



City of Gilroy

STAFF REPORT

Agenda Item Title: Hold the First Public Hearing Regarding the City's Transition from an At-Large to a District-Based Election System for the Purpose of Receiving Public Input on the Potential Contours of the New Districts and Hearing the Demographer's Presentation on the Transition Process and the Drawing of District Maps for the November 2026 and 2028 Elections

Meeting Date: March 3, 2025

From: Jimmy Forbis, City Administrator
Andrew Faber, City Attorney

Department: Administration

Submitted By: Andrew Faber, City Attorney

Prepared By: Andrew Faber, City Attorney

STRATEGIC PLAN GOALS

Not Applicable

RECOMMENDATION

Hold a Public Hearing and receive public input and a presentation from the City of Gilroy's ("City") consulting Demographer, Redistricting Partners, regarding the process and criteria for establishing boundaries for district elections pursuant to the California Voting Rights Act ("CVRA") for the City Council. The City Council should further discuss the following topics:

1. The Communities of Interest within the City that should define the boundaries and composition of districts before any maps of any proposed district boundaries are drawn; and,
2. Whether the City should draw six districts and retain its directly elected Mayor, or draw 7 districts where City Councilmembers select the Mayor on a rotating or other basis.

BACKGROUND

The City of Gilroy ("City") currently has an at-large election system, where each of the City's six Councilmembers are elected to staggered four-year terms by voters throughout the City. The mayor is also elected at-large to a four-year term.

1. Letter Alleging Violation of the CVRA and the City's Resolution of Intent to Transition from an At-Large Electoral System to One Based on Districts.

On December 16, 2024, the City received a letter from attorney Kevin Shenkman of Shenkman & Hughes in Malibu, California ("Plaintiffs' Counsel") -on behalf of his client the Southwest Voter Registration Education Project- alleging that the City is in violation of the California Voting Rights Act ("CVRA") because the City elects its Councilmembers at-large, and that the City's elections are characterized by racially polarized voting. Racially polarized voting occurs where there is a sufficient/ significant correlation between the race or ethnicity of voters and those voters' choice of candidates or other electoral choices, as compared to the choice of candidates or electoral choices preferred by the rest of the electorate. Plaintiffs' Counsel's letter demands that the City immediately transition from an at-large elections system to a district-based one. As noted above, the City currently has an at-large election system, where each of the City's six Councilmembers are elected by voters throughout the City. A district-based election system is one in which the City is divided into separate districts, each with one Councilmember who resides in that district and who is elected only by voters residing in that district.

On February 24, 2025, at its regularly scheduled meeting, adopted a resolution of intent to make the transition to district-based elections from the current at-large election system. The first district-based elections will be in 2026. There are two district-based options to consider: the creation of six districts and the retention of the at-large mayor position; or, the creation of seven districts where one of the City Councilmembers serves as mayor on a rotating basis.

2. The CVRA Rubric/ Violations of the CVRA

The CVRA was signed into law in 2002, and only applies to jurisdictions like the City that utilize an at-large election method where voters of the entire jurisdiction elect each of the members of the City Council. The CVRA prohibits an at-large method of election that impairs the ability of a protected class to elect candidates of their choice or their ability to influence the outcome of an election. The impairment occurs where there is racially polarized voting – that is, when voters' candidate or other electoral choices correlate in a statistically significant way with the race or ethnicity of the voter. The correlation makes it more difficult for members of racial or ethnic minorities to elect candidates of their choice as there is potential vote dilution in an at-large electoral system. The intent of the CVRA was to significantly expand protections against vote dilution over those provided by the Federal Voting Rights Act of 1965 ("FVRA").

Compared with the FVRA, it is easier for plaintiffs to prove a violation of the CVRA against public entities. Under the CVRA, proof of intent on the part of voters or elected officials to discriminate against a protected class is not required. The Legislature also mandated that those who mount a successful challenge under the CVRA recover their attorneys' fees. Furthermore, a violation of the CVRA (but not the FVRA) can exist even if it would not be possible through districting to create one or more "majority-minority" districts.

3. *The CVRA's Safe Harbor Provision*

On December 16, 2024, the City received a "demand letter" regarding an alleged violation of the CVRA. Under the CVRA, the City had 45 days to pass a resolution proclaiming its intent to transition from at-large elections to district-based elections, outlining the steps it will take to fully facilitate the entire transition, and the estimated timeframe to complete the transition. The City obtained a short extension; the City Council adopted its resolution at its regularly scheduled February 24 meeting.

