



## CITY COUNCIL AGENDA REPORT

### City of Anaheim OFFICES OF THE CITY CLERK & CITY ATTORNEY

**DATE:** JANUARY 12, 2016

**FROM:** OFFICE OF THE CITY CLERK  
OFFICE OF THE CITY ATTORNEY

**SUBJECT:** PUBLIC HEARING REGARDING COUNCIL DISTRICT  
BOUNDARIES, COUNCIL DISTRICT ELECTION DATES  
AND RELATED MATTERS

**ATTACHMENT (Y/N): YES**

**ITEM # 26**

**RECOMMENDATION:**

That the City Council conduct a public hearing regarding formation and boundaries for six City Council districts to be reflected in a districting map, consider which four districts will hold elections in 2016 and which two districts will hold elections in 2018 and provide direction to staff regarding preparing an ordinance, or ordinances, for consideration by the Council at a later date on these and related matters.

**BACKGROUND:**

On October 6, 2015 the City Council received and filed the Final Report of the Advisory Committee on Electoral Districts ("Committee"). The full Final Report, including attachments thereto, is appended to this staff report as Attachment 1. The Final Report recommended a districting plan identified therein as Map 3, as revised (*see* Public Submission Tab #P31, *see also* Attachment A of Final Report). In addition to the Recommended Plan (Map 3), a total of 5 draft sample map plans (Drafts 1, 2, 3, 3Rev0829, and 4) were prepared by the demographic consultant retained by the City and a total of 32 maps were submitted by members of the public for community input and the Committee's consideration. All maps presented to the Committee are appended to the Final Report and provided as part of this staff report for your review (*see* Attachment C to the Final Report).

At the December 8, 2015 Council meeting, the City Council postponed indefinitely adoption of Ordinance No. 6349, which was introduced on November 17, 2015 to approve the Recommended Plan (Map 3) as the districting map and also sequenced elections in that map's six districts (districts 1, 2, 4 and 5). At that time, the motion to postpone also directed that staff set further public hearings to discuss alternative map proposals submitted to the Committee. Thereafter, at the December 15, 2015 Council meeting, Councilmember Brandman, during "Council Communications," requested that staff schedule public hearings on January 12, January 26 and February 6 of 2016

to consider maps submitted to the Committee and further requested that staff be available to present submitted maps that include two or more Latino majority citizen voting age population (CVAP) districts. The public hearings presently scheduled and noticed are being held pursuant to the direction given on December 15<sup>th</sup>. The Mayor also mentioned during consideration of a separate agenda item relating to the Advisory Committee on December 8<sup>th</sup> that he would like the ability to discuss the Recommended Plan (Map 3) as well as consider districts 1, 3, 4 and 5; this hearing allows for that discussion to occur.

For reference, a list of maps submitted to the Committee that include two or more Latino majority CVAP districts, based on data available at this time, is appended as Attachment 2 to this Staff Report.

### **SUMMARY OF POTENTIAL COUNCIL DIRECTION/ACTION**

Following testimony and discussion at tonight's public hearing, the Council may choose to direct City staff regarding two primary decision points (discussed in more detail below). Staff recommends that the Council give direction on these decision points in the following order:

- First, the Council may choose to direct that the City Attorney prepare one or more ordinances establishing a particular districting map for consideration and potential introduction/adoption at future scheduled hearings.
- Second, the Council may choose to identify which 4 districts should be up for election in 2016 and which 2 districts should be up in 2018 for inclusion in any of the ordinances mentioned in the prior bullet point.

### **SUMMARY OF PUBLIC HEARING PROCESS**

After tonight's hearing, two public hearings will follow on these dates: January 26<sup>th</sup> and February 9<sup>th</sup>.

If, after conducting tonight's hearing, the City Council prefers a particular district boundary map, or prefers to consider more than one district boundary map, the Council may direct the City Attorney to prepare and return to the Council with one or more ordinances adopting a map(s). In that case, any ordinances would be presented and could be introduced at the second public hearing on January 26<sup>th</sup> and thereafter, scheduled for approval at the third public hearing on February 9<sup>th</sup>.

*If tonight's hearing does not lead to Council direction to include any maps in one or more ordinances for introduction on January 26<sup>th</sup> then more than three meetings would be required in order to be consistent with the statute summarized above.*

### **SUMMARY OF LAWFUL DISTRICTING CRITERIA**

A number of legal requirements relate to the creation of district maps/boundaries. The 14<sup>th</sup> Amendment to the United States Constitution requires that districts be as nearly equal in population as possible. State Supreme Court opinions and state law require that total population be used for creation of districts. *See Calderon v. City of Los Angeles* (1971) 4 Cal. 3d 251; Cal. Elec. Code 21620. For the purposes of establishing City Council districts, this means that the districts being mapped need to contain *nearly equal numbers of inhabitants*. While this topic is presently the subject of consideration by the United States

Supreme Court (*Evenwel v. Texas*), the current state of the law in California requires total inhabitant population be used to establish Council districts.

