



California Voting Rights Act

Robin Donoghue, Town Attorney
January 15, 2019

Background

▶ October 22, 2018

- Town received a certified “demand letter” from Shenkman & Hughes, PC alleging CVRA violation.

▶ California Voting Rights Act of 2001 (CVRA)

- Expands on Federal Voting Rights Act.
- Easier for plaintiffs to prove at-large elections dilute the voting strength of a protected class.

Background

▶ At-Large Elections (current)

- Voters from the entire Town choose all five (5) Councilmembers.

▶ By-District Elections (demand letter request)

- Create maps to divide Town into separate districts.
- Candidate must reside in district he/she represents.
- Only voters living in the same district as the candidate can vote in that election cycle in that contest (every four years).

Legal and Financial Implications

▶ CVRA Lawsuits

- Plaintiff has low bar to prevail in CVRA lawsuit
- Even if Town prevails, another plaintiff may allege CVRA violation later

▶ Costs to litigate

- A defendant's legal fees can be \$500,000 or more
- Must pay plaintiff's legal fees if Town is unsuccessful
- Broad range of \$385,000 to \$4.5M for plaintiff's legal fees
- Court imposes district elections & draws maps

AB 350 (2016) – Safe Harbor

▶ Town's liability capped at \$30,000

1) 45 days

- Adopt resolution of intention to transition to “by district” elections

2) 90 days

- Hold 2 public hearings for public input on maps
- Hold 2 public hearings to draw maps
- Introduce and adopt ordinance

Districting Consultant Team

- ▶ Q2 Data & Research, LLC
- ▶ Karin Mac Donald, Principal Consultant
- ▶ Jaime Clark, GIS Specialist

What is Districting?

- ▶ **District-based election system**
 - Councilmembers are elected from districts by voters that live in the same district.
- ▶ **Process**
 - Districting is the process of drawing the boundaries that would divide the Town's population into districts.
- ▶ **November 2020 Elections**
 - If the Town chooses to transition to a district-based election system, changes will go into effect for the 2020 Election.

Criteria, Data & Potential Process

- ▶ Districting Criteria
 - Constitution
 - Statute
 - “Traditional”
- ▶ Data to create Districts
 - Census
 - American Community Survey
 - Public Input
- ▶ What would the districting process look like?

What are the districting criteria?

- ▶ 5 criteria used for drawing districts
 1. Equal Population
 2. Compliance with Federal Voting Rights Act (FVRA)
 3. Contiguity
 4. Compactness
 5. Respect for Communities of Interest

Criterion 5 – Communities of Interest

- ▶ A Community of Interest (COI) generally refers to a contiguous population that shares social or economic interests
 - Examples
 - Schools, culture, transportation, parks
 - Shared goals of improving parks, safety, historic resources
 - Employment or lack of thereof and economic opportunities
 - Neighborhoods may be Communities of Interest
 - Law does not limit the kinds of interests that may bind a community
- ▶ Communities of Interest are not Districts:
 - Frequently smaller; may be used as building blocks to construct districts
- ▶ No datasets available: defined by public input – YOU!

How would this process work?

- ▶ Initial Hearings
 - 2 Hearings before line drawing begins
 - Collection of public input
- ▶ Construction of Map(s): in public?
- ▶ Publicizing the Draft Map
- ▶ Feedback Hearings
 - 2 Hearings to collect feedback on a draft map
- ▶ Hearing to introduce an ordinance
- ▶ Hearing to vote on the ordinance

Outreach – Collaboration – Participation

Why and How to participate

▶ Why?

- To make sure we know about Communities of Interest.
- To give communities a voice and make sure they have equal access to the political process.
- To help shape a districting plan that provides communities a meaningful opportunity to elect candidates who represent their interests on issues that are important to their lives.

▶ How?

- Testify, submit written testimony, send supporting information to the Town

▶ Stay informed – New website:

- ▶ <https://www.townofwindsor.com/1149/District-Election-Information>

THANK YOU! QUESTIONS?

