

November 25, 2019

Item No:

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of December 3, 2019

**CITY COUNCIL TO HOLD A PUBLIC HEARING TO CONSIDER
DRAFT DISTRICT BOUNDARY MAP 109c AND THE INTRODUCTION
OF AN ORDINANCE ESTABLISHING A BY-DISTRICT ELECTION
PROCESS IN FOUR COUNCIL DISTRICTS**

REQUEST:

It is requested that the City Council consider:

1. Holding a public hearing to receive public comment concerning Draft Map 109c prepared by the City's demographer and the sequence of elections for Council seats; and
2. Approving Resolution No. 2019-.,. introducing an ordinance establishing a By-District Election process and election sequencing in four Council Districts according to "Map 109c".

BACKGROUND:

The City received letters asserting the City's at-large electoral system violates the California Voting Rights Act (CVRA), and threatening litigation if the City declined to adopt a resolution of its intent to transition to district-based elections. The letters assert that the City of Marina's present at-large method of conducting elections has resulted in vote dilution for residents of protected classes, as defined in the CVRA, and has denied them effective representation and participation in elections for members of the Marina City Council. The City does not necessarily agree with the assertion but has taken this item under advisement with legal counsel and reviewed its options.

In response to a threat of potential CVRA litigation, one option is to defend the lawsuit, which comes at a significant cost; furthermore, no public agency has ever prevailed in defending a CVRA lawsuit. In the end, these agencies have either voluntarily implemented district-based election through a negotiated settlement or been forced to do so by a court order. A second option in response to a CVRA challenge is to voluntarily transition to district elections.

On September 4, 2019, the City Council adopted a resolution declaring its intent to initiate proceedings to transition the City from at-large to district-based Council Member elections pursuant to Elections Code Section 10010 and Government Code Section 34886 (RES-2017-13). In approving this resolution, the City is now in a "safe harbor" in which the transition to district-based elections can be completed without further threat of litigation.

The City of Marina currently has an at-large election system, which means that the electors for the entire City choose each of the four Council Members, and a directly elected Mayor. A district-based election is one in which the city is geographically divided into separate districts, each with one Council Member who resides in the district and is chosen by the electors residing in that particular district. The City Charter currently provides for the office of Mayor to be

directly elected at large and therefore it would require a vote of the people to change the method established by the City Charter by which the Mayor is selected. Elections Code (Sec. 34886 and Sec. 34872) provides that a city can have an at-large elected mayor while having council members elected by districts.

Pursuant to Elections Code Section 10010, the City Council is required to hold at least five public hearings in connection with the establishment of electoral districts, before the Council moves to consider an ordinance to transition the City to district-based elections. 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 while creating district boundaries. On September 17th and October 1st, the City Council held the first two public hearings to invite public input regarding the composition of the City's voting districts.

Following the initial two public hearings, the City Council must also hold at least two public hearings to discuss draft maps of proposed districts themselves. These final two hearings were held on November 5th and November 19th. This final public hearing will concern the adoption of the final district map and introduction of an Ordinance establishing a By-District Election process and election sequencing in four Council Districts.

The complete schedule of Public Hearings to be held in this process to create City Council Districts, includes the following dates:

- ~~September 17 – Educational Presentation 1 to discuss data and receive Council and public input~~
- ~~October 1 – Educational Presentation 2 to discuss data and receive Council and public input~~
- ~~November 5 – Draft Map Presentation 1 for Council and public input~~
- ~~November 19 – Draft Map Presentation 2 for Council and public input~~
- December 3 – Council to consider an Ordinance adopting the final district maps

ANALYSIS:

The City has retained the services of National Demographics Corporation (NDC) to assist in the creation of City Council District boundaries for voter consideration on the November 2020 ballot.

Until November 7th, the City solicited district maps prepared by residents to supplement the draft boundary maps prepared by NDC. To facilitate this input, map drawing tools were made available on the City's District Elections webpage and two outreach events were held: one at the Fire Prevention Open Housing on October 8th and one at the Marina Public Library on October 16th. Additionally, the outreach communications have taken place via the City's social media accounts, website, direct email Newsflash announcements, City Council meeting announcements, and newspaper ads. Furthermore, there have been four public hearings to date that have been televised and which have served to further inform the public and sought public input.

The first draft boundary maps were released on October 29, 2019 by NDC. These maps were posted seven days in advance of the public hearing at www.cityofmarina.org/933/District-

Elections. The Council considered these maps and directed staff and NDC to make certain modifications to draft maps 104, 109 and 110.

The second draft boundary maps were released on November 11, 2019, by NDC. These maps were also posted seven days in advance of this public hearing at www.cityofmarina.org/933/District-Elections. The second draft maps consist of draft maps 104b, 109b, 110b, 111, 112, 113, 112b, and 113b. The Council considered these maps and directed staff and NDC to make modifications to draft map 109b that includes adding 100 total people to District 2 as depicted on draft map 109b.

In response to the City Council's direction at the November 19th public hearing, NDC has prepared draft map 109c (**Exhibit "A"**) which is the result of adding 100 total people to District 2 on draft map 109b. Draft map 109c has also been prepared in accordance with law including the following:

- Each Council District shall contain a nearly equal population as required by law.
- Council District boundaries shall be drawn in a manner that complies with the Federal Voting Rights Act and avoids racial gerrymandering.
- Council Districts shall consist of contiguous territory in as compact form as possible.
- Council Districts shall respect communities of interest as much as possible.
- Council Districts shall follow visible natural and man-made geographical and topographical features as much as possible.
- District borders shall be designed, insofar as this does not conflict with Federal or State law, to provide for an orderly transition to a district-based system as existing incumbent terms naturally expire.

