CITY OF DANA POINT

AGENDA REPORT

Reviewed By:	
DH	_X_
CM	_X_
CA	_X_

DATE: MARCH 6, 2018

TO: CITY MANAGER/CITY COUNCIL

FROM: CITY ATTORNEY

SUBJECT: PUBLIC HEARING TO TAKE INPUT REGARDING POTENTIAL TRANSITION TO BY-DISTRICT ELECTIONS FOR CITY COUNCIL MEMBERS

RECOMMENDED ACTION:

It is recommended that the Council receive and discuss public input regarding the composition of the City's yet to be formed voting districts pursuant to Elections Code section 10010(a)(1).

BACKGROUND:

On February 2, 2018, the City received a letter from attorney Russell D. Myrick of the law firm RDM Legal Group threatening to sue the City for alleged violations of the California Voting Rights Act ("CVRA") (Elec. Code §§ 14025-14032) unless the City voluntarily converts to a by-district election system. The CVRA only applies to jurisdictions, like the City of Dana Point, that utilize an at-large election method, where voters of the entire jurisdiction elect each of the members of the City Council. Similar letters have been served and lawsuits have been filed in recent years against dozens of cities and other public agencies for alleged CVRA violations, including many nearby cities. A copy of Mr. Myrick's letter is attached to this staff report (Attachment A).

The threshold to establish liability under the CVRA is extremely low, and prevailing CVRA plaintiffs are guaranteed to recover their attorneys' fees and costs. As a result, every government defendant in the history of the CVRA that has challenged the conversion to district elections has either lost in court or settled/agreed to implement district elections, and been forced to pay at least some portion of the plaintiffs' attorneys' fees and costs. Several cities that have extensively litigated CVRA cases have been eventually forced to pay multi-million dollar fee awards.

In order to avoid the potentially significant litigation expenses that are likely to occur if the City retains its at-large election method of election, at the City Council's February 20,

2018 hearing, the Council adopted Resolution No. 18-02-20-04 outlining its intention to transition from at-large to by-district elections, pursuant to Elections Code section 10010(e)(3)(A). (Attachment B.) As stated in that Resolution, the City Council took that action in furtherance of the purposes of the CVRA. Pursuant to Elections Code section 10010(a)(1), the City must now hold two public hearings within a thirty day period (before drawing any draft maps of proposed voting districts) in order to receive public input regarding the composition of the districts.

DISCUSSION:

- ***The California Voting Rights Act***

The CVRA was specifically enacted in 2002 to eliminate several key burden of proof requirements that exist under the Federal Voting Rights Act of 1965 ("FVRA") (52 U.S.C. § 10301 *et seq.*) after several jurisdictions in California successfully defended themselves in litigation brought under the FVRA. The intent of the legislature was to facilitate private suits that ultimately force public entities to shift from "at-large" to "by-district" elections.

Specifically, the CVRA removes two elements that must be met in order to establish a violation under the FVRA: (1) the "geographically compact" FVRA precondition (e.g., can a majority-minority district be drawn?), and; (2) the "totality of the circumstances" or "reasonableness" test, whereby the defendant can defeat a lawsuit by demonstrating that certain voting trends – such as racially polarized voting – occur for reasons other than race, or that minority voters are still able to elect their candidate of choice. Under the CVRA, the only "element" a plaintiff must establish is that racially polarized voting occurs in a jurisdiction with at-large elections, without regard for why it might exist. (Elec. Code § 14028.) Despite its removal of key safeguards contained in the FVRA, California courts have held that the CVRA is constitutional. (See *Sanchez v. City of Modesto* (2006) 145 Cal.App.4th 660.)

Most recently, on February 23, 2018, the U.S. District Court for the Southern District of California dismissed a lawsuit challenging the constitutionality of the CVRA and of the City of Poway's adopted district map. The lawsuit was initiated by the former mayor of Poway, Don Higginson, who alleged that the CVRA and Poway's by district map adopted pursuant thereto violate the equal protection clause of the U.S. Constitution. Higginson sought an order declaring both the CVRA and Poway's map unconstitutional and enjoining their enforcement and use. The Court not only denied Higginson's motion for a preliminary injunction, but also dismissed the case in its entirety based on lack of standing. (See *Higginson v. Becerra, et al.* (Feb. 23, 2018, Case No. 17cv2032-WQH-JLB)

Over the relatively short history of the CVRA, plaintiff public agencies have paid over $15 million to CVRA plaintiff attorneys, including a recent settlement in West Covina for $220,000. (See Table of Results of CVRA Litigation (Attachment C).) The City of Modesto, which challenged the CVRA's constitutionality, ultimately paid $3 million to the plaintiffs' attorneys, and the cities of Palmdale and Anaheim, who also aggressively

litigated CVRA claims, ultimately paid $4.5 million and $1.2 million in attorneys' fees, respectively. These figures do not include the tens of millions of dollars government agency defendants have spent on their own attorneys and associated defense costs. All of the above cities – like all other CVRA defendants – ultimately ended up converting to district elections.

Recognizing the heavy financial burden at-large jurisdictions are now facing, in 2016, the California Legislature amended the Elections Code to simplify the process of converting to by-district elections to provide a "safe harbor" process designed to protect agencies from litigation. (Elec. Code § 10010(e)(3).). If a city receives a demand letter, such as the RDM letter here, the city is given 45 days of protection from litigation to assess its situation. If within that 45 days, the city adopts a resolution declaring the Council's intent to transition from at-large to district based elections, the potential plaintiff is prohibited from filing a CVRA action for an additional 90 day period, during which time the process outlined below must occur. (Elec. Code § 10010(e)(3).)

