



City Council Agenda Report

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SUBJECT: First Public Hearing for the Transition from At-Large Elections to By-District Elections (Not a Project Under CEQA per Article 20, Section 15378 and Under General Rule Article 5, Section 15061)

RECOMMENDATION:

That the City Council conduct the First Public Hearing for the Transition from At-Large Elections to By-District Elections.

Staff recommends that the City Council establish four (4) councilmember districts and retain an at-large Mayor, for a total of five (5) members serving on the Monterey City Council. This approach keeps the existing structure of the City Council intact and a charter amendment would not be required.

Direction to change to the number of elective officers or to change the term of office for the mayor would require a charter amendment. Given the tight timeline to convert to district based elections in order to receive the benefit of capping the amount of attorneys' fees and costs that are recoverable by a prospective plaintiff under the California Voting Rights Act, a charter amendment is not recommended at this time.

POLICY IMPLICATIONS:

Conducting multiple public hearings for the implementation of by-district elections is required under State law. The City's policy is to uphold the federal and California constitutions and to take any steps necessary to ensure equal protection under the law and the right to vote. In addition, this public hearing supports the City Council's value drivers that includes "maintaining and expanding an environment that solicits, welcomes and appreciates input from all."

FISCAL IMPLICATIONS:

Sufficient funds are available for staff and a consultant to conduct this public hearing and additional public engagement efforts to shift from an at-large to district-based election system. Staff estimates the cost for this unbudgeted and unplanned work program to range between \$75,000 and \$100,000, excluding staff time.

ENVIRONMENTAL DETERMINATION:

The City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the

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activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

ALTERNATIVES:

The City Council could choose not to conduct the public hearing or to postpone this item. However, this is not recommended, as this first public hearing is required to meet the legal timeline for implementing district-based elections.

DISCUSSION:

Overview

The City of Monterey currently utilizes an at-large election system. This means that all voters, no matter where they live in the City, have a say in electing every member of the City Council. At-large voting systems may operate to minimize or cancel out the voting strength of minorities, thereby defeating the choices of minority voters.

A district based election system is one where the City is divided into separate geographical areas making up the districts, and voters residing within the district elect a representative who also resides within the district.

The City's Charter does not mandate an at-large election system; however, it does specify the number of elective officers, i.e., a Mayor and four Councilmembers, and the terms of office for each: two years and four years, respectively. (Charter sections 2.1, 3.1, and 4.1.)

On November 16, 2021, the Monterey City Council adopted Resolution 21-119, indicating its intention to convert to a by-district system in the furtherance of the California Voting Rights Act.

This is the first public hearing in a series of five that will take place over the next few months.

City staff, along with the City's mapping and districting consultant, Redistricting Partners, will provide a recap of the by-district election conversion, further describe community outreach efforts, and seek public feedback on the districting process.

Number of Councilmember Districts

Staff recommends that the City Council direct staff to start the districting process with four councilmember districts and a mayor elected at-large. Not only is this approach consistent with the City's Charter, it should ensure fair representation, with districts that are contiguous and compact, and with communities of interest that are kept together whenever possible.

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In California, general law cities are required to conduct elections in accordance with the Elections Code, while charter cities may establish their own rules and regulations for elections depending on their charter provisions. (The California Municipal Law Handbook (Cal. CEB 2021, Section 3.1 at p. 267.)

Ordinarily a system of electing the city council by district must be established by an ordinance that is approved by the voters. The ordinance may be a city council initiated ballot measure or an initiative measure. (Government Code section 34871.)

In 2017, AB 2220 was enacted as a cost savings measure for jurisdictions facing possible litigation under the California Voting Rights Act and to facilitate transitions to by district election systems. (Government Code section 34886.) AB 2220 amended the Government Code to allow cities to adopt an ordinance requiring the city council to be elected by district without being required to submit the ordinance to the voters. It provides:

Notwithstanding [Section 34871](#) or any other law, the legislative body of a city may adopt an ordinance that requires the members of the legislative body to be elected by district or by district with an elective mayor, as described in [subdivisions \(a\) and \(c\) of Section 34871](#), without being required to submit the ordinance to the voters for approval. An ordinance adopted pursuant to this section shall comply with the requirements and criteria of [Section 21601](#) or [21621 of the Elections Code](#), as applicable, and include a declaration that the change in the method of electing members of the legislative body is being made in furtherance of the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with [Section 14025](#)) of [Division 14 of the Elections Code](#).)

According to the legislative history for AB 2220, “[t]his bill seeks to regulate the manner in which municipal officers are elected. It is not clear whether this bill would apply to charter cities. According to the League of California Cities, sponsor of this bill, if the charter of a charter city contains provisions that contradict this bill, the charter would take precedence. Conversely, if a city charter does not specify elections procedures or contain language stating that state elections laws shall govern that city’s elections, the provisions of this bill would apply.” (Assembly Committee on Local Government Analysis, May 3, 2016.)

