



January 7, 2021

TO: LOCSD Board of Directors

FROM: Ron Munds, General Manager
Jeff Minnery, District Counsel

SUBJECT: Agenda Item 6B – 01/07/2021 Board Meeting
Adopt Resolution Declaring its Intention to Transition from At-Large to District-Based Elections by November 2022

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DESCRIPTION

The District currently elects its Board through an at-large electoral system. The California Voting Rights Act (CVRA) allows for legal challenges alleging that an at-large system has resulted in racially polarized voting within a jurisdiction and seeking a court order that a jurisdiction convert to a district-based election system. This report summarizes the actions needed to move towards compliance with CVRA.

STAFF RECOMMENDATION

Staff recommends that the Board adopt the following motion:

Motion: I move that the Board adopt Resolution number 2021-01 declaring its Intention to Transition from At-Large to District-Based Elections by November 2022

DISCUSSION

Background

The District currently elects its Board through an at-large electoral system in which each Board member may reside anywhere within the District boundaries, is elected by the entire electorate, and the candidates with the most votes fill the open seats. This electoral system is known as the “multi-seat plurality electoral system.”

The CVRA allows for legal challenges alleging that an at-large system has resulted in racially polarized voting within a jurisdiction and seeking a court order that a jurisdiction convert to a district-based election system. A district-based electoral system is one in which a jurisdiction is divided into separate geographic districts, each with one representative who resides in the district and is elected only by the voters residing within the district. In a district-based system, voters within each district may vote for only one candidate. “Racially polarized voting” under the CVRA means:

“Voting in which there is a difference, as defined in case law regarding enforcement of the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.), 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. The methodologies for estimating group voting behavior as approved in applicable federal cases to enforce the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.) to establish racially polarized voting may be used for purposes of this section to prove that elections are characterized by racially polarized voting.”

Moving to a district-based election system is considered the “safe harbor” under the California Voting Rights Act that prevents a CVRA lawsuit alleging the dilution of protected class voting strength.

Next Steps

As part of the District's diligence in conducting its business consistent with laws and regulations, the District is committed to remaining in compliance with the California Voting Rights Act (CVRA). Adopting Resolution number 2021-01 is the first step in establishing compliance with CVRA. As outlined in the attached Resolution, following the adoption of the Resolution, the District will need to consider adoption of an ordinance and/or resolution to institute a district-based election system as authorized under Elections Code section 10650 before the November 2022 election.

Prior to considering an ordinance and/or resolution to institute a district-based election system, the District will take the following actions pursuant to Elections Code section 10010:

- Hire a qualified consultant to provide demographic services and assist in the preparation of proposed district maps;
- Conduct public outreach, including to non-English speaking communities, to explain the districting process and to encourage public participation;
- Before drawing a draft map or maps of the proposed division boundaries, hold at least two public hearings at which the public is invited to provide input regarding the composition of the districts and to consider district boundaries;
- After drawing a draft map or maps, publish the draft map(s) and the potential sequence of the district elections and hold at least two public hearings at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections; and
- Hold a public hearing at which the District will consider the adoption of an ordinance establishing district-based elections, including a district boundary map and the sequence of the district elections.

Financial Impact

The cost to move from at-large to district-based elections is unknown at this time. As summarized in the actions above, the costs to hire a demographer, pay any associated legal costs and the staff time to conduct public outreach and hold the required public hearings could be substantial. Staff will be working to estimate these costs and will request approval from the Board of any expenditures as the District moves forward.

Attachment
Resolution #2021-01

RESOLUTION 2021-01

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE LOS OSOS COMMUNITY SERVICES DISTRICT
DECLARING ITS INTENTION TO TRANSITION FROM
AT-LARGE TO DISTRICT-BASED ELECTIONS BY NOVEMBER 2022**

WHEREAS, the Board of Directors of the Los Osos Community Services District (the "District") is currently elected in at-large elections, in which each District member is elected by the registered voters of the entire District; and

WHEREAS, the California Elections Code section 10650 permits the governing body of a special district to adopt a resolution that requires members of the governing body to be elected using district-based elections, without being required to submit the resolution to the voters for approval; and

WHEREAS, the California Voting Rights Act ("CVRA") prohibits any political subdivision from using any at-large method of election that "impairs the ability of a protected class to elect candidates of its choice or influence the outcome of an election, as a result of the dilution or the abridgement of the rights of voters who are members of the protected class...." (Elections Code section 14027); and

WHEREAS, the CVRA provides for a prospective plaintiff to allege "racially polarized voting" in a jurisdiction with an at-large voting system and to seek change that would result in the jurisdiction utilizing a district-based voting system; and

WHEREAS, the District denies that its at-large voting system violates the CVRA or any other provision of law and asserts that it is legal in all respects; and

WHEREAS, the District has nevertheless determined due to the high cost of litigation, including the potential payment of a plaintiff's attorneys' fees, that the public interest is better served by initiating a process for transition to a district-based election system in order to avoid the costs associated with defending a potential lawsuit under the CVRA; and

WHEREAS, the District desires to declare its intention to adopt a resolution transitioning from at-large to district-based elections for its November 2022 election, establish specific steps it will undertake to facilitate this transition, and establish an estimated timeframe for doing so.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Directors of the Los Osos Community Services District, as follows:

1. The above recitals are true and correct and incorporated herein by this reference.
2. Before the November 2022 regular election, the District will consider adoption of an ordinance and/or resolution to institute a district-based election system as authorized under Elections Code section 10650.
3. Prior to considering an ordinance and/or resolution to institute a district-based election system, the District will take the following actions pursuant to Elections Code section 10010:
 - a. Hire a qualified consultant to provide demographic services and assist in the preparation of proposed district maps;

- b. Conduct public outreach, including to non-English speaking communities, to explain the districting process and to encourage public participation;
 - c. Before drawing a draft map or maps of the proposed division boundaries, hold at least two public hearings at which the public is invited to provide input regarding the composition of the districts and to consider district boundaries;
 - d. After drawing a draft map or maps, publish the draft map(s) and the potential sequence of the district elections and hold at least two public hearings at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections; and
 - e. Hold a public hearing at which the District will consider the adoption of an ordinance establishing district-based elections, including a district boundary map and the sequence of the district elections.
4. This resolution will take effect upon its adoption and wherein the District declares that the change in method of election is being made in furtherance of the purposes of the California Voting Rights Act.
 5. The General Manager is hereby authorized to enter into a professional services contract as necessary with a consultant qualified to provide demographic services to the District.

On the motion of Director _____, seconded by Director _____
and on the following roll call vote, to wit:

Ayes: _____
 Noes: _____
 Abstain: _____
 Absent: _____

The foregoing resolution is hereby passed, approved, and adopted by the Board of Directors of the Los Osos Community Services District this 7th day of January 2021.

 President, Board of Directors
 Los Osos Community Services District

ATTEST:

APPROVED AS TO FORM:

 Ron Munds
 General Manager and Secretary to the Board

 Jeffrey A. Minnery
 District Legal Counsel