

RESOLUTION NO. XX-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY OUTLINING ITS INTENTION TO TRANSITION FROM AT-LARGE ELECTIONS FOR THE CITY COUNCIL TO DISTRICT-BASED ELECTIONS FOR THE CITY COUNCIL PURSUANT TO ELECTIONS CODE SECTION 10010

WHEREAS, members of the City Council of the City of Oakley 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 council member is elected only by the voters in the district in which the candidate resides; and

WHEREAS, the City has received a certified letter on March 13, 2020 from Attorney Kevin Shenkman asserting that the City's at-large council member 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 council members; and

WHEREAS, a violation of the CVRA is established if it is shown that racially polarized voting and vote dilution occurs in City elections. "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, without admitting the validity of the contentions raised in the March 13, 2020 letter, 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; 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 public interest would be better served by City Council consideration of a proposal to transition to a district-based electoral system because of: (1) the extraordinary cost to defend against a CVRA lawsuit; (2) the risk of losing such a lawsuit which would require the City to pay the prevailing plaintiffs' attorneys' fees; and (3) the reimbursable costs and attorneys' fees would be capped at a maximum of \$30,000 (in 2016 dollars) by following the procedures set forth in Elections Code Section 10010; and

WHEREAS, before 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 public hearings, at which the public will be invited to provide input regarding the composition of the districts; and
2. After all draft maps are drawn, the 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 additional hearings, 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 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 days before being adopted; and

WHEREAS, the City has retained 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 Council Member, each of whom will serve out his or her current term.

THEREFORE, BE IT RESOLVED, 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 2022.

BE IT FURTHER RESOLVED, The City Council directs City 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.

BE IT FURTHER RESOLVED, The City Council finds that this project is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections CEQA Guidelines (California Code of Regulations, Title 14) 15062(c)(2) and 15060(c)(3).

PASSED, APPROVED AND ADOPTED this 13th day of July, 2021 by the following vote:

AYES:

NOES:

ABSTENTION:

ABSENT:

APPROVED:

Sue Higgins, Mayor

ATTEST:

Libby Vreonis, City Clerk

Date