- ***Process For Switching To By-District Elections***

In order to avoid the significant litigation expenses that are likely to occur if the City retains its at-large election method of election, at the City Council's February 20, 2018 hearing, the Council adopted Resolution No. 18-02-20-04 outlining its intention to transition from at-large to by-district elections, pursuant to Elections Code section 10010(e)(3)(A). (Attachment B.) As a result, no potential plaintiff can file a CVRA lawsuit against the City before May 21, 2018.

Now that the City has adopted a resolution of intent, the first step in the process in the City's conversion from its current at-large method of election to a by-district system is to hold two public hearings to receive public comment regarding the composition of the yet to be formed voting districts. (Elec. Code § 10010(a)(1).) This March 6, 2018 hearing is the first such hearing, and the second will occur on March 20, 2018. Based in part on input received at these hearings, the City's districting consultant, National Demographics Corporation ("NDC"), will draw several proposed voting district maps, and, together with any qualified maps prepared and submitted by members of the public, present those maps to the Council at two future public hearings scheduled for April 3, 2018 and April 17, 2018. The Council will have the ability to request modifications to the options presented. NDC will be leading the discussion of this item at the March 6 public hearing, and attached is a PowerPoint presentation they have prepared on the topic. (Attachment D.)

The intention of these hearings is to identify the neighborhoods, "communities of interest," and other local factors that should be considered or used as "building blocks" when the map drawing begins.

- ***Criteria to be Considered***

While all public input concerning the composition of the City's yet to be formed voting districts should be considered, there are several mandatory criteria that the City will have to comply with when the actual districts are created:

1. Population equality across districts. (Elec. Code § 21601; Gov. Code § 34884 ["The districts shall be as nearly equal in population as may be."].)

2. Race cannot be the "predominant" factor or criteria when drawing districts. (*Shaw v. Reno* (1993) 509 U.S. 630; *Miller v. Johnson* (1995) 515 U.S. 900.)

3. Compliance with the FVRA, which, among other things, prohibits districts that dilute minority voting rights, and encourages a majority-minority district if the minority group is sufficiently large and such a district can be drawn without race being the predominant factor. (*See, Bartlett v. Strickland* (2009) 556 U.S. 1.)

Additionally, pursuant to Elections Code section 21601 and Government Code section 34884, the City Council *may* consider the following factors when establishing districts (which are not exclusive): (a) topography, (b) geography, (c) cohesiveness, contiguity, integrity, and compactness of territory, and (d) community of interests. The City Council may also plan for future growth, consider boundaries of other political subdivisions, and consider physical/visual, geographical and topographical features (natural and man-made). The City Council may choose to include some, all or none of these criteria, or may choose to come up with unique criteria that Council believes is applicable to the City. In addition, members of the community may suggest additional or alternative criteria that the Council may want to consider.

- ***Permissible Forms of By District Government***

In addition to the above criteria, the City has several options when it comes to the number of districts permitted. A city may adopt an ordinance that requires the members of the legislative body to be elected in five, seven, or nine districts (Gov. Code § 34871(a)); or in four, six, or eight districts, with an elective mayor (Gov. Code § 34871(c)). Thus, the City should consider (in conjunction with NDC) the number of districts to be established.

Although permitted by Government Code 34871(c), there is an open legal question as to whether a City that adopts a by-district method of election but establishes a separately elected at-large mayoral office is insulated from liability under the CVRA. The CVRA defines "at-large method of election" to include any method of election "that combines at-large elections with district-based elections." (Elec. Code § 14026(a)(3).) This definition could arguably include district elections where the mayor is separately elected at large. Only an at-large method of election can violate the CVRA. (Elec. Code § 14027.) Accordingly, while many cities have retained their separately elected mayor when facing a CVRA lawsuit and have not been challenged, there is at least an argument that doing so makes the entire method of election "at-large" for the purposes of CVRA. This issue is currently being litigated in an action involving the City of Rancho Cucamonga, and until

that matter works its way through the court system there is no certainty as to whether a city may avoid CVRA liability if it has a directly elected, at-large mayor.

CONCLUSION:

Staff recommends that the Council receive and discuss public comment regarding the composition of the City's yet to be formed voting districts pursuant to Elections Code section 10010(a)(1).

FISCAL IMPACT:

There is no fiscal impact associated with holding this public hearing.

The fiscal impact of moving forward with the transition to district elections, including the demographic consultant cost, the City's anticipated legal fees, and the amount likely to be paid to RDM under the CVRA safe harbor provision, is estimated to be approximately $80,000. Additional legal costs could be incurred for additional analysis and public hearings. The City's good faith and voluntary approach to transition to by-district elections may forestall further threats and demands for attorneys' fees, but that cannot be guaranteed as other jurisdictions have suffered such demands even after initiating such efforts.

Should the Council choose not to voluntarily convert to district elections and defend the threatened lawsuit, the costs are projected to be significant due to the requirement that the City pay the plaintiff's fees and costs. As demonstrated in Attachment C, awards in these cases have reached upwards of $4,500,000. When sued, even the settlements reached by cities have included paying the plaintiff's attorneys' fees. If the City Council chooses to maintain its at-large elections and defend the threatened lawsuit, it should budget a significant amount for its own attorneys' fees, and should consider a contingency budget for use to pay the plaintiff's legal fees in the event of a loss.