The City now has 90 days from the February 24, 2025 resolution to complete the transition process. (Elec. Code § 10010, subd. (e)(3)). Thus, absent extension, the City must complete the transition to district-based elections by May 27, 2025, and has set the following tentative schedule:

First Hearing:	March 3, 2025 (Public Input on District Contours)
Second Hearing:	March 17, 2025 (same)
Third Hearing:	April 7, 2025 (Consideration of Draft Maps)
Fourth Hearing:	April 21, 2025 (Consideration of Draft Maps)
Fifth Hearing:	May 5, 2025 (Consideration of Draft Maps/ Order Of Elections)

4. *The Transition Process under the Safe Harbor Provision*

The City has engaged a demographer, Redistricting Partners, to support the transition effort to district-based elections. During this process, the City must:

- Hold at least five public hearings to receive public input and to consider draft maps. The public hearing on March 3, 2025 will be the first of two required public hearing for the public to provide input on communities of interest and the composition of districts, as well as whether the City should retain a directly elected mayor with six districts, or go to seven districts with a City Councilmember selected mayor with seven districts. The City will not consider any maps at this public hearing or the second public hearing, which has tentatively been scheduled for March 17, 2025.
- After the two required initial hearings to gather public input, the City Council will hold at least three additional public hearings starting in April of 2025 to consider and select a map with district boundaries based on the public input received

regarding the City's communities of interest and the City Council's direction as to whether the transition will produce six or seven districts with a directly elected mayor or one chosen by the seven City Councilmembers, respectively. Redistricting Partners will produce one or more maps for consideration by the City Council and the public before each meeting, which will be available to the public at least 7 days before any hearing at which the City Council considers the maps. Redistricting Partners will present those maps – explaining each map's attributes and the differences between or among them. During one or more of these three hearings the City Council will discuss the proposed sequence of election – that is, which districts will be on the ballot in November of 2026, and which will be up in 2028.

During this March 3, 2025 hearing - the first public hearing, the City's demographer, Redistricting Partners, will make a presentation on the CVRA and the transition process for preparing district boundaries. The intention of this hearing is to identify the neighborhoods or "communities of interest" within the City, as well as other local factors that should be considered by Redistricting Partners when drawing draft maps. The public will be invited to ask questions about the process and to provide input on communities of interest in the City. This will allow the demographer to better understand the City and allow the drawing of maps based on sound demographic and legal principles. The public is welcome to propose complete districting maps, (See below for more on the district formation criteria.) The public is also invited to provide input as to whether the City should move from a directly elected mayor with six districts to a system in which the Mayor is selected by the seven City Councilmembers on, for example, a rotating basis. This hearing will also identify and highlight resources available to the public on the City's website related to the transition to district-based elections. (See below for more information regarding the City's public outreach process.)

The format for the second hearing on March 17, 2025 will be the same. At the end of the second public hearing with full consideration of the input offered by the public, the City Council will provide direction to City staff and the City's demographer regarding the criteria to be considered, consistent with the required legal parameters, to create proposed district maps. The City Council will also be asked to provide direction on the number of districts to be created, as well as whether the City would like to retain the practice of directly electing the Mayor.

DISTRICT FORMATION CRITERIA

In creating the district boundaries, the City must ensure compliance with the following criteria mandated by the CVRA and the Federal Voting Rights Act:

- Each district must contain a nearly equal population.
- The districting plan must be drawn in a manner that complies with the Federal Voting Rights Act and the Equal Protection Clause of the U.S. Constitution; and,
- The districts must not be drawn with race as the predominant factor.

Additionally, Election Code section 21130 requires cities to adopt districts using the following criteria to the extent practicable, which are set forth in order of priority:

- Districts shall be geographically contiguous.
- To the extent practicable, the geographic integrity of any local neighborhood or local community of interest must be respected and maintained. A “community of interest” is a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation.
- District boundaries should be easily identifiable and understandable. To the extent practicable, districts shall be bounded by natural and artificial barriers, by streets, or by the boundaries of the jurisdiction.
- To the extent practicable, and where it does not conflict with the preceding criteria, districts shall be drawn to encourage geographical compactness.

The City's demographer – Redistricting Partners – only will present maps that comply with these criteria.

PUBLIC OUTREACH

In addition to the formal public hearing process, the City is implementing a robust effort to encourage participation and inclusivity as a part of the districting process:

- Hosting a webpage dedicated to districting, which includes an explanation of the districting process, relevant demographic data, the process for getting public input (in all legally required languages), a calendar of public hearings and/or workshop dates, the notice and agenda for each hearing/workshop, audio/video records of the hearings/workshops, a copy of the draft map(s) considered, and a copy of the final adopted map;
- Invited the submission of community of interest ("COI") forms to allow the public to provide input on keeping communities of interest in single districts to the extent possible, and invited the submission of draft maps using an interactive mapping tool to allow the public to weigh-in on how the actual district lines might be drawn; and
- Providing the above referenced information to good government, civic engagement, and community groups that are active in the locality, including those active with minority and non-English speaking communities.

NUMBER OF DISTRICTS AND NATURE OF THE MAYOR'S ELECTION

Early in the process of transitioning to district-based elections, the City Council will provide direction to staff and consultants on the number of districts to be created. The City currently has six City Councilmembers elected to four-year staggered terms and a directly elected Mayor. The City Council will provide direction as to whether to maintain this system, or switch to one where there are seven districts – with the seven City Councilors selecting the Mayor on a rotating basis or some other basis.