Here, the City’s charter authorizes the City to “exercise any right, power, or privilege granted to municipal corporations by the general laws of the State of California.” (Charter section 1.4.) This means that the City’s charter authorizes it to use the process to convert to by district elections under the Government Code as long as it would not otherwise be inconsistent with other charter provisions. The charter does not elsewhere specify the City’s method of elections; it only specifies the number of elective officers and their terms. Therefore, although there is no case law on point, the City arguably may convert to district based elections that maintain its existing City Council structure without a charter amendment. A charter amendment adopted by a vote of the people is recommended for any change to the number of elective officers or their terms.

A shift from at-large elections to district-based elections is already a drastic change in the City’s governance model, since councilmembers have been elected at-large for 171 years. Future

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considerations for a discussion regarding increasing the number of elective officers in the City or changing the term of the mayor's seat are whether more districts result in better representation, create the potential for less voter influence, and/or are able to retain communities of interest, among other important considerations.

Criteria for Creating Districts

The City Council welcomes and encourages feedback from the community on the composition of the yet-to-be-formed voting districts. There are several mandatory criteria that the City must comply with when the districts are created:

- a) Population equality across districts (districts shall be nearly as equal in population).
- b) Race cannot be the "predominant" factor or criteria when drawing districts.
- c) Compliance with the Federal Voting Rights Act (FVRA), which, among other things, prohibits districts that dilute minority voting rights, and encourages a majority-minority district, if the minority group is sufficiently large, and such a district can be drawn without race being the predominant factor.

In addition, the California Elections Code requires to the extent practicable that district lines compliant with the Federal Voting Rights Act and be adopted using the following criteria, in the following order of priority:

1. Geographically contiguous districts (each city council district should share a common border with the next). Areas that meet only at the points of adjoining corners are not contiguous. Areas that are separated by water and not connected by a bridge, tunnel, or regular ferry service are not contiguous.
2. To the extent practicable, the geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes its division. A "community of interest" is a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest do not include relationships with political parties, incumbents, or political candidates.
3. Council district boundaries should be easily identifiable and understandable by residents. To the extent practicable, council districts shall be bounded by natural and artificial barriers, by streets, or by the boundaries of the city.
4. To the extent practicable, and where it does not conflict with the preceding criteria in this subdivision, council districts shall be drawn to encourage geographical compactness in a manner that nearby areas of population are not bypassed in favor of more distant populations.
5. The council shall not adopt council district boundaries for the purpose of favoring or discriminating against a political party.

Mapping criteria has recently changed with the enactment of the Fair Maps Act, which became effective January 1, 2020. It specifies new criteria and deadlines for cities to adopt new district

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boundaries. Although this law also specifies new timelines for redistricting, those do not apply to a city that is adopting districts for the first time, including when a city adopts council districts for the purpose of transitioning from electing its council members in at-large elections to district based elections. (Elections Code section 21625(e).)

Public Hearing and Engagement Timeline

To avoid a California Voting Rights Act (CVRA) lawsuit, final maps must be adopted by February 14, 2022, 90 days after adopting the resolution. The public hearing process, with set requirements for each public hearing, is mandated under State law. The tentative schedule is attached (see Attachment A). Although the City could request an extension from LULAC for up to 90 additional days, staff believes that the State's intention is to conduct this effort in a swift manner and that the public hearing and engagement work does not require an extension request at this time. Furthermore, City staff have other priority work (e.g., retail cannabis policy, affordable housing, etc.) to complete in early 2022.

The following is a tentative schedule for public hearings, to be heard as required by State law for adoption of the final district maps and the transition to district-based elections:

- **Dec. 7, 2021 Regular Meeting: First Hearing**
Council and the community receive an overview of the process and information on how to provide feedback on “communities of interest” and how to propose maps. Public provides input.
- **Dec. 21, 2021 Regular Meeting: Second Hearing**
Council receives further feedback from the community regarding communities of interest.
- **Dec. 28, 2022: First Maps Published**
Demographer (City consultant) provides three map options for the City Council to consider and provide feedback on a final map. City publishes the maps at least seven days prior to Jan. 4, 2022 third hearing.
- **Jan. 4, 2022 Regular Meeting: Third Hearing**
Council reviews proposed maps, election sequence, and receives public input.
- **Jan. 11, 2022: Revised Maps Published (if applicable)**
City publishes the maps at least seven days prior to Jan. 18, 2022 fourth hearing.
- **Jan. 18, 2022 Regular Meeting: Fourth Hearing on Final Map, Introduce Ordinance**
Council reviews final map and election sequence, receives public input.
- **Jan. 25, 2022: Final Map Published (if applicable)**
City publishes at least seven days prior to Feb. 1, 2022 final hearing.
- **Feb. 1, 2022 Regular Meeting: Fifth Hearing, Adopt Map and Ordinance for District Elections**
Council receives public input on map and election sequence, votes on map and ordinance establishing district-based elections.
- **February 14, 2022: Deadline to hold all public hearings**

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This is 90 days after resolution adoption.

