this meeting when election sequencing is discussed, one more public hearing, on October 1, 2019, will be required to further discuss election sequencing prior to the adoption of a Districting Ordinance.
    4. Therefore, two public hearings will have been conducted after the maps were drawn, and two (this meeting and October 1) will discuss District Election Sequencing relative to the draft maps; after these public hearings the Council may introduce an ordinance for first reading. Pursuant to the language in the law, out of an abundance of caution the City Attorney's Office recommends that the introduction of the Districting Ordinance be conducted as its own separately-noticed public hearing (which may be held on the same night as the final public hearing to discuss sequencing); plus, the second reading adopting the ordinance should also be conducted as a noticed public hearing. These could occur on October 1 and October 15, 2019.
    5. It is also anticipated that a special election may be held in March 2020 for the voters to consider an amendment to the City Charter establishing by-district voting. If adopted by the City Council, the first by-district elections for the City Council would occur in November 2020, with two of the new districts up for election; the other two districts would be up in 2022.
    6. Finally, it is possible that the City Council could choose to place the Charter Amendment on the November 3, 2020 ballot and not adopt the Districting Ordinance until after that election is certified; if that is the case, a new ordinance adoption schedule would need to be produced showing the first district elections in 2022, not 2020.

Additionally, the City Council approved putting the original demographer, Compass Demographics, on “on call” status, and authorized staff to engage NDC Demographers on a limited contract to produce original maps. As of the writing of this report, there is no contract with NDC Demographers and no additional maps have been produced. It is possible additional maps could be available on October 1, but if the Council wants to consider them as part of the process, it may wish to delay or defer any discussion on Election Sequencing unless it can assess the different possible sequences against actual district maps.

It should be noted, however, that the placing of a Charter amendment on either ballot can proceed independently of the adoption of the Council Districting Ordinance, but to some degree not the other way around, i.e. for the Council to consider taking action on the Districting Ordinance without first bringing a Charter amendment to the voters would violate the City Charter. As to whether or not such an action would be endorsed by the courts either in or in anticipation of a CVRA lawsuit is not an appropriate discussion for this staff report.

### **Summary of the Three Demographer-Produced Maps**

#### *Demographer’s Draft 1*

District 1 extends from the northern boundary of the City to (east to west) a line drawn from just south of Anderson Park and generally westerly along Turmont Street, crossing Avalon Boulevard at the southern edge of Victoria Golf Course, then southeasterly along the 405 Freeway to 213<sup>th</sup> Street, then westerly to Main Street, north to Torrance Boulevard, then west to the City limits. Major features in the district are Cal State University, the Dignity Health Sports Park, Victoria Golf Course, the Porsche Experience, and the 157 Acre project. There is one incumbent Councilmember in this district (term expires 2020).

District 2 is south of District 1 but entirely north of the 405 Freeway, which forms the southern and western boundary. The district extends to the eastern city limits. Major features in the district are the South Bay Pavilion and the Shell Terminal. There is two incumbent Councilmembers in this district (one term expires 2020, one term expires in 2022).

District 3 forms the entire southern tier of the City, following the 405 Freeway from the eastern city limits to Lucerne, then along 223<sup>rd</sup> Street to Dolores, then along 228<sup>th</sup> Street to the western city limits. District 3 has the Albertson’s/Home Depot Shopping Center, the Marathon Oil and Phillips 66 refineries, and the Sanitation District facility. There are no incumbents in this district.

District 4 forms the western edge of the city in its central area, from 228<sup>th</sup> Street to Torrance Boulevard, then following Main Street southbound to 213<sup>th</sup> Street, following 213<sup>th</sup> Street to the 405 Freeway, which forms its northeastern boundary. It is entirely south of the 405 Freeway and contains City Hall and the Civic Center, the Carson Street Master Plan area, Carson High School, and Carson Town Center. There is one incumbent Councilmember in this district (term expires 2022).

