



STAFF REPORT

TO: Board of Commissioners
FROM: John D'Ornellas, Interim Harbor Manager
DATE: January 25, 2022
SUBJECT: **1st Public Hearing on Voting Area Scenarios – District Based Election System Process**

Recommendation / Proposed Motion

- **Recommendation:** District Staff recommends the Board take the following actions:
 - Receive a presentation on the proposed voting area boundary scenarios;
 - Conduct a public hearing to receive public input on voting area boundaries; and
 - Provide Board input regarding voting area boundary scenarios for consideration at the February 22, 2022, Public Hearing.

Policy Implications

Port San Luis Harbor District, Resolution No. 21-02 Declaring the District's Intention to Transition from At-Large to District-Based elections by November 2022.

District Major Objective/Goal

Not applicable.

Fiscal Implications / Budget Status

Consultant fee for \$23,450.00.

Alternatives Considered

The following actions were considered but are not recommended at this time:

- None at this time.

Background

The Port San Luis Harbor District currently elects its Board through an at-large electoral system in which each Board member may reside anywhere within the District boundaries, is elected by the entire electorate, and the candidates with the most votes fill the open seats. This electoral system is known as the "multi-seat plurality electoral system."

The California Voting Rights Act (CVRA) allows for legal challenges alleging that an at-large system has resulted in racially polarized voting within a jurisdiction and seeking a court order that a jurisdiction converts to a district-based election system. A district-based electoral system is one in which a jurisdiction is divided into separate geographic districts, each with one representative who resides in the district and is elected only by the voters residing within the district. In a district-based

system, voters within each district may vote for only one candidate. “Racially polarized voting” under the CVRA means:

“Voting in which there is a difference, as defined in case law regarding enforcement of the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.), 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. The methodologies for estimating group voting behavior as approved in applicable federal cases to enforce the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.) to establish racially polarized voting may be used for purposes of this section to prove that elections are characterized by racially polarized voting.”

The Act amended Elections Code Section 10010 is an attempt to provide a “safe harbor” from Act litigation for agencies that choose to voluntarily transition to a district-based election system after receiving a threat of litigation. If an entity received a demand letter, the entity is given 45 days of protection from litigation to assess the situation. If within 45 days, the agency adopts a resolution declaring its intent to transition from at-large to district-based elections, outlining specific steps to be undertaken to facilitate the transition, and estimating a time frame for action, then a potential plaintiff is prohibited from filing an action for an additional 90-day period. Under the Act, the public entity’s liability is capped at \$30,000¹ in reimbursement costs to the prospective plaintiff if it follows the process outlined in the Act.

On December 17, 2020, the District received correspondence from Robert Goodman, Attorney at Law, noticing a violation of the CVRA. The correspondence included a timeline of 45 days from receipt to adopt a resolution outlining the District’s intention to transition from at-large to district elections. As a result, on January 26, 2021, the Board of Commissioners adopted Resolution No. 21-02 which Declared the District’s intention to transition from at-large to district-based elections by November 2022.

On July 27, 2021, the Commission awarded Cooperative Strategies, a redistricting consultant, a contract for the completion of the creation and implementation of voting areas, ensuring the District is in compliance with the California Voting Rights Act (CVRA).

Discussion

On January 26, 2021, the Board of Commissioners adopted Resolution No. 21-02 which Declared the District’s intention to transition from at-large to district-based elections by November 2022. Elections Code Section 10010 provides that before any map or maps of the boundaries for the proposed areas are drawn, the District must conduct two (2) Public Hearings over a period of no more than thirty (30) days, at which time the public is invited to provide input regarding the composition of said area boundaries.

The first Public Hearing took place at the September 28, 2021, Harbor Commission Meeting.

The second Public Hearing took place at the October 26, 2021, Harbor Commission Meeting.

This is the first Public Hearing regarding the proposed Conceptual Map Scenarios and was noticed in the Tribune, posted at the District Office, and on the District Website.

Adjusted annually for inflation.¹

The Key Highlights of the Conceptual Map Scenarios:

Scenario 1

- Lowest population variance at 0.9%.
- Provides a Hispanic/Latino CVAP area in Voting Area 5 at 26.2%.
- Each Director/Commissioner is established within their own unique Voting Area.

Scenario 2

- Low population variance at 2.9%
- Provides a Hispanic/Latino CVAP area in Voting Area 5 at 26.8%.
- Each Director/Commissioner is established within their own unique Voting Area.
- This scenario slightly adjusted some populations along HWY 101– specifically in Arroyo Grande (near Noyes Road) and in Nipomo (near Willow Road) to provide a different look for consideration.
- Except for Voting Area # 4, all others slightly changed compared to Scenario 1.

Scenario 3

- Low population variance at 3.3%
- Provides a Hispanic/Latino CVAP area in Voting Area 5 at 26.2%.
- Each Director/Commissioner is established within their own unique Voting Area.
- This scenario provides a different look than scenarios 1 & 2 in that Voting Area 1 now extends down the coast rather than Voting Area 2. Voting Area 4 now falls exclusively within the Northern portion of the City of San Luis Obispo and Voting Area 3 extends from West to East to provide a different look for consideration.

The public is requested to provide input regarding communities of interest and other local factors that should be taken into consideration while drafting the maps. A *community interest* is a neighborhood or group that would benefit from being in the same area because of shared interests, views, or characteristics. Factors considered in establishing the voting areas are but are not limited to:

- Each area shall contain an equal number of inhabitants
- Drawn to comply with the Federal Voting Rights Act
- Compact and contiguous, as much as possible
- Follow man-made and natural geographic features, as much as possible
- Any other local considerations

Next Steps:

The District is scheduled to conduct the second Public Hearing on Voting Area Scenarios to continue public discussion of the draft voting area scenarios on February 22, 2022.

The District is scheduled to conduct the third and final Public Hearing on March 22, 2022, to consider the change in the by-area election method and to select and adopt a preferred voting area map.

District staff and the demographer will then work with the County Elections Office to have the division maps integrated into the countywide voting system. The first by-division election will be held in November 2022.

Attachment: 1) Voting Area Conceptual Maps and Presentation