Unless directed otherwise, staff intends to charge costs associated with this effort to Department 99, and will utilize available budget from the Operations Contingency Account (99-2999).

ALTERNATIVE ACTION:

The City Council could provide other direction.

SUPPORTING DOCUMENTS: **PAGE #**

Supporting Document A

RDM LEGAL GROUP

San Francisco | Orange County | San Diego

Russel D. Myrick
Attorney at Law

RDM LEGAL GROUP
Manchester Financial Building
7979 Ivanhoe Avenue
Fourth Floor, Suite 400
La Jolla, California 92037
P. 888.482.8266 | F. 858.454.8993
russel@rdmlg.com

February 2, 2018

SENT VIA PERSONAL SERVICE
Ms. Kathy Ward
City Clerk
City of Dana Point
33282 Golden Lantern
Dana Point, CA 92629
Phone: (949) 248-3505
Email: <kward@danapoint.org>

RE: VIOLATION OF CALIFORNIA VOTING RIGHTS ACT

Dear Ms. Ward:

I write on behalf of several concerned citizens residing in the City of Dana Point ("Dana Point"). Dana Point relies upon an at-large election system for electing candidates to its City Council. Moreover, voting within Dana Point is racially polarized, resulting in minority vote dilution, and therefore Dana Point's at-large elections violate the California Voting Rights Act of 2001 ("CVRA").

The CVRA disfavors the use of so-called "at-large" voting – an election method that permits voters of an entire jurisdiction to elect candidates to each open seat. *See generally, Sanchez v. Modesto* (2006) 145 Cal.App.4th 660, 667 ("*Sanchez*"). For example, if the U.S. Congress were elected through a nationwide election, rather than through typical single-member districts, each voter could cast up to 435 votes and vote for any candidate in the country, not just the candidates in the voter's district, and the 435 candidates receiving the most nationwide votes would be selected. At-large elections thus allow a bare majority of voters to control *every* seat, not just the seats in a particular district, or a proportional majority of seats.

Voting rights advocates have targeted "at-large" election schemes for decades, because they often result in "vote dilution," or the impairment of minority groups' ability to elect their preferred candidates or influence the outcome of elections, which occurs when the electorate votes in a racially polarized manner. *See Thornburg v. Gingles*, 478 U.S. 30, 46 (1986) ("*Gingles*"). The U.S. Supreme Court "has long recognized that multi-member districts and at-large voting schemes may operate to minimize or cancel out the voting strength" of minorities. *Id.* at 47; *see also id.* at 48, fn. 14 (at-large elections may also cause elected officials to "ignore [minority] interests without fear of political consequences"), citing *Rogers v. Lodge* 458 U.S. 613, 623 (1982); *White v. Register* 412 U.S. 755, 769 (1973). "[T]he majority, by virtue of its

numerical superiority, will regularly defeat the choices of minority voters." *Gingles*, at 47. When racially polarized voting occurs, dividing the political unit into single member districts, or some other appropriate remedy may facilitate a minority group's ability to elect preferred representatives. *Rogers*, at 616.

Section 2 of the federal Voting Rights Act ("FVRA"), 42 U.S.C. § 1973, which Congress enacted in 1965 and amended in 1982, targets, among other things, at-large elections schemes. *Gingles* at 37; see also Boyd & Markman, *The 1982 Amendments to the Voting Rights Act: A Legislative History (1983)* 40 Wash & Lee L. Rev. 1347, 1402. Although enforcement of the FVRA was successful in many states, California was an exception. By enacting the CVRA, "[t]he Legislature intended to expand the protections against vote dilution over those provided by the federal Voting Rights Act of 1965." *Jauregui v. City of Palmdale* (2014) 226 Cal.App.4th 781, 808. Thus, while the CVRA is similar to the FVRA in several respects, it is also different in several key respects, as the Legislature sought to remedy what it considered "restrictive interpretations given to the federal act." Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001-2001 Reg. Sess.) as amended Apr. 9, 2002, p.2.

The California Legislature dispensed with the requirement in *Gingles* that a minority group demonstrate that is is sufficiently large and geographically compact to constitute a "minority-majority district." *Sanchez*, at 669. Rather, the CVRA requires only that a plaintiff show the existence of racially polarized voting to establish that an at-large method of election violates the CBRA, not the desirability of any particular remedy. *See* Cal. Elec. Code § 14028 ("A violation of Section 14027 ***is established*** if it is shown that racially polarized voting occurs…") (emphasis added); *see also* Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001-2001 Reg. Sess.) as amended Apr. 9, 2002, p. 3 ("Thus, this bill puts the voting rights horse (the discrimination issue) back where is sensibly belongs in front of the cart (what type of remedy is appropriate once racially polarized voting has been shown).")

