



CITY OF CARSON

Legislation Text

File #: 2019-1026, Version: 1

Report to Mayor and City Council

Tuesday, November 19, 2019

Special Orders of the Day

SUBJECT:

CONTINUED PUBLIC HEARING (PUBLIC HEARING NO. 10) 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 NDC DEMOGRAPHICS' RECOMMENDED MAPS A, B, AND C; REVIEW OF POTENTIAL ELECTION SEQUENCING OF NEW MAPS; DISCUSSION OF SCHEDULED PUBLIC WORKSHOPS; AND, CONSIDERATION OF RESOLUTION NUMBER 19-179 CALLING FOR A SPECIAL ELECTION AND REQUESTING ELECTION CONSOLIDATION, RESOLUTION NUMBER 19-180 SETTING PRIORITIES FOR WRITTEN ARGUMENTS AND REQUESTING IMPARTIAL ANALYSIS, AND RESOLUTION NUMBER 19-181 AUTHORIZING REBUTTALS REGARDING A BALLOT MEASURE RELATING TO AN AMENDMENT OF THE CITY CHARTER TO CHANGE THE REQUIREMENTS FOR THE ELECTION OF CITY COUNCILMEMBERS FROM AT LARGE TO DISTRICT ELECTIONS

I. SUMMARY

This public hearing is a continuation of the November 5, 2019 public hearing and the recommendation will be to continue the public hearing after discussion to December 3, 2019 to be able to consider additional maps created by NDC Demographics ("NDC"), and any additional maps created by the public using the Public Participation Kits on the City's website.

Tonight, the City Council may consider the three additional maps created by NDC (Exhibits 1-3) and may also revisit the maps created by the original demographer, Compass Demographics (Exhibits 4-7). Additionally, Council discussed election sequencing in October and November 5 ("election sequencing" refers to deciding which districts stand for election in 2020 and which stand for election in 2022) and may have further discussion of potential election sequencing of the new maps. (Exhibit 8)

Before the council are several necessary resolutions for possibly calling a special election in March for a charter amendment to put the question of whether the City should change from an at large to district elections to the voters. Staff, however, cautions the Council that Section 111 of the City Charter provides that proposed amendments to the City Charter must go to the voters at a statewide general election. March 3, 2020 is not a statewide

general election. An argument can be made that state law may allow for proposed City Charter amendments to go to the voters at a primary election if the amendments solely concern state voting rights. Staff recommends that if Council is inclined to hold an election on this issue, that the election be held at a statewide general election.

II. **RECOMMENDATION**

TAKE the following actions:

1. OPEN the public hearing, *and*
 2. TAKE public testimony, *and*
 3. PROVIDE direction to Staff on the new maps from NDC Demographics along with potential election sequencing;
 4. CONSIDER the progress of the off-site public workshops;
 5. CONSIDER RESOLUTION NUMBER 19-179, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, CALLING FOR THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, MARCH 3, 2020, FOR THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A CERTAIN MEASURE RELATING TO AN AMENDMENT OF THE CITY CHARTER TO CHANGE REQUIREMENTS FOR THE ELECTION OF CITY COUNCILMEMBERS FROM AT LARGE TO DISTRICT ELECTIONS;
 6. CONSIDER RESOLUTION NUMBER 19-180, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENT(S) AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS REGARDING THE MEASURE RELATING TO AN AMENDMENT OF THE CITY CHARTER TO CHANGE THE REQUIREMENTS FOR THE ELECTION OF CITY COUNCILMEMBERS FROM AT LARGE TO DISTRICT ELECTIONS
 7. CONSIDER RESOLUTION NUMBER 19-181, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS REGARDING THE MEASURE RELATING TO AN AMENDMENT OF THE CITY CHARTER TO CHANGE THE REQUIREMENTS FOR THE ELECTION OF CITY COUNCILMEMBERS FROM AT LARGE TO DISTRICT ELECTIONS
- and*
8. CONTINUE the public hearing to December 3, 2019 for consideration of any new maps produced by NDC, the previous maps produced by Compass Demographics, and any other new citizens' maps, and further discussion on Council District Election Sequencing Schedule based on the Compass Demographics and NDC maps.