### *Demographer's Draft 2*

District 1 extends from the northern boundary of the City to University Avenue and then south generally along the Annalee Avenue alignment to Turmont Street and generally westerly along Turmont Street, turning south at Avalon Boulevard to Carson Street, then westerly along Carson Street, then north along Main Street to Torrance Boulevard, then westerly to the City limits. Major features in the district are Cal State University, the Dignity Health Sports Park, Victoria Golf Course, the Porsche Experience, and the 157 Acre project. There is one incumbent Councilmember in this district (term expires 2020).

District 2 is south of District 1 but entirely north of the 405 Freeway, which forms its southern and western boundary. Its northern boundary is University Avenue and its western boundary is irregularly along the Annalee Avenue alignment to Dominguez Street, west to Chico Street and then south to the 405 Freeway, following the freeway to the eastern city limits. Major features in the district are the Shell Terminal. There is one incumbent Councilmember in this district (term expires 2020).

District 3 is a southeastern district, with a community along Avalon that extends north of the 405 Freeway and includes the South Bay Pavilion and a small part of the residential neighborhood immediately north of it. This district is the southeastern portion of the City and is separate by District 4 by Main Street and Dolores Street up to 223<sup>rd</sup> Street, where the boundary turns east to Avalon Boulevard to Turmont Street and then south again to 405 Freeway to the eastern city limits. District 3 has City Hall and the Civic Center, the South Bay Pavilion, Albertson's/Home Depot Shopping Center, and the Marathon Oil and Phillips 66 refineries. There is one incumbent Councilmember in this district (term expires 2022).

District 4 forms the western edge of the city in its central area, from Lomita Boulevard to Torrance Boulevard, then following Main Street southbound to 213<sup>th</sup> Street, following 213<sup>th</sup> Street to Avalon Boulevard to 223<sup>rd</sup> Street, then west to Dolores Street, then west on 234<sup>th</sup> Street to Main Street, then south again to Lomita Boulevard. It is entirely south of the 405 Freeway and contains some of the Carson Street Master Plan area, Carson High School, Carson Town Center and the Sanitation District facility. There is one incumbent Councilmember in this district (term expires 2022).

### *Demographer's Draft 3*

District 1 extends from the northern boundary of the City to University Avenue and then south generally along the Annalee Avenue alignment to Turmont Street and generally westerly along Turmont Street, and along the southern edge of Victoria Golf Course to the 405 Freeway, then south to the eastern edge of the 157 acre project, then irregularly south and west to Carson Street, then west to the western the City limits. Major features in the district are Cal State University, the Dignity Health Sports Park, Victoria Golf Course, the Porsche Experience, and the 157 Acre project, some of the Carson Street Master Plan area, and Carson Town Center. There is one incumbent Councilmember in this district (term expires 2020).

District 2 is south of District 1 but entirely north of the 405 Freeway, which forms its southern and western boundary. Its northern boundary is University Avenue and its western boundary is irregularly along the Annalee Avenue alignment to Dominguez Street, west to Chico Street and then south to the 405 Freeway, following the freeway to the eastern city limits. Major features in the district are the Shell Terminal. There is one incumbent Councilmember in this district (term expires 2020).

District 3 forms the entire southern tier of the City, following the 405 Freeway from the eastern city limits to Lucerne, then along 223<sup>rd</sup> Street to Dolores, then along 228<sup>th</sup> Street to the western city limits. District 3 has the Albertson's/Home Depot Shopping Center, the Marathon Oil and Phillips 66 refineries, and the Sanitation District facility. There are no incumbents in this district.

District 4 forms the western edge of the city in its central area, from 228<sup>th</sup> Street to Carson Street, then east to Dolores Street and then irregularly north and east to the intersection of the 157 acre project and the 405 Freeway, then following the freeway northwesterly to Del Amo Boulevard, and continuing eastbound at the southern edge of the Victoria Golf Course, crossing Avalon Boulevard and continuing east along Turmont to Annalee, then irregularly south to Dominguez Street, west to Chico Street and south on Chico Street to the 405 Freeway, following the 405 Freeway southeast to Lucerne, then on Lucerne to 223<sup>rd</sup> Street. The District contains City Hall and the Civic Center, some of the Carson Street Master Plan area, Carson High School, and the South Bay Pavilion. There is two incumbent Councilmembers in this district (both terms expire 2022).