To establish a violation of the CVRA, a plaintiff must generally show that "racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by voters of the political subdivision." Elec. Code § 14028(a). The CVRA specifies the elections that are the most probative: "elections in which at least one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class." Elec. Code § 14028(a). The CVRA also makes clear that "[e]lections conducted prior to the filing of an action . . . are more probative to establish the existence of racially polarized voting than elections conducted after the filing of an action." *Id.*

Factors other than "racially polarized voting" that are required to make out a claim under the FVRA – under the "totality of circumstances" test – "are probative, but not necessary factors to establish a violation of" the CVRA. Elec. Code § 14028(e). These "other factors" include "the history of discrimination, the use of electoral devices or other practices or procedures that may enhance the dilutive effects of at-large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate

effectively in the political process, and the use of overt or subtle racial appeals in political campaigns." *Id.*

Dana Point's at-large system dilutes the ability of Latinos (a "protected class") – to elect candidates of their choice or otherwise influence the outcome of Dana Point's council elections.

The last ten elections are illustrative. During that twenty-year period, three Latinos ran for City Council –and only one of them, Carlos Olvera – was actually elected. Raquel Olamendi and Mario Melendez were not elected in 1998 and 2006 respectively, despite garnering support from Latino voters, due to the bloc voting of the non-Latino majority. Besides the three aforementioned individuals, no other Latino candidates have sought positions on the Dana Point Council in the last twenty years. Opponents of fair district-based elections may attribute the lack of Latinos vying for City Council positions to a lack of Latino interest in local government. On the contrary, the alarming absence of Latino candidates seeking election to the Dana Point City Council reveals vote dilution. *See Westwego Citizens for Better Government v. City of Westwego*, 872 F.2d 1201, 1208-1209, n. 9 (5th Cir. 1989).

According to recent data, Latinos compromise 17.8% of the population of Dana Point. However, there are no Latinos on the City Council – and there is only *one* single candidate in the last twenty years who has been able to successfully secure a City Council seat. The contrast between the significant Latino proportion of the electorate and the near absence of Latinos elected to the City Council is telling.

As you may be aware, in 2012, a similar lawsuit was brought against the City of Palmdale for violating the CVRA. That lawsuit was successful after an eight-day trial. After spending millions of dollars, a district-based remedy was ultimately imposed upon the Palmdale City Council, with districts that combined all four incumbents into one of the four districts.

Given the historical lack of Latino representation on the City Council in the context of racially polarized elections, we urge Dana Point to voluntarily change its at-large system of electing council members. Otherwise, on behalf of several concerned residents of the City of Dana Point, we will be forced to seek judicial relief. Please advise us no later than March 19, 2018 as to whether you would like to discuss a voluntary change to your current at-large system.

We look forward to your response.

Regards,

RUSSEL MYRICK, ESQ.

Supporting Document B

RESOLUTION NO. 18-02-20-04

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, EXPRESSING THE CITY COUNCIL'S INTENTION, PURSUANT TO ELECTIONS CODE SECTION 10010(e)(3)(A), TO CONSIDER INITIATING PROCEDURES FOR ESTABLISHING AND IMPLEMENTING BY-DISTRICT ELECTIONS FOR CITY COUNCIL MEMBERS

WHEREAS, the City of Dana Point, California ("City") is a general law city, duly organized under the constitution and laws of the State of California; and

WHEREAS, the members of the Dana Point City Council are currently elected in at-large elections, in which each City Council member is elected by all registered voters of the entire City; and

WHEREAS, Section 34886 of the Government Code authorizes any city to change to a by-district system or by-district system with an elective mayor without the need to put such a change to voters; and

WHEREAS, the City Council has determined that it is in the best interest of the City to move from its current at-large electoral system to a by-district election for members of the City Council, in response to the provisions of the California Voting Rights Act; and

WHEREAS, the City intends to make this transition from an at-large system to a by-district system in accordance with the procedural rules outlined in Government Code Section 34886 and Elections Code 10010; and

WHEREAS, the City received a letter threatening action under the California Voting Rights Act on February 2, 2018 less than forty-five (45) days before the date of this Resolution; and

WHEREAS, the City will begin by working with an experienced demographer to assist the City in establishing maps for a by-district electoral system; and

WHEREAS, before drawing a draft map of the proposed boundaries of the districts, the City will hold at least two (2) public hearings over no more than thirty (30) days, at which time the public is invited to provide input regarding the composition of the districts; and

WHEREAS, the City will then publish and make available for release at least one (1) draft map of the new electoral districts, including the potential sequence of elections shown; and

WHEREAS, once the draft map(s) have been publicized for at least seven (7) days, the City will hold at least two (2) additional public hearings, over no more than forty-five (45) days,

at which time the public is invited to provide input regarding the content of the draft map and the proposed sequence of elections prior to the public hearing at which the City Council adopts a map; and

WHEREAS, if a draft map is revised at or following a public hearing, the revised map will be published and made available to the public at least seven (7) days before the City chooses to adopt it; and

WHEREAS, in determining the final sequence of staggered district elections, the City Council will give special consideration to the purposes of the CVRA, and will take in to account the preferences expressed by the members of the districts; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Dana Point, California, as follows:

1. The above recitals are true and correct and are incorporated herein by this reference.
2. The City Council hereby resolves, pursuant to Elections Code section 10010, to consider adopting a by-district election system by ordinance as authorized by California Government Code section 34886, for use in the City's General Municipal Election for City Council Members.
3. The City Council further resolves to retain a qualified demographer, hold at least five (5) public hearings and publish at least one (1) draft map and staggering sequence, pursuant to the proposed tentative hearing schedule attached hereto as Exhibit "1".
4. The city's redistricting/demographic consulting firm, acting under the supervision of the City Attorney, is hereby authorized to direct and formulate one or more electoral district scenarios for review by the public and City Council at two or more public hearings if necessary, in accordance with the city's proposed tentative timeline.
5. Working with the demographic consulting firm, staff is directed to publicize relevant maps, information, notices, agendas and other materials regarding by-district elections and to establish means of communication to answer questions from the public.

