

STAFF REPORT

DATE: November 5, 2019

TO: City Council

FROM: Mike Webb, City Manager
Kelly Stachowicz, Assistant City Manager
Zoe Mirabile, City Clerk

SUBJECT: District Elections – Public Hearing #5 and Ordinance

Recommendation

1. Hold Public Hearing
2. Adopt Urgency Ordinance of the City of Davis Amending Chapter 12 of the Davis Municipal Code Providing for the Election of Five Members of the City Council by Districts, Establishing the Boundaries and Identification Number of Each District, and Establishing the Election Order of Each District (Attachment 1)

Fiscal Impact

By transitioning voluntarily to districts, the City is not exposed to potentially high costs of litigation. The costs to transition to district-based elections instead include the costs of the demographer (approximately \$32,500), to be paid out of the existing budget, and staff time to complete the process, which is also included as part of the existing budget. Additionally, the City will be required by law to pay up to \$30,000 in attorney fees to Rexroad Law, the firm that initially sent the demand letter.

Council Goal(s)

The transition to district elections does not pertain to a specific Council Goal, however, it falls under the Goal to secure a safe, healthy, equitable community.

Background and Analysis

The fifth public hearing and the attached ordinance are the final steps in the City's transition from an at-large City Council election system to a district-based system, as required by the California Voting Rights Act. Since the Council voted on August 13, 2019 to transition to a district-based system, the Council has held five public hearings (September 3, September 10, October 8, October 22, November 5), sponsored one Saturday workshop, and engaged in a robust community-wide outreach effort.

At the Council meeting on October 22, 2019, the City Council provided direction to prepare a 5-district map (Attachment 2) for consideration. Under this proposal, the three districts numbered 2, 3 and 5 will elect a Councilmember from candidates who live in those respective districts at the general municipal election in November 2020. Districts 1 and 4 will each elect a

Councilmember at the general municipal election in 2022. All members will be elected for four-year terms.

Additional background material about the process and previous public hearings, draft maps, and other district-related information, can be found at www.cityofdavis.org/districts.

The ordinance (Attachment 1) approves the transition to districts, designates the districts by number and the voting sequence of each district, approves the Official District Map, and adjusts the City's municipal code to incorporate the changes into Chapter 12 Elections. The Ordinance is an Urgency Ordinance and thus requires a 4/5 vote of the Council to pass. It becomes effective immediately.

Attachments

1. Ordinance
2. District Map (with numbers and sequencing)

ORDINANCE NO. _____

**AN URGENCY ORDINANCE OF THE CITY OF DAVIS AMENDING
CHAPTER 12 OF THE DAVIS MUNICIPAL CODE PROVIDING FOR
THE ELECTION OF FIVE MEMBERS OF THE CITY COUNCIL BY
DISTRICTS, ESTABLISHING THE BOUNDARIES AND
IDENTIFICATION NUMBER OF EACH DISTRICT, AND
ESTABLISHING THE ELECTION ORDER OF EACH DISTRICT**

**THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS
FOLLOWS:**

Section 1. This Ordinance is adopted with respect to the following purposes:

(a) Pursuant to California Government Code Section 34886 and Elections Code Section 10010, the City Council votes to approve the change to a district-based election system for the members of the City Council whereby all five members of the City Council shall be elected by the voters of five City Council districts rather than at-large.

(b) Pursuant to California Government Code Section 34886, it is declared the change in the method of electing members of the City Council of the City of Davis made by this ordinance is 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) (the “CVRA”).

(c) Pursuant to Government Code Section 36937, this Ordinance relates to an election and provides for the immediate preservation of the public peace, health or safety, based on the following facts:

1) On August 13, 2019, the City Council voted unanimously to approve Resolution 19-130, which declared the intention to transition from at-large to district-based City Council elections. This decision came as a result of a demand letter sent to the City by Rexroad Law in July, which alleged that the City’s current election system violates the CVRA.

2) Under the CVRA, the City must complete the transition to district elections within a 90-day timeframe, with a minimum of five public hearings.