III. **ALTERNATIVES**

TAKE another action the City Council deems appropriate.

IV. BACKGROUND

On May 22, 2018, the City received a letter from Shenkman and Hughes, PC, (“Shenkman”) demanding that the City Council elections transition from the current “at-large” method to “by-district” 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.

The City received formal notice Shenkman sued on behalf of the Southwest Voter Registration and Education Project on October 7, 2019. Now that litigation has been filed, it has its own calendar with milestone dates, of which the City needs to be mindful. A discussion of such dates may be provided by the City Attorney.

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, meaning each voter elects all members of the City Council. The Mayor would continue to be elected at large.

Compass Demographics was hired by the City in May, 2019 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 ten (10) submissions were received from members of the public by September 2019 from community members who used the Participation Toolkit posted on the City’s web site; those maps were also discussed as they were received, at several public hearings. One map was received prior to the November 5 erasing district boundaries and recommending remaining at-large; and one map was received too late to have been posted on the City’s website for 7 days prior to this meeting, and will be presented on December 3.

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’s draft district maps were presented at the August 6 meeting, a Special meeting on August 17, and on September 17. The intent when making presentations of the preliminary Council District maps is to solicit input on issues the City Council and community feel needed to be prioritized in setting district maps, including the cohesiveness of neighborhoods and communities, other physical and geographic boundaries, and other factors.

The City hired a second demographer, NDC Demographics, who held several scoping meetings with the City, and prepared an Enhanced Participation Kit. NDC has prepared three maps (NDC Map A, NDC Map B, and NDC Map C) for this public hearing. No additional maps have been produced by Compass Demographics since the October 1 public hearing.

With additional maps, the City Council has asked that Staff organize additional public

workshops, similar to the August 17 public hearing held at the Community Center, to be held at various parks throughout the City. Those meetings began on November 13.

Recommended Maps for Consideration Including Election Sequencing

Pursuant to Section 10010(a)(2) of the California Elections Code, all six of these maps were posted on the City's website by October 29. Compass Demographics' Draft Maps have not changed since September 17 and have remained on the City's web site since then. The NDC Maps were first presented on November 5. This report contains additional discussion about election sequencing, which is required to be discussed along with sequencing maps prior to adoption of the Districting Ordinance. A draft ordinance will be included at a future City Council meeting for the Council to review, but it would need to be finalized after the selection of a map and the selection of an election sequencing plan before it could be introduced.

For convenience, four Compass Demographics Draft maps (Draft 1, Draft 2, Draft 3 and Draft 1T) are attached as Exhibit Nos. 4-7, while the three NDC Maps are Exhibits 1-3. Three of the Compass maps have been recolored to be consistent with the new NDC Maps. Exhibit No. 8 is a revised matrix called "Matrix of Council Seats Shown by District in All Proposed Maps" to be used when discussing potential election sequencing.

Schedule and Next Steps

While the Council has expressed interest in moving ahead on the district voting process, many members of the Council have 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 City Council requested the following:

- Timelines for both a March 2020 election and November 2020 election to amend the charter; 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 hearings 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, August 17, and September 17. The September 17 public hearing was the first of the scheduled public hearings to discuss election sequencing. Election sequencing was also discussed in October and November 5. New maps have been produced by NDC, and the City still has Compass Demographics' "Draft" maps to consider. NDC's maps do not supplant the original maps but are additional maps for the Council's consideration.