6. All public hearings shall be noticed on the City's website, and in addition, as follows: posting on the city's website at least ten (10) calendar days in advance of the hearing and publication at least ten (10) days in advance of the hearing in the newspaper adjudicated to provide notice within the City.
7. The City Manager and City Attorney are authorized to take any and all other necessary actions to give effect to this Resolution.
8. This Resolution shall become effective immediately upon its adoption.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Dana Point on the 20th day of February, 2018, by the following vote:

RICHARD A. VICZOREK, MAYOR

ATTEST:

KATHY M. WARD, CITY CLERK

(SEAL)

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF DANA POINT)

I, Kathy Ward, City Clerk of the City of Dana Point, do hereby certify that the foregoing Resolution No. 18-02-20-04 was duly adopted and passed at a regular meeting of the City Council on the 20th day of February 2018, by the following roll-call vote, to wit:

AYES: Council Members Lewis, Tomlinson, Wyatt, Mayor Pro Tem Muller, and Mayor Viczorek

NOES: None

ABSENT: None

Kathy M. Ward
KATHY WARD, CITY CLERK

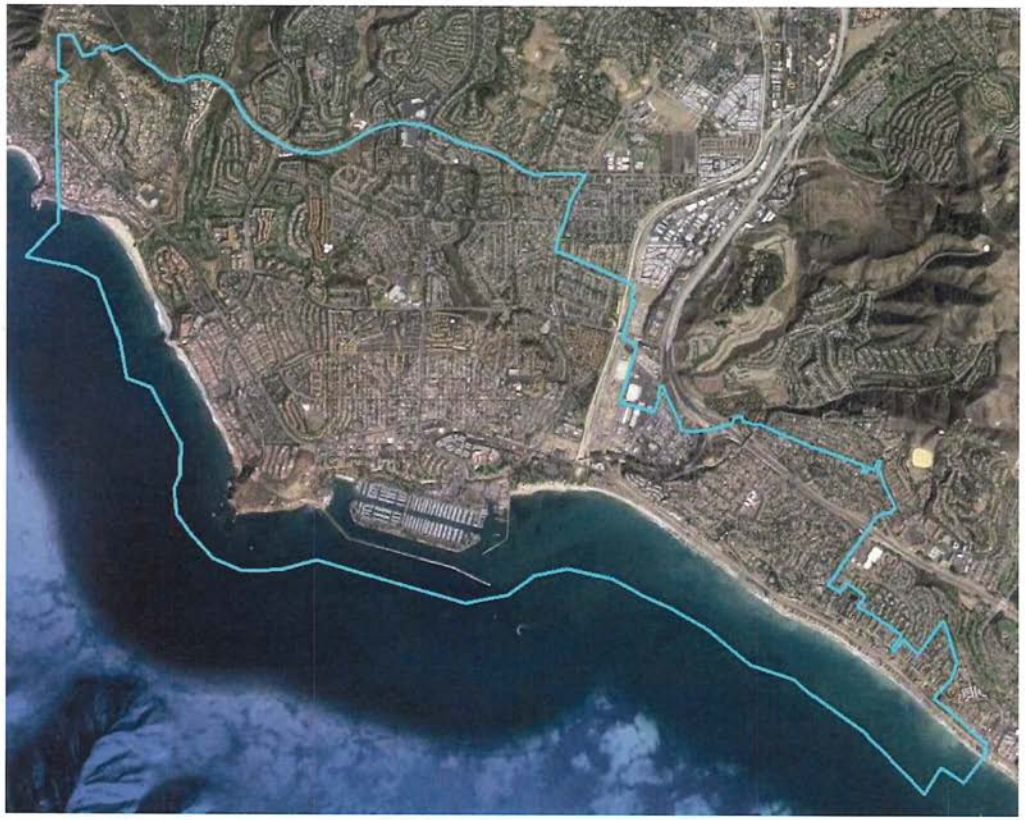
Supporting Document C

City/Political Subdivision Defendant	Settlement Conditions	Attorneys' Fees	Notes
City of Palmdale	Agreed to have voters choose elected officials by districts, including two with Latino majorities	$4,500,000	City lost trial on the merits, held an election that plaintiffs argued was illegal, and unsuccessfully challenged an injunction stopping the City from certifying the results of that election; settlement subsequently reached
City of Modesto	Moved to District elections; voters had already approved a move to districts before settlement	$3,000,000	Settlement; Additional $1,700,000 to defense attorneys
Madera Unified School District; Madera County Board of Education	Moved to "by trustee area" elections via admission of liability	$162,500	court award
City of Compton	Moved to by-district elections via ballot measure; kept mayor at large	confidential	settlement
Tulare Local Healthcare District	Agreed to hold an election re changing to district elections in 2012 and agreed to cancel 2010 elections	$500,000	Settlement
City of Tulare	City agreed to place a ballot measure before voters regarding a move to district elections	$225,000	Settlement
Hanford Unified School District	Agreed to move to by-trustee district elections	$110,000	Settlement
Compton Community College District	Agreed to move to by-district elections	$40,000	Settlement
Ceres Unified School District	Moved to by-trustee district elections before litigation was filed	$3,000	Settlement
Cerritos Community College District	Moved to by-trustee district elections	$55,000	Settlement