3) The City engaged a demographer, held public hearings on September 3, September 10, October 8, October 22 and November 5, and considered a total of ten separate draft maps for consideration.

4) Adoption of this Ordinance, with an effective date of November 5, 2019, allows the City to comply with CVRA deadline of November 11, 2019, thereby protecting the City from litigation and significant legal fees.

Section 2. Chapter 12 (Elections) of the Davis Municipal Code is hereby amended by adding a new Article 12.02, with the title “Election Campaign Limits,” for the purpose of providing an Article in Chapter 12, which is separate from Article 12.01 relating to elections in general.

Sections 12.01.010 through 12.01.080 shall be renumbered as Sections 12.02.010 through 12.02.080, within such new Article 12.02.

Section 3. Article 12.01 (In General) of Chapter 12 (Elections) of the Davis Municipal Code is hereby amended by renumbering Section 12.01.090 as Section 12.01.010 and by adding Sections 12.01.020 through 12.01.050 to read as follows:

12.01.020 City Council Districts Established. Five City Council districts are hereby established in the City of Davis. The boundaries and identifying number of each district shall be as described on the official “Council District Map” on file in the Office of the City Clerk.

12.01.030 Election of Members of the City Council by District.

A. Members of the City Council shall be elected “by District” as defined in California Government Code Section 34871. A person shall not be eligible to be elected to be a Member of the City Council unless he or she is otherwise qualified as required by law, resides in the geographical area making up the district from which he or she is nominated to be elected and is a registered voter of the City of Davis at the time nomination papers are issued to the candidate as provided in Section 10227 of the California Elections Code.

B. Registered voters signing nomination papers or voting for a Member of the City Council shall be residents of the geographical area making up the district from which the Member is to be elected.

C. The terms of the office of each Member elected to the City Council shall be four (4) years.

D. References in this Chapter to state statutes shall include any amendments thereto and any successor statutes.

12.01.040 Commencement of District Elections. Commencing with the general municipal election in November of 2020 and thereafter, the voters in Council Districts 2, 3, and 5 shall elect Members of the City Council by district for full four (4) year terms. At the general municipal election in 2022 and thereafter, the voters in Council Districts 1 and 4 shall elect Members of the City Council by district for full four (4) year terms. No term of any Member of the City Council that commenced on or prior to the effective date of this Chapter shall be affected prior to its expiration date.

12.01.050 Adjustment of Council District Boundaries.

A. Pursuant to Elections Code Section 21601 the City Council shall adjust the boundaries of any or all of the districts following each decennial federal census. Using the census as a basis, the City Council shall adjust the boundaries so that the districts shall be as nearly equal in population as practicable and in compliance with all applicable provisions of law. Any adjustment of district boundaries shall be made by ordinance adopted by the City Council before the first day of November of the year following the

year in which each decennial federal census is taken commencing with the 2020 federal census. As required by Elections Code Section 21607, the City Council shall hold at least one public hearing on the proposal to adjust boundaries of any or all districts prior to the public hearing at which the council votes to approve or defeat the proposal.

B. At the time of any annexation of territory to the City, the City Council shall designate, by resolution adopted by a vote of at least a majority of the City Council, the contiguous district to which the annexed territory shall be a part and shall amend the district boundaries if necessary in accordance with Elections Code Section 21603.

C. Pursuant to Elections Code Section 21606 the term of office of any council member who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which he or she was elected. At the first election for council following adjustment of the boundaries of the districts, a person meeting the requirements of Government Code Section 34882 shall be elected to the City Council for each district under the readjusted district plan that has the same district number as a district whose incumbent's term on the council is due to expire.

Section 4. The Official Council District Map referenced in Section 12.01.020 is hereby approved and is attached hereto as Exhibit "A" and incorporated herein by this reference. The Official Council District Map shall be kept on file in the Office of the City Clerk.

Section 5. This Ordinance shall take effect upon its adoption pursuant to Government Code Section 36937(a) as it is an ordinance relating to an election for the City and pursuant to Government Code Section 36937 (d) as an ordinance for the immediate preservation of public peace, health and safety.

