

## **RESOLUTION NO. 6404**

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK DECLARING ITS INTENT TO TRANSITION FROM AT-LARGE TO BY-DISTRICT COUNCILMEMBER ELECTIONS UNDER ELECTIONS CODE SECTION 10010**

WHEREAS, members of the City Council of the City of Menlo Park ("City") are currently elected in "at-large" elections, in which each City Councilmember is elected by the registered voters of the entire City; and

WHEREAS, California Government Code Section 34886 in certain circumstances, authorizes the legislative body of a city of any population to adopt an ordinance to change its method of election from an "at-large" system to a "district-based" system in which each councilmember is elected only by the voters in the district in which the candidate resides; and

WHEREAS, the City received a certified letter on August 21, 2017, from Kevin Shenkman of the law firm of Shenkman & Hughes asserting that the City's at-large councilmember electoral system violates the California Voting Rights Act ("CVRA") and threatening litigation if the City declines to voluntarily change to a district-based election system for electing councilmembers; and

WHEREAS, a violation of the CVRA is established if it is shown that racially polarized voting occurs in elections (Elections Code Section 14028(a)). "Racially polarized voting" means voting in which there is a difference 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 (Elections Code Section 14026(e)); and

WHEREAS, although the letter was not accompanied by any evidence to support the claim of a CVRA violation, the City Council has directed staff to initiate the process to establish by-district elections to avoid costs associated with defending a lawsuit based on the CVRA, even if that lawsuit settles; and

WHEREAS, the California Legislature in amendments to Elections Code Section 10010, has provided a method whereby a jurisdiction can expeditiously change to a by-district election system and avoid the high cost of litigation under the CVRA; and

WHEREAS, the City denies its election system violates the CVRA or any other provision of law and asserts the City's election system is legal in all respects and further denies any wrongdoing whatsoever in connection with the manner in which it has conducted its City Council elections; and

WHEREAS, despite the foregoing, the City Council has concluded it is in the public interest to begin the process of transitioning from at-large to district-based elections due to the uncertainty of litigation to defend against a CVRA lawsuit, the potentially extraordinary cost of such a lawsuit, even if the City were to prevail; and

WHEREAS, pursuant to Elections Code subdivision 10010(e), if the City adopts a resolution outlining its intention to transition from at-large to district-based elections, specific steps it will undertake to facilitate this transition, and an estimated time frame for doing so, then a prospective plaintiff may not bring a CVRA lawsuit within 90 days after that resolution's passage; and

WHEREAS, prior to the City Council's consideration of an ordinance to establish district boundaries for a district-based electoral system, California Elections Code Section 10010 requires all of the following:

1. Prior to drawing a draft map or maps of the proposed boundaries of the districts, the City shall hold at least two (2) public hearings over a period of no more than thirty (30) days, at which the public will be invited to provide input regarding the composition of the districts;
2. After all draft maps are drawn, City shall publish and make available for release at least one draft map and, if members of the City Council will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections shall also be published. The City Council shall also hold at least two (2) additional hearings over a period of no more than forty-five (45) days, at which the public shall be invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable. The first version of a draft map shall be published at least seven (7) days before consideration at a hearing. If a draft map is revised at or following a hearing, it shall be published and made available to the public for at least seven (7) days before being adopted; and

WHEREAS, the City is in the process of retaining an experienced demographer to assist the City to develop a proposal for a district-based electoral system; and

WHEREAS, the adoption of a district-based elections system will not affect the terms of any sitting councilmember, each of whom will serve out his or her current term.

NOW, THEREFORE BE IT RESOLVED, that the City of Menlo Park, acting by and through its City Council, having considered and been fully advised in the matter and good cause appearing therefore does hereby resolve as follows:

SECTION 1. The City Council hereby resolves to consider adoption of an ordinance to transition to a district-based election system as authorized by Government Code Section 34886 for use in the City's General Municipal Election for City Councilmembers beginning in November 2018.

SECTION 2. The City Council directs staff to work with the City's demographer, and other appropriate consultants as needed, to provide a detailed analysis of the City's current demographics and any other information or data necessary to prepare a draft map that divides the City into voting districts in a manner consistent with the intent and purpose of the California Voting Rights Act and the Federal Voting Rights Act.

SECTION 3. The City Council hereby approves the tentative timeline as set forth in Exhibit A, attached to and made a part of this resolution, for conducting a public process to solicit public input and testimony on proposed district-based electoral maps before adopting any such map.

SECTION 4. The timeline contained in Exhibit A may be adjusted by the City Manager as deemed necessary.

SECTION 5. The City Council directs staff to post information regarding the proposed transition to a district based election system, including maps, notices, agendas and other information and to establish a means of communication to answer questions from the public.

I, Jelena Harada, Deputy City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the fourth day of October, 2017, by the following votes:

AYES: Carlton, Cline, Keith, Mueller, Ohtaki

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this fourth day of October, 2017.



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Jelena Harada  
Deputy City Clerk

EXHIBIT A

TENTATIVE TIMELINE: CONSIDERATION AND IMPLEMENTATION  
OF "DISTRICT-BASED" ELECTION METHOD

DATE	EVENT	COMMENT
August 21, 2017	City received demand letter	City has 45 days to adopt Resolution of Intent to change to district elections. 45 days runs on October 5, 2017.
October 4, 2017	City Council adopts Resolution declaring its intention to transition from at- large to district-based elections.	CVRA Action cannot be commenced for 90 days. 90 days from this date is January 2, 2017.
October 5 – October 30, 2017	Public Outreach regarding process	No maps yet drawn.
October 30, 2017	1st Public Hearing	City Council hearing regarding composition of districts; no maps yet
November 29, 2017	2nd Public Hearing	City Council hearing regarding composition of districts, no maps -
TBD	Post draft maps and potential sequence of elections	Draft maps and proposed sequence must be posted publicly at least 7 days before hearing
TBD	3rd Public Hearing	City Council hearing regarding Draft Maps
TBD	Post any new or Amended Maps and potential sequence of elections.	Draft maps and proposed sequence must be posted publicly at least 7 days before hearing
TBD	4th Public Hearing: Select Map; City Council introduces ordinance establishing district elections, including District Boundaries and Election Sequence	If selected map is amended, ordinance cannot be introduced until 7 days after amended map is published
TBD	5th Public Hearing: 2nd reading of ordinance	Ordinance adopted