Pursuant to the California Elections Code, "...the public hearing shall begin at a fixed time regardless of its order on the agenda, except that the council may first conclude any item being discussed or acted upon, including any associated public comment, when that time occurs." These public hearings will take place at 7:00 p.m.

District Mapping and Public Feedback Process

Under State law, cities are prohibited from drawing a draft map or maps of proposed council boundaries until after the first public hearing is held.

As stated above, the criteria for the final council district boundaries is prescriptive, requiring districts to be nearly equal in population, geographically contiguous, respectful of "communities of interest," be easily identifiable by residents, and is geographically compact.

The City seeks feedback from the community to help plan, draw, and define councilmember districts. City staff and consultants will ask the public to:

- Share their feedback
- Define their neighborhood or community of interest
- Submit draft maps
- Share feedback on draft maps
- Connect with their fellow community members about district process and why it matters

In addition to social media engagement tools, the City has launched a webpage on the district and mapping process on the City's public engagement portal Have Your Say Monterey, located at: www.haveyoursaymonterey.org/districting with links available from the City's main website, www.monterey.org.

This website includes information about how feedback can be given to the City, the calendar of public hearing dates, recording or written summaries of each public workshop, each draft map considered by the council, and the adopted final map.

In addition to public hearings, the State requires information on redistricting to be provided in "any language that is spoken by a group of city residents with a limited English proficiency who constitute 3 percent or more of the city's total population over four years of age for whom language can be determined." Per the California Secretary of State, the City of Monterey must also provide this information to residents in Spanish. Of the population 5 years of age or older, 3.6% are Spanish-language speakers who speak English less than "very well," according to U.S. Census Bureau estimates. Public Hearing notices will be published in Spanish. The City will make information available in Spanish and encourage non-English-speaking communities to participate in the mapping process.

The summary of outreach efforts initiated by the City are summarized below:

- **Have Your Say Monterey - Public Engagement Portal.** The City has launched a project on the City's "Have Your Say Monterey" public engagement portal at haveyoursaymonterey.org/districting. On this portal, the public can learn about the process, ask questions, review the implementation timeline, download "Communities of

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Interest” forms to submit, draw maps, and read all public comments submitted to the City. Residents will be able to download “mapping kits,” use the online mapping tool, and learn more about how to submit their own maps.

- **Online Citizen Mapping Tool.** The City is exploring online software that enables members of the public to draw and submit maps for consideration. Due to demand for these tools among local governments, the software may not be available. This tool would cost \$8,000 if implemented.
- **Social Media and E-Mail Blasts.** Districting information will continue to be shared as part of the City’s digital engagement strategy: The City has over 12,700 followers on Twitter, 32,000 followers on Facebook, and over 2,000 email subscribers.
- **Mornings with the Manager.** Updates will be shared every three weeks during the City Manager’s updates on YouTube Live, watched by hundreds of viewers each month.
- **Media Outreach.** The City will continue to share information via press releases and during weekly media briefings with public radio, newspaper, and broadcast news outlets.
- **Postcard Mailer to All Households.** A postcard mailer is being mailed to all City residents (approximately 15,000) households.
- **Mapmaking Station.** In mid-December, the City will provide a mapmaking station at the Monterey Public Library where residents can pick up a kit where they can draw their own maps (placemats), submit “Communities of Interest Forms,” and share other feedback for consideration.
- **Neighborhood Engagement & Community Workshop.** On December 9, 2021, City staff will be hosting an informational workshop on how citizens can learn about the districting process, submit Community of Interest Forms, as well as draw and submit their own maps. Neighborhood associations are being encouraged to further engage with their residents about the process.
- **Print Advertisements and Flyers.** The City will also spend up to \$5,000 on advertisements in the *Monterey Herald*, *Monterey County Weekly*, and the region’s Spanish-language newspaper, *El Sol*. In addition, flyers will be posted at community spaces, including the library, community centers, and the Monterey Sports Center.

Next Steps

At its Public Hearing on December 7, 2021, the City Council will be asked by Staff to confirm that the mapping process should focus on four (4) councilmember districts and an at-large Mayor, for a total of five (5) members serving on the Monterey City Council, and not on a charter amendment.

City staff, along with the City’s mapping and districting consultant, Redistricting Partners, will provide a recap of the by-district election conversion process on December 7, 2021. A second public hearing will be held on December 21, 2021.

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Attachment: 1. Current CVRA District Election Timeline

Attached Spanish Language Translations

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Current CVRA District Election Timeline

Writings distributed for discussion or consideration on this matter within 72 hours prior to the meeting, pursuant to Government Code § 54957.5, will be made available at the following link:
<https://monterey.org/Submitted-Comments>.