### **Election Sequencing Under a Districting Ordinance**

All current Councilmembers were elected in or prior to November 2018, to four-year terms prior to the any adoption of a District Map or sequencing plan and will still serve their original four-year terms.

None of the incumbents are automatically assigned as the representative of the district in which they live - they remain "at large" incumbents for the rest of their terms. If an incumbent wants to run for reelection, they would then have to run in their district for the district seat when that seat is sequenced for an election. More details on how election sequencing occurs is in the section below:

#### **A. Operation of Hypothetical Districting Ordinance**

To illustrate implementation of a districting ordinance, the following discussion is based on a hypothetical ordinance whereby the City switches to a four district system with an at-large elected Mayor, with the first election under the new districting ordinance to take place in 2020. Note that the City remains exposed to liability under the CVRA if the 2020 election remains an at-large election. However, an ordinance that changes the City's electoral system to districts by 2020 would be a strong affirmative defense to any such lawsuit. The argument would be the City acted as fast as it reasonably could in the context of the 2020 election is rapidly approaching as of the date of this report.

The districting ordinance in this hypothetical would establish four districts, of as equal in population to each other as possible. All of the Demographer's Drafts described in the

previous section meet these criteria. Each district would then have a current Council seat assigned to the district. For example, seats 1, 2, 3 and 4 (with the Mayor as the 5th seat) would each be assigned to one of the four new districts. The hypothetical discussion does not factor in the Mayor's seat, which is up for re-election in 2020.

The new districting ordinance will apply when one of these council seats is up for regular reelection (i.e., because the four year term is to expire). Two council seats are up for election in 2020. Under the hypothetical districting ordinance, the entire electorate would not vote for Council in 2020. Instead, only voters in a district with one of the two seats up for election would vote. Each set of voters for each district would vote only for candidates registered to vote in their respective districts. To file nomination papers for a Council seat, the candidate would need to be registered to vote from the district assigned to the Council seat.

Upon the conclusion of the first election in 2020 under the new ordinance, the Council would then have two councilmembers elected from districts, and the position of Mayor would have been on the ballot for an at-large election. Meanwhile, the two "holdover" councilmembers elected at-large in 2018 would retain their seats until the second election in 2022 under the new system. When that second election occurs in 2022, then the remaining two council seats (elected in 2018) would be up for election through their respective districts in the same manner.

#### B. Two Current Councilmembers Assigned to Same District

When the four districts (from the hypothetical above) are drawn, there is the possibility that two (or more) incumbent councilmembers will end up being residents of the same district, which is assigned for election either in 2020 or 2022. However, if the councilmembers are on different cycles (one up in 2020, one up in 2022) only one of the incumbent councilmembers will have his/her seat assigned to that district. If that happens, then both the incumbents could run in 2020 - even though one of those councilmembers running in the 2020 election actually has a term that ends in 2022. This is because both incumbents qualify to run from that district because of residency in that district.

If the councilmember running with a current term that ends in 2022 wins a district seat in 2020, then there would be a vacancy in that councilmember's old at-large seat (which would the Councilmember would not have resided in). That now-vacant seat would be filled by appointment or special election, until it is filled under a subsequent district election in 2022. (Government Code §§ 36512(b), 34902(a).)

If that councilmember (whose term expires in 2022) does not win election from his/her newly assigned district in the 2020 elections, he/she would serve out the term for their "old" at-large seat until it expires in 2022. However, he/she would be ineligible to run for reelection for that old seat in 2022, when the new districting ordinance applies because the Councilmember (in this example) does not actually live in the district assigned to his/her current council seat.

That councilmember would then need to wait two years to run for Council in 2024, when the seat assigned to the district he/she lives in then comes up for election.



In the Demographer's Drafts, there are two districts among the three maps that contain more than one incumbent: Draft 1, District 2 contains two incumbents, one with a term ending in 2020 and one with a term ending in 2022. Draft 3, District 4 also contains two incumbents: both terms end in 2022.

### C. Recommendations on Election Sequencing

The recommended election sequencing would depend on the map selected by the City Council and whether the map creates "open" districts (with no incumbent), which would drive part of the recommendation. If the Council wants to consider additional maps, this discussion would need to continue to the next meeting or when maps are available.