San Mateo County	County moved to by-District elections (through a ballot measure) and further agreed to redraw its previously-approved District boundaries by forming a nine-person redistricting committee	$650,000	Settlement
City of Anaheim	Agreed to place ballot measure on November 2016 ballot re moving to by district elections	$1,200,000	Settlement after first litigating; expected costs include at least another $800,000
City of Whittier	Case dismissed as moot when City changed voting system; unsuccessful post election challenge re at large mayor	$1,000,000	Court awarded fees under catalyst theory, even though case was dismissed
Santa Clarita Community College District	Agreed to conduct cumulative voting, and by trustees	$850,000	Settlement
City of Garden Grove	Moved to by district elections via stipulated judgment	$290,000	Settlement
City of Escondido	Settled via court order (consent decree) after vote of the people failed to adopt by district elections	$385,000	Settlement
City of Santa Clarita	Agreed to move to cumulative voting method	$600,000	Settlement
City of Visalia	Stipulated judgment, court ordered by districts	$125,000	Settlement
City of Santa Barbara	Agreed to move to by district; mayor remains elected at large	$599,500	Settlement

City of Fullerton	Agreed to pay attorneys fees - negotiate in good faith; required placing measure on November 2016 ballot to move to districts	undisclosed	Settlement
City of Merced	Settled before lawsuit filed; agreed to ballot measure	$43,000	Settlement
City of Bellflower	Agreed to place ballot measure on November 2016 ballot; measure adopted	$250,000	Settlement
Sulphur Springs School District	Agreed to move to by district elections	$144,000	Settlement
City of Costa Mesa	Moved to districts before lawsuit was filed	$55,000	pre-litigation settlement
City of West Covina	Waited until after lawsuit was filed to hire demographer and voluntarily move to by district elections via ordinance	$220,000	Settlement
City of Rancho Cucamonga	Ongoing; currently being litigated	ongoing	ongoing
City of San Marcos	Moved to districts within safe harbor, before lawsuit could be filed	$0	transitioned to districts before lawsuit could be filed
City of Carlsbad	Moved to districts within safe harbor, before lawsuit could be filed	$0	transitioned to districts before lawsuit could be filed
City of Poway	Ongoing; moving to districts within safe harbor	ongoing	ongoing
TOTAL PAYMENTS TO PLAINTIFFS' ATTORNEYS		$15,007,000	

NDC
National Demographics Corporation



City of Dana Point
2018 Districting

March 6, 2018

NDC
National Demographics Corporation

CVRA Background

- Switched (or switching) as a result of CVRA:
  - At least 165 school districts
  - 28 Community College Districts
  - 80+ cities
  - 1 County Board of Supervisors
  - 8 water and other special districts.
- Key decisions & settlements
  - Only Palmdale has gone to trial on the merits (the city lost)
  - Key settlements:
    - Palmdale: $4.7 million
    - Modesto: $3 million
    - Highland: $1.3 million
    - Anaheim: $1.1 million
    - Whittier: $1 million
    - Santa Barbara: $600,000
    - Tulare Hospital: $500,000
    - Merced City: $42,000
    - Placentia: $20,000

National Demographics Corporation

Districting Process

Step	Event
February 20	Council adopted Resolution of Intent
March 6 March 20	Two public hearings to solicit public input on the potential composition of draft maps
May 27	Deadline to post initial draft maps
April 3 April 17	Public hearings to solicit public input regarding the content of the draft maps and the proposed sequence of elections
May 1	Public hearing followed by introduction and 1st reading of ordinance implementing selected map and election sequence
May 15	2nd reading and final adoption of ordinance
November 6, 2018	Three Council districts hold first by-district elections
November 3, 2020	Remaining two districts holds first by-district elections
2021	Districts redrawn to reflect 2020 Census data

NDC National Demographics Corporation

Districting Criteria

Federal Laws

- Equal Population
- Federal Voting Rights Act
- No Racial Gerrymandering

Traditional Criteria

- Communities of Interest
- Compactness
- Contiguity
- Visible Boundaries (natural and man-made)

National Demographics Corporation

5

Demographic Summary

Each of five Council districts would have about 7,004 residents (one-fifth of the 33,351 total).

All of these data categories can be mapped.

March 6, 2018

Race/Ethnic Profile	Count	Percent
Total Population	33,351	
Latino	5,662	17%
NH White	25,468	76%
NH Black/African-American	328	1%
NH Native American	293	1%
NH Asian-American	1,341	4%
NH Pacific Islander	76	0%
NH Other	86	0%
NH Multi-Race	97	0%
Citizen VAP total	25,707	
CVAP Latino	2,892	11%
CVAP NH White	21,123	82%
CVAP NH African-American	284	1%
CVAP NH Asian & Pacific Islander	1,088	4%
CVAP Other	321	1%
Voter Registration (Nov. 2016)	21,870	
Latino Reg	1,953	9%
Asian-Surnamed Reg.	469	2%
Filipino-Surnamed Reg.	145	1%
Est. NH White Reg.	18,355	84%
Est. African-Amer. Reg	199	1%
Democratic Reg.	5,907	27%
Republican Reg.	9,896	45%
Other/No Party Reg.	6,067	28%
Voters Casting Ballots (Nov. 2016)	18,038	
Latino voters	1,492	8%
Asian-Surnamed voters	360	2%
Filipino-Surnamed voters	116	1%
Est. NH White voters	15,282	85%
Est. African-Amer. Reg	163	1%
Democratic voters	4,999	28%
Republican voters	8,492	47%
Other/No Party voters	4,547	25%