Elections Code section 21620 also states that in establishing district boundaries, such boundaries must comply with the all applicable provisions of the Federal Voting Rights Act (42 U.S.C. §§ 1973 *et seq.*) and the Council *may* also consider additional factors such as:

- Topography;
- Geography;
- Cohesiveness, contiguity, integrity, and compactness of territory; and
- Communities of interest of the districts.

Under federal Voting Rights case law and the Equal Protection Clause, consideration of minority voting rights may be considered in creating districts but must not be the predominant factor in selecting a particular voting system or district map. Voting rights case law also holds that the courts must give substantial deference to the legislative body's determination that one districting plan (compared to another) will result in more effective representation for minority voters. *See, e.g., Shaw v. Hunt*, 517 U.S. 899, 917 n. 9 (1996) (“States retain broad discretion in drawing districts to comply with the mandate of § 2.”); *Rodriguez v. Pataki*, 308 F. Supp. 2d 346, 430-32 (S.D.N.Y.) (three-judge redistricting court), *summarily aff’d*, 543 U.S. 997 (2004) (rejecting a claim that Section 2 required a reduction in majority-minority seats to permit a greater number of districts in which Latino voters might be able to elect).

California and Federal case law allow other criteria than those listed above to be considered. The criteria enumerated in the California constitution that must be used by the state redistricting commission for redistricting of California's state legislative and Congressional seats does not apply to local districting by cities.

### **CONSIDERATION OF DISTRICTING PLANS**

Following the public hearing on this matter, the City Council should discuss one or more districting plans. The demographer consultant will be present to address any questions regarding the maps or any modifications, including those maps directed at the December 15<sup>th</sup> meeting.

The October 6, 2015 staff report (included herein as Attachment 3) summarized the process undertaken by the Committee to review and consider maps.

*Potential Council Direction: To take action on establishing Council districts and move forward with a specific map or maps, the City Council will need to make a motion or motions directing the City Attorney to prepare an ordinance or ordinances adopting a particular district map plan(s) and boundaries. If such direction is given tonight, the City Attorney and demographer will prepare any ordinance(s) with the district map(s) requested for introduction at the next public hearing.*

### **CONSIDERATION OF ELECTION DATES FOR DISTRICTS**

It is necessary to establish the election dates for the six City Council districts in any of the maps that the Council may want to introduce in an ordinance. The City Charter requires that in 2016, four City Council districts be placed on the ballot for election. The remaining two districts will be up for election in 2018. It bears noting that the Charter specifies that *following the swearing in* of those Council members elected in 2016, one of the four districts will be randomly chosen to have only a

two-year term of office. The random selection for a short term is required by the Charter to transition to an increased size of the City Council, so that 3 seats (excepting the Mayor) are up for election every two years after 2016. The City Council has the sole discretion to determine which districts are placed on the 2016 ballot.

*Potential Council Direction: The Council will need to give direction to staff as to which 4 districts it desires to have on the November 2016 ballot for any particular map that is asked to be introduced in an ordinance, the remaining two districts would then be up for election on the November 2018 ballot. If direction is not given at the time a preferred district plan is requested for inclusion in an ordinance, such direction will need to be given no later than when the ordinance for such map is introduced.*

### **IMPACT ON THE BUDGET**

Funds sufficient to take action on this matter to implement districting are included in the City Clerk's 2015-16 budget.

Respectfully submitted,

Linda Andal  
City Clerk

Michael R.W. Houston  
City Attorney

### **Attachments:**

1. Final Report of the Advisory Committee on Electoral Districts to the Anaheim City Council, including attachments as follows:
  - A. Committee Recommended Plan
  - B. Correspondence received by Committee
  - C. Proposals submitted by public and draft sample plans by demographer (Consultant Drafts #C1-C4; Test Maps #T1-T2; Public Submissions #P1-P32)
  - D. Committee agenda, staff reports and minutes
  - E. Samples of public outreach
2. List of Maps with 2 or more CVAP Latino majority districts, as submitted to the Committee
3. Correspondence from League of United Latin American Citizens; and Orange County Communities Organized for Responsible Development, on behalf of various community organizations
4. October 6, 2015 City Council Staff Report for Receipt of Final Report (without attachments)