3. Therefore, two public hearings have been conducted after the maps were drawn (August 6 and August 17), and four (September 17, October 1, October 15 and this meeting) will have discussed election sequencing relative to the draft maps; after this public hearing the Council may introduce an ordinance for first reading at any time. Pursuant to the language in the law, the introduction of the Districting Ordinance should be conducted as its own separately-noticed public hearing; plus, the second reading adopting the ordinance should also be conducted as a noticed public hearing.
4. It is also anticipated that a special election may be held in March or November 2020 for the voters to consider an amendment to the City Charter to change the requirements for the election of City councilmembers from at large to district elections. 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.

With the additional maps from NDC, the Council has asked for additional public workshops throughout the community, similar to the August 17 public hearing held at the Community Center, though even more informal and interactive. Three workshops have been conducted so far, facilitated by Staff. Several more are scheduled in November and December.

Last, these dates and milestones are independent of any litigation milestones. As discussed above, now that litigation has been filed, the lawsuit will have its own calendar and milestone dates, such as status conferences, motions and discovery deadlines, and the City would need to be mindful of these. It is possible that the litigation will proceed more quickly than the ballot amendment schedule, which the City will need to consider as well. Further discussion of such dates may be provided by the City Attorney.

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 election sequencing plan and would 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 are provided in the section below:

A. Operation of Hypothetical Districting Ordinance

To illustrate implementation of a districting ordinance, the following discussion is based on an 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. An

ordinance that changes the City's electoral system to districts by 2020 should be a strong affirmative defense to the CVRA lawsuit. The City's argument is it has acted as fast as it reasonably could in the context of the 2020 election.

The districting ordinance would establish four districts, 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 Mayor's at large seat 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 a districting ordinance, the entire electorate would not vote for Council in 2020. Instead, only voters in the two district's electing council members would vote. The voters in each district would vote only for candidates who reside in and are registered to vote in their respective districts. To file nomination papers for a Council seat, the candidate would need to be registered to vote in 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 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 under the new system, in 2022. When that second election occurs in 2022, 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 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. That now-vacant seat would be filled by appointment or special election, until it is filled through 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 Compass Demographics' 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. See Exhibit No. 8 for the Matrix of overlapping district seats.

In the three NDC Demographics Maps, each of the maps has one district with more than one Council member. Map A and Map B both contain a district with two incumbents on different election cycles, and Map C places both incumbents up for re-election in 2020 in the same district. Different from Compass Demographics, NDC Demographics only makes an election sequencing recommendation for one district in each cycle in Maps A and B, while the other district could be either/or District 1 or 3.

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. This discussion will continue to the next meeting.

A Summary of all the proposed maps and the effects on election sequencing is included in Exhibit No. 8, the Matrix of Council Seats Shown by District in Demographer-Produced Maps. It shows how each of the public submissions organizes the incumbents within the districts, and where incumbents end up in the demographer produced maps. The matrix only shows recommendations for election sequencing in the demographer-produced maps and not the public submissions. A similar analysis will need to be done for each new map produced.

To summarize, the actions Council needs to consider at this meeting, are as follows:

1. Open the public hearing, take public testimony, and at the end of the discussion, continue the public hearing to December 3, 2019 for consideration of the maps produced by NDC and any other new citizens' maps, and further discussion on Council District Election Sequencing Schedule based on the Compass Demographics maps and the NDC maps as well.
2. Consider the ballot language for a proposed Charter amendment to be presented to the voters on March 3, 2020. The ballot language would need to be adopted by the City Council by the first Council meeting in December in order to make the March 3 ballot.

Requirements for Charter Amendment Ballot Measure at March 3, 2020 Special Election

On November 6, 2018, the voters of the City of Carson approved the adoption of a City Charter for the City of Carson, and Section 301 of the Carson Charter provides that councilmembers must be elected "at large."

State law provides the authority (Article XI of the California Constitution; Title 4, Division 2, Chapter 2 of the Government Code (commencing at §34450); and Division 9, Chapter 3, Article 3 (commencing at § 9255) of the Elections Code of the State of California) for the City Council to submit to the voters a proposed charter amendment to change the mandate in Section 301 of the Carson Charter that councilmember elections must be "at large" to "by district."