ACS Profile	Count	Percent
ACS Total Population	34,146	2%
Immigrant	5,353	16%
Naturalized (pct of total immigrants)	2,586	48%
Age 5+	32,478	
Speak English at home	25,882	80%
Speak Spanish at home	4,392	14%
Speak an Asian language at home	520	2%
Speak other language at home	1,683	5%
Speak English only "well" or less	2,324	7%
Age 25+	26,293	
Age 25+, no HS degree	1,606	6%
Age 25+, HS degree (only)	12,796	49%
Age 25+, bachelor degree (only)	6,957	26%
Age 25+, graduate degree (only)	4,934	19%
Households	14,713	
Child under 18 in Household	3,293	22%
Income $0-25k	2,066	14%
Income $25-50k	2,351	16%
Income $50-75k	2,578	18%
Income $75-200k	5,473	37%
Income $200k+	2,246	15%
Housing units	17,044	
Single-Family	11,714	69%
Multi-Family	5,330	31%
Rented	5,794	39%
Owned	8,919	61%
Voters Casting Ballots (Nov. 2014)	10,363	47%
Latino voters	646	6%
Asian-Surnamed voters	183	2%
Filipino-Surnamed voters	37	0%
Est. NH White voters	9,022	87%
Est. African-Amer. Reg	49	0%
Democratic voters	2,719	26%
Republican voters	5,496	53%
Other/No Party voters	2,148	21%

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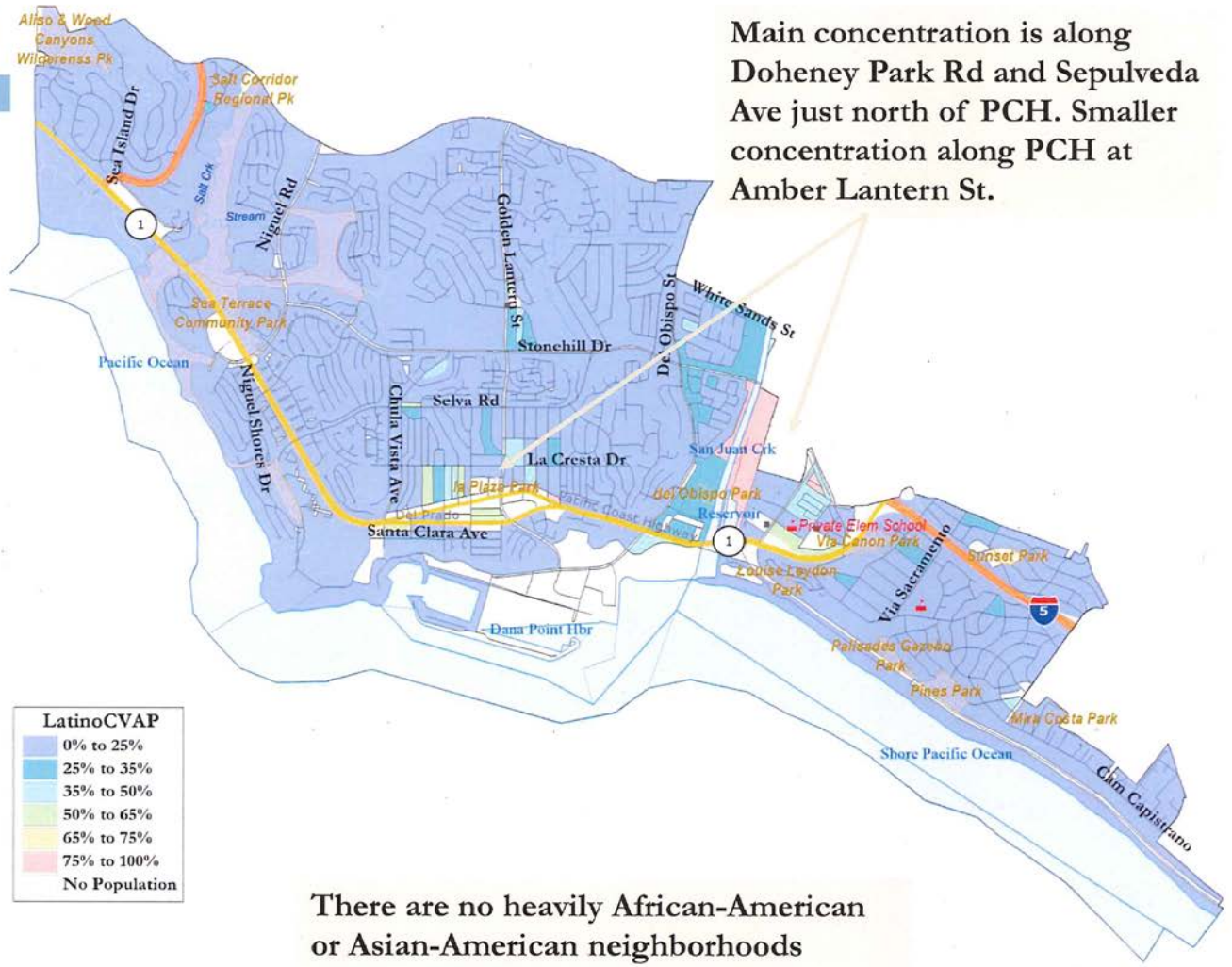
Latino CVAP Concentrations



Main concentration is along Doheney Park Rd and Sepulveda Ave just north of PCH. Smaller concentration along PCH at Amber Lantern St.