The first step is to assign a Seat number to each Councilmember. For the purpose of these recommendations, the following seat numbers have been assigned:

- Seat 1 Councilmember Jawane Hilton
- Seat 2 Mayor Pro Tem Cedric Hicks
- Seat 3 Councilmember Lula Davis-Holmes
- Seat 4 Councilmember Jim Dear
- Seat 5 Mayor Albert Robles

Seat 5 is listed but is not a factor in the discussion of districts, as the Mayor's seat will remain at-large. The recommendations shown below include the district number and in parentheses, the Seat number of the incumbent and the date their term ends.

#### *Demographer's Draft 1 Map with Recommended Election Sequencing*

1. 2020 Election: District 1 (Seat 1, 2020) and District 2 (Seat 2, 2020) and (Seat 3, 2022 lives in the District but is currently elected at-large and assigned to District 3)
2. 2022 Election: District 3 (Seat 3, 2022 assigned to this district) and District 4 (Seat 4)

Electoral impacts: In the 2020 election, Seat 2 is up for reelection but Seat 3 remains at large until 2022, but is assigned to a district the Seat 3 incumbent does not live in. Both incumbents living in District 2 could run in 2020 because both incumbents qualify to run from District 2 because of residency in that district.

If Seat 3, 2022 wins the district seat in 2020, then there would be a vacancy in District 3, the Seat 3 incumbent's old at-large seat (which the Councilmember would not have resided in). That now-vacant seat would be filled by appointment or special election, until it is filled under a subsequent district election in 2022.

If the Councilmember in Seat 3 (2022) does not run or win election in the 2020 District 2 elections, the Seat 3 incumbent would serve out the term for the "old" at-large seat until it expires in 2022. However, the Councilmember would be ineligible to run for reelection for District 3 in 2022, when the new districting ordinance applies, because the

Councilmember would not actually live in District 3, assigned to the council Seat 3.

*Demographer's Draft 2 Map with Recommended Election Sequencing*

1. 2020 Election: District 1 (Seat 1, 2020) and District 2 (Seat 2, 2020)
2. 2022 Election: District 3 (Seat 3, 2022 assigned to this district) and District 4 (Seat 4)

Electoral impacts: In the 2020 election, both Seat 1 and Seat 2 are up for reelection. Seat 3 and Seat 4 remain at large until 2022. Each District has its own Councilmember, so the election sequencing can be staggered to conduct the elections in line with the expiration of the current terms.

*Demographer's Draft 3 Map with Recommended Election Sequencing*

1. 2020 Election: District 1 (Seat 1, 2020) and District 2 (Seat 2, 2020)
2. 2022 Election: District 3 (Seat 3, 2022 assigned to this district) and District 4 (Seat 4) and (Seat 3, 2022 lives in the District but is at-large)

Electoral impacts: In the 2020 election, Seat 1 and Seat 2 are up for reelection and District 1 and District 2 are recommended for that date. Seat 3 and Seat 4 remain at large until 2022, but both incumbents live in District 4 and would both need to run for the same position. This also creates an open seat in District 3, the Seat 3 Councilmember's old at-large seat.

**V. FISCAL IMPACT**

There is no fiscal impact at this point from consideration of district voting.

**VI. EXHIBITS**

1. Demographer's Draft Map No. 1 (pg. 12)
2. Demographer's Draft Map No. 2 (pg. 13)
3. Demographer's Draft Map No. 3 (pg. 14)
4. Submission Map No. 1 (pg. 15)
5. Submission Map No. 2 (pg. 16)
6. Submission Map No. 3 (pg. 17)
7. Submission Map No. 4 (pg. 18)
8. Submission Map No. 5 (pg. 19)
9. Submission Map No. 6 (pg. 20)
10. Submission Map No. 7 (pg. 21)

11. Submission Map No. 7A (edited) (pg. 22)
12. Submission Map No. 8 (pg. 23)
13. Index of Exhibits (pgs. 24-25)
14. April 8, 2019 City Council Staff Report on Election Schedules (pgs. 26-29)

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