

RESOLUTION NO. 4109-2018

RESOLUTION OF THE FORT BRAGG CITY COUNCIL DECLARING ITS INTENT TO TRANSITION FROM AT-LARGE ELECTIONS FOR CITY COUNCIL TO DISTRICT-BASED ELECTIONS FOR CITY COUNCIL PURSUANT TO ELECTIONS CODE SECTION 10010 AND GOVERNMENT CODE SECTION 34886; AND APPROVING A TENTATIVE TIMELINE FOR CONDUCTING PUBLIC HEARINGS, FORMULATING PROPOSED DISTRICT MAPS AND ELECTION SYSTEMS, AND PRESENTING A DRAFT ORDINANCE TO COUNCIL FOR DECISION

WHEREAS, members of the City Council of the City of Fort Bragg (City) are currently elected in "at-large" elections, in which each City Councilmember is elected by the registered voters of the entire City; and

WHEREAS, Section 34886 of the California Government Code authorizes the legislative body of a city, under certain circumstances, to adopt an ordinance to change its method of election from an at-large system to a by-district system in which each Councilmember is elected only by the voters in the district in which the Councilmember resides; and

WHEREAS, on April 17, 2018, the City received a certified letter from Jacob R. Patterson, on behalf of his client Coast Committee for Responsive Representation, asserting that the City's at-large electoral system violates the California Voting Rights Act (CVRA) and "strongly encouraging" the City to implement the safe harbor provisions of Elections Code Section 10010, including by-district City Council Elections; and

WHEREAS, on May 25, 2018, the City received a second certified letter from Jacob R. Patterson, on behalf of his client Coast Committee for Responsive Representation, which rescinded the April 17, 2018 letter and concurrently resubmitted the assertion that the City's at-large electoral system violates the California Voting Rights Act (CVRA) and "strongly encouraging" the City to implement the safe harbor provisions of Elections Code Section 10010, including by-district City Council Elections. The result of the letter was to reset the forty-five (45) day notice period provided for in the California Elections Code Section 10010; and

WHEREAS, a violation of the CVRA may be established if it is shown that racially polarized voting has combined with an at-large voting system to impair the ability of a protected class of voters to elect candidates of its choice or to influence the outcome of an election; and

WHEREAS, under the CVRA, "racially polarized voting" means voting in which there is a difference between 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; and

WHEREAS, the certified letter from Mr. Patterson received by the City did not include and was not accompanied by any evidence to support the claim of a CVRA violation, nor at this time is the City aware of any such evidence; and

WHEREAS, the City denies that its election system violates the CVRA or any other provision of law and asserts that Fort Bragg's election system is legal in all respects; and

WHEREAS, the City Council has concluded that the public interest is better served by initiating a process for transition to a district-based election system and thereby avoiding the costs associated with defending a lawsuit under the CVRA; and

WHEREAS, California Elections Code Section 10010 provides a method whereby a jurisdiction can expeditiously transition to a district-based election system and thereby avoid the high cost of litigation under the CVRA; and

WHEREAS, California Elections Code Section 10010 will delay CVRA litigation and place a cap on the recovery of attorneys' fees associated with a CVRA claim, if, within forty-five (45) days of receipt of a claim under the CVRA, the City adopts a resolution stating its intent to transition to district-based elections, and within ninety (90) days thereafter (or as otherwise stipulated by the parties), the City adopts an ordinance transitioning to a district-based election system consistent with the intent and purpose of the CVRA; and

WHEREAS, prior to 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 (2) public hearings over a period of no more than thirty (30) days, at which the public will be invited to provide input regarding the composition of the districts.
2. After all draft maps are drawn, 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.
3. The City Council shall also hold at least two (2) additional hearings over a period of no more than forty-five (45) days, 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.
4. The first version of a draft map shall be published at least seven (7) 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 (7) days before being adopted; and

WHEREAS, the City may desire to retain special legal counsel and an experienced qualified demographer to assist the City in the development of a proposal for a district-based electoral system; and

WHEREAS, the adoption of a district-based electoral system will not change the terms of any sitting Councilmember, each of whom will serve out his current term.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby find as follows:

1. The City Council hereby resolves to consider adoption of an ordinance, as authorized by Government Code Section 34886 and consistent with Elections Code Section 10010, to transition to a district-based election system for use in the City's General Municipal Election for City Councilmembers beginning November 2020.

2. The City Council directs staff to work with the professional demographer, already under contract, and other appropriate consultants as needed to finalize a detailed analysis of the City's demographics and any other necessary information or data needed to formulate for review by the public and the City Council, one or more electoral district scenarios, each fully consistent with the intent and purpose of the CVRA and the Federal Voting Rights Act.

3. The City Council hereby approves the tentative timelines as set forth in Exhibit A, attached to and made part of this resolution, for conducting a public process to solicit input and testimony on proposed district-based electoral maps before adopting any such map.

4. The City Council directs the City Clerk to post information regarding the proposed transition to a district-based electoral system on the City's website, including maps, notices, agendas and other information.

5. The timeline contained in Exhibit A may be adjusted by the City Manager as she deems necessary or appropriate, provided that such adjustments shall not prevent the City from complying with the time frames specified by Elections Code Section 10010, or such other timeframes as may be stipulated by claimants under the CVRA.


The above and foregoing Resolution was introduced by Councilmember Turner, seconded by Councilmember Norvell, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 9th day of July, 2018, by the following vote:

AYES: Councilmembers Cimolino, Lee, Norvell and Turner.
NOES: Mayor Peters.
ABSENT: None.
ABSTAIN: None.
RECUSED: None.



LINDY PETERS
Mayor

ATTEST:



June Lemos, CMC
City Clerk

EXHIBIT A

**TENTATIVE TIMELINE: CALLING ELECTION FOR TRANSITION TO "DISTRICT-BASED"
ELECTION SYSTEM**

	Event	Date	Comment
1	Revised Patterson Letter of 5/24/18 Received	May 25, 2018	
2	City Council Closed Session	June 25, 2018	
3	Council Meeting to Adopt Intent to Transition to District Elections Resolution / Public Hearing #1	July 9, 2018	Before Map(s) Drawn – EC 10010(a)(l)
4	Council Meeting / Public Hearing #2	July 23, 2018	Before Map(s) Drawn – EC 10010(a)(l). Within 30 days of Public Hearing #1
5	Council Meeting / Public Hearing #3	August 13, 2018	Within 30 days of Public Hearing #2
6	Publish Draft Map(s) and Sequencing	August 31, 2018 <i>(September 3, 2018 is a holiday)</i>	EC 10010(a)(2). Published Once at Least 7 Days Prior to Public Hearing #4
7	Council Meeting / Public Hearing #4	September 10, 2018	After Map(s) and Sequencing Published, EC 10010(a)(2), More than 7 Days After Draft Map(s) and Sequencing Publication
8	Council Meeting / Public Hearing #5 – Introduction / First Reading of Ordinance	September 24, 2018	After Map(s) and Sequencing Published, EC 10010(a)(2), within 45 days of Public Hearing #4
9	Council Meeting – Adoption / Second Reading of Ordinance	October 1, 2018 <i>Special Meeting</i>	
10	Ordinance Effective 30 Days After Adoption	October 31, 2018	