There are no heavily African-American or Asian-American neighborhoods

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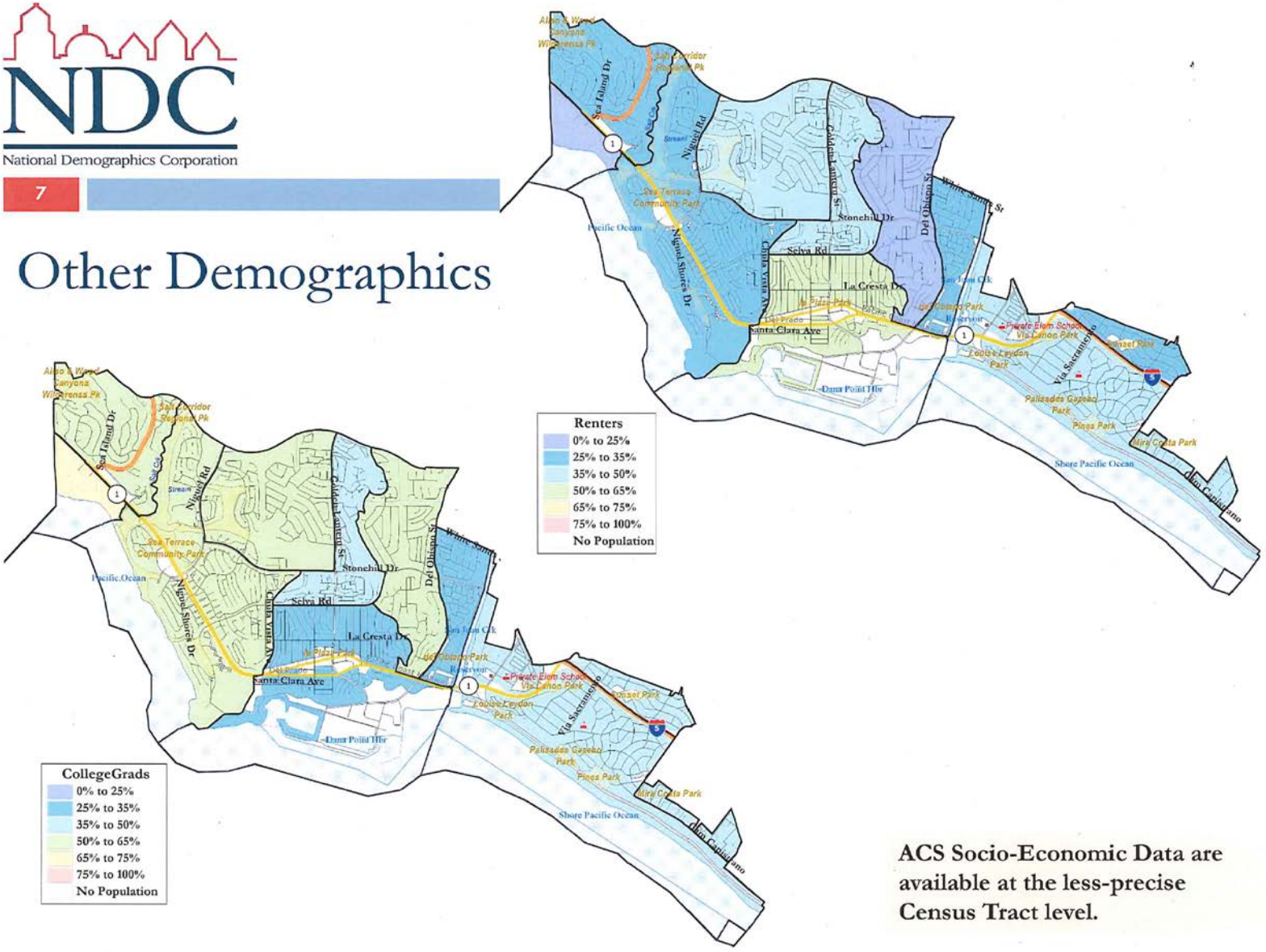
Other Demographics



ACS Socio-Economic Data are available at the less-precise Census Tract level.

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Defining Communities of Interest

1st Question: What is your neighborhood or Community of Interest?

A Community of Interest is generally defined as a neighborhood or community of shared interests, views, problems, or characteristics.

Possible community feature/boundary definitions include:

- School attendance areas
- Natural neighborhood dividing lines, such as highway or major roads, rivers, canals, and/or hills
- Areas around parks and other neighborhood landmarks
- Common issues, neighborhood activities, or legislative/election concerns
- Shared demographic characteristics
  - Such as similar levels of income, education, or linguistic isolation

2nd Question: Does a Community of Interest want to be united in one district, or to be divided to have a voice in multiple elections?

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How do you define your neighborhood?

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Discussion

1. What are the boundaries of your neighborhood or "community of interest"?
2. Do you want your neighborhood united in one district, or with multiple Councilmembers elected from it?
3. What neighborhoods do you think make sense to be with your neighborhood in a district or districts because of common city issues?
4. What other "communities of interest" do you see in the City?