NDC's draft Map 109c creates four City Council Districts, with the Mayor continuing to be elected at large. As the statistics indicate in Exhibit "A", draft map 109c is population balanced and well balanced across all protected classes. Draft Map 109c has been available to the public since November 25, 2019 at www.cityofmarina.org/933/District-Elections.

Proposed Ordinance

The attached Ordinance proposes to amend MMC Chapter 2.06 "Municipal Elections." The amendments include establishing a By-district electoral system for four City Councilmembers with the Mayor separately elected. Beginning with the general municipal election in November 2020, councilmembers shall be elected in the electoral districts whose boundaries and district numbers are reflected on the adopted map (**Exhibit "A"** to the draft Ordinance, proposed as Map 109c). Councilmembers must live in the district they represent and if there is a change in residency by a Councilmember to an address outside of the district they are elected to represent, the Councilmember must immediately vacate their seat unless they are able to reestablish an address in the district within 30-days. Each of the councilmembers in office at the time this Chapter takes effect shall continue in office until the expiration of the full term to which he or she was elected and until his or her successor is qualified. Election sequencing is proposed as follows:

- A. Councilmembers shall be elected in Council Districts 2 and 3 beginning at the General Municipal Election in November 2020, and every four years thereafter.

B. The Councilmembers from Council Districts 1 and 4 shall be elected beginning at the General Municipal Election in November 2022, and every four years thereafter.”

Options

The City Council has the following options to consider on this matter:

1. Hold a public hearing and approve resolution adopting the Ordinance establishing electoral districts and an election sequence according to map “Map 109c”.
2. Hold a public hearing and direct staff to take alternative actions. It should be noted that since April 16, 2018 is the final day to adopt the ordinance in compliance with the statutory timeline established by Elections Code section 10010, deferring final adoption of the ordinance beyond tonight’s meeting will expose the City to the possibility of a lawsuit filed by claimant.

ENVIRONMENTAL DETERMINATION:

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines sections 15320, 15378 and 15061(B)(3) as it is an organizational structure change and does not have the potential to result in either a direct or reasonably foreseeable indirect physical change in the environment.

COUNCIL PRIORITIES

At the March 2019 City Council retreat, the council identified a number of priorities. This item does not address any of the established priorities.

FISCAL IMPACT:

On September 4, 2019, the City Council approved a contract with National Demographics Corporation (NDC) for a not-to-exceed amount of \$36,625. Should the Council chose to approve the resolution introducing an ordinance establishing a By-District Election process and election sequencing in four Council Districts according to “Map 109c”, the total NDC contract cost will be \$24,000.

It is also anticipated that the claimant will seek the statutory maximum of \$30,000 for costs of bringing the matter before the City.

Finally, staff anticipates that the City’s November 2020 election costs will almost certainly be higher than in past elections, since the costs are calculated based upon the number of distinct contests in the election. Once a district-based election system is established, there will be a separate contest in each of two City Council districts rather than just one contest for all open City Council seats as has occurred in the past under the City’s at-large election system.

CONCLUSION:

It is recommended that the City Council a hold a public hearing, take public comment, and take the desired course of action.

Respectfully submitted,

Matt Mogensen
Assistant City Manager
City of Marina

REVIEWED/CONCUR:

Layne P. Long
City Manager
City of Marina

RESOLUTION NO. 2019-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA, TO HOLD A PUBLIC HEARING TO CONSIDER DRAFT DISTRICT BOUNDARY MAP 109c AND THE ADOPTION OF AN ORDINANCE ESTABLISHING A BY-DISTRICT ELECTION PROCESS IN FOUR COUNCIL DISTRICTS

WHEREAS, the City of Marina currently has an at-large election system and a directly elected Mayor; and,

WHEREAS, on September 4, 2019, the City Council adopted a resolution declaring its intent to initiate proceedings to transition the City from at-large to district-based elections for members of the City Council pursuant to Elections Code Section 10010 and Government Code Section 34886 (RES-2017-13); and,

WHEREAS, the district-based election will geographically divide the City into four separate districts, each with one Council Member who resides in the district and is chosen by the electors residing in that particular district; and,

WHEREAS, the office of the Mayor would still be elected at large; and,

WHEREAS, the City has provided public notice of the five mandated public hearings required prior to the adoption of a final district map; and,

WHEREAS, the purpose of the first two public hearings was to inform the public about the districting process and to hear from the community on what factors should be taken into consideration while creating district boundaries to; and,

WHEREAS, on September 17th and October 1st, the City Council held the first two public hearings to invite public input regarding the composition of City voting districts; and,

WHEREAS, the purpose of the final two public hearings was to discuss draft maps of proposed districts; and,

WHEREAS, on November 1, 2019 and November 19, 2019, the City Council held two public hearings to invite public input and to consider the establishment of district boundaries; and,

WHEREAS, the City Council has chosen draft map 109c as the district-based map creating four council districts in the City of Marina (**Exhibit "A"** to the ordinance establishing a by-district election process in four council districts); and,

WHEREAS, the City Council now wishes to adopt an Ordinance (**Exhibit "A"**) establishing a by-district election process in four council districts pursuant to California Elections Code § 10010) & California Government Code §§ 34871(c) & 34886.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Marina does hereby

1. Adopting Resolution No. 2019-, holding a public hearing to consider a draft district boundary map and the introduction of an ordinance establishing a by-district election process in four council districts.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 3rd day of December 2019, by the following vote:

AYES, COUNCIL MEMBERS:

NOES, COUNCIL MEMBERS:

ABSENT, COUNCIL MEMBERS:

ABSTAIN, COUNCIL MEMBERS:

Bruce C. Delgado, Mayor

ATTEST:

Anita Sharp, Deputy City Clerk