Additionally, California Elections Code section 1415 provides that the City Council may direct that a “charter proposal that proposes to amend a charter solely to comply with a court injunction or consent decree or with federal or state voting rights laws” be “submitted to the voters ... at any established statewide primary election...” March 3, 2020 is a statewide primary election. However, an argument may be made that state law may allow for proposed City Charter amendments to go to the voters at a primary election if the amendments solely concern state voting rights. This amendment concerns compliance with the California Voting Rights Act.

Multiple resolutions need to be passed to place the proposed ballot measure to amend the City Charter to change requirements for the election of City councilmembers from at large to district elections before the voters at a March 3, 2020 special election.

First, the Council adopts a resolution calling for the special election and requesting consolidation of the election with the County election (Exhibit No. 9). The resolution calling for the special election contains the text of the proposed City Charter amendment to be considered for adoption by the voters. (Exhibit No. 10)

The Council also adopts a resolution to set priorities for written arguments pro and con on the ballot measure (with priority to the City Council to ensure the City prepares the pro argument), and which directs the City Attorney to prepare an impartial analysis of the ballot measure. (Exhibit No. 11)

Finally, the Council has the option of adopting a resolution authorizing rebuttal arguments. (Exhibit No. 12)

For a number of reasons, it is desirable that said Special Municipal Election be consolidated with the Statewide Primary Election to be held on the same date and that within the City of Carson the precincts, polling places and election officers of the two elections be the same, and that the County Election Department of the County of Los Angeles canvass the returns of the Special Municipal Election and that the election be held in all respects as if there were only one election.

V. FISCAL IMPACT

There will be an additional budget impact for the consolidated special election.

VI. EXHIBITS

1. NDC Demographics Map A (pgs. 10-11)
2. NDC Demographics Map B (pgs. 12-13)
3. NDC Demographics Map C (pgs. 14-15)
4. Compass Demographics Draft Map No. 1 (pgs. 16-17)
5. Compass Demographics Draft Map No. 2 (pgs. 18-19)
6. Compass Demographics Draft Map No. 3 (pg. 20)
7. Compass Demographics Draft Map No. 1T (pgs. 21-22)
8. Matrix of Council Seats Shown by District in Demographer-Produced Maps (pgs. 23-24)

9. RESOLUTION NUMBER 19-179, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, CALLING FOR THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, MARCH 3, 2020, FOR THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A CERTAIN MEASURE RELATING TO AN AMENDMENT OF THE CITY CHARTER TO CHANGE REQUIREMENTS FOR THE ELECTION OF CITY COUNCILMEMBERS FROM AT LARGE TO DISTRICT ELECTIONS (p. 25-29)

10. AMENDMENT TO THE CHARTER OF THE CITY OF CARSON TO CHANGE THE REQUIREMENTS FOR THE ELECTION OF COUNCILMEMBERS FROM AT LARGE TO DISTRICT ELECTIONS (p. 30)

11. RESOLUTION NUMBER 19-180, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENT(S) AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS REGARDING THE MEASURE RELATING TO AN AMENDMENT OF THE CITY CHARTER TO CHANGE THE REQUIREMENTS FOR THE ELECTION OF CITY COUNCILMEMBERS FROM AT LARGE TO DISTRICT ELECTIONS (p. 31-32)

12. RESOLUTION NUMBER 19-181, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS REGARDING THE MEASURE RELATING TO AN AMENDMENT OF THE CITY CHARTER TO CHANGE THE REQUIREMENTS FOR THE ELECTION OF CITY COUNCILMEMBERS FROM AT LARGE TO DISTRICT ELECTIONS (p. 33-34)

13. COMMUNITY MEETINGS IN CARSON RELATED TO DISTRICT VOTING (p. 35)

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