Section 6. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance or Chapter 12 is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The City Council of the City of Davis hereby declares that it would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

PASSED AND ADOPTED this 5th day of November, 2019, by the following vote:

AYES: COUNCILMEMBERS _____

NOES: COUNCILMEMBERS _____

ABSENT: COUNCILMEMBERS _____

ABSTAIN: COUNCILMEMBERS _____

Brett Lee

MAYOR

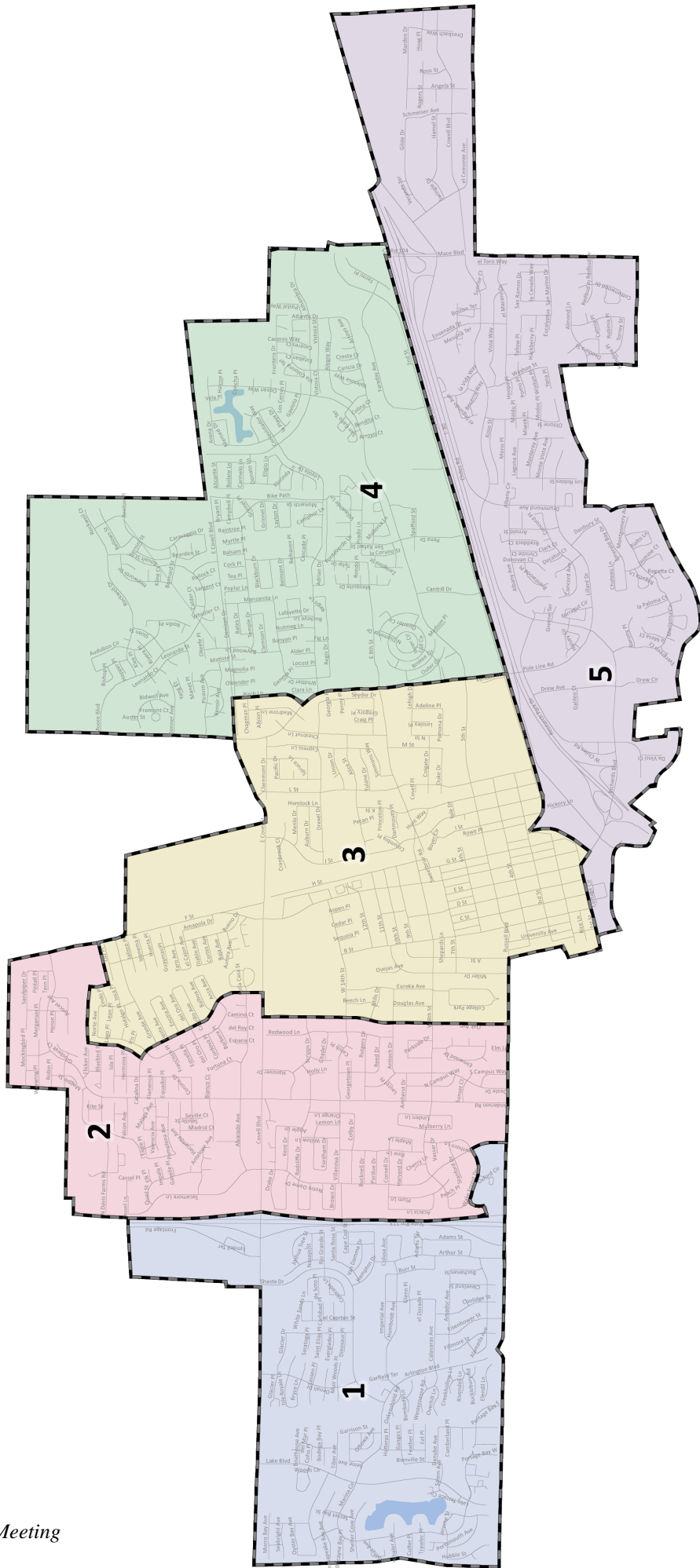
ATTEST:

Zoe S. Mirabile, CMC
CITY CLERK

EXHIBIT A

Official District Map

[please see attached]



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