FISCAL IMPACT/FUNDING SOURCE

The City of Gilroy must retain the services of a demographer to successfully transition to district elections. The cost of such services is \$45,000 to \$50,000. The City also must retain outside legal counsel to assist in the transition from at-large to district-based elections, the cost of which will be \$35,000 – 45,000. Lastly, it is contemplated that Sherkman & Hughes, the author of the letter received on December 16, 2024, will send an invoice to the City at the end of the transition process as allowed under the CVRA for fees and costs associated with the investigation that gave rise to the letter received on December 16, 2024 – usually for the services of a demographer and also attorneys' fees. The amount of that invoice is capped by the statute at approximately \$37,500 if the City meets the CVRA time limits. The total anticipated cost will range from \$117,500 to \$132,500 and would be paid from the City's General Fund (100). Should the Council adopt the Resolution of Intent, staff will proceed with engaging the demographer and outside legal counsel and the funding would be accommodated within the existing appropriations in FY25 as typically there are year-end savings.

ENVIRONMENTAL REVIEW

None.

PREVIOUS COUNCIL CONSIDERATION

During the regular meeting of February 24, 2025, the City Council adopted a Resolution declaring its Intent to Transition to District-Based Elections pursuant to California Elections Code Section 10010, with the transition taking effect for the November 2026 and 2028 Elections.

Attachments:

1. Resolution of Intent

RESOLUTION NO. 2025-07

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GILROY DECLARING ITS INTENTION TO TRANSITION FROM AN AT-LARGE ELECTION SYSTEM TO A DISTRICT-BASED ELECTION SYSTEM PURSUANT TO CALIFORNIA ELECTIONS CODE 10010

WHEREAS, the City of Gilroy ("the City") is a Charter City with six elected members of the City Council elected to staggered four-year terms, and an elected mayor who also serves a four-year term; and

WHEREAS, the City Council is charged with managing the City's affairs, setting City policy, and adopting ordinances and resolutions necessary for efficient governmental operations; and

WHEREAS, members of the City Council and Mayor are currently elected to staggered four-year terms in "at-large" elections in which each City Councilmember and the Mayor are elected by the registered voters of the entire City; and

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

WHEREAS, the City desires that its electoral system be fair and representative and provide the opportunity for all City residents to elect candidates of their choice to the City Council, and

WHEREAS, the City through its City Council and Mayor believes that a move to district-based City Council elections will enhance the opportunity for all City residents, including minority groups, to elect candidates of their choice in fair and representative elections; and

WHEREAS, on December 16, 2024, the City received a letter from attorney Kevin Shenkman asserting that the City's at-large City Councilmember electoral system violates the California Voting Rights Act ("CVRA"); and

WHEREAS, the City of Gilroy denies that its current at-large electoral system violates the CVRA or any other law in any aspect, and asserts that its current at-large system is fair and representative in all respects; and

WHEREAS, the City intends to make this transition from an at-large electoral system for members of the City Council to a district-based system in accordance with the procedural rules outlined in Government Code Section 34886 and Elections Code 10010, and intends to do so within 90 days unless that time is extended; and

WHEREAS, the City will work with an experienced demographer to assist the City in making the transition to district-based elections to elect members of the City Council; and

WHEREAS, the City will hold at least two public hearings within 30 days of the adoption of this resolution, the purposes of which are: (1) to hear presentations on both the CVRA and the move to district-based elections for members of the City Council; (2) to receive public input about the City in terms of communities of interest and the contours of districts; and, (3) to assist both the City Council and the City's demographer in understanding what district boundaries might make sense; and, (4) to explain to City residents the rules and parameters regarding drawing districts that comply with both state and federal election law; and

WHEREAS, these first hearings will occur and public input be received before the demographer draws any maps for consideration of the City Council; and

WHEREAS, there is no limitation as to the number of public hearings or meetings the City may hold for the purpose of receiving input from City residents; and

WHEREAS, the City will then hold at least additional two public hearings at which the demographer will present draft maps drawn in accordance with both state and federal law and which take into account public input received at the first two public input hearings; and

WHEREAS, at least one of these hearings of the two to collect public input and the two to present draft maps will be held after 6:00 p.m. on a weekday or on a Saturday; and

WHEREAS, any draft maps of new electoral districts presented for consideration at these additional public hearings will be published on the City's website and available for public release and review at least seven days before any hearing to consider those maps; and

WHEREAS, once the City Council has selected a draft map or is further along in the draft map process, the City will take public input at its public hearings on draft maps regarding the proposed sequence of elections, because given the City's staggered elections for City Council three new districts will be on the ballot in November of 2026 and the other three will be on the November 2028 ballot; and

WHEREAS, in making the determination as to the order of elections, the City Council will do so in furtherance of “the spirit of the CVRA”; and

WHEREAS, at a fifth or final meeting, the City Council will select one of the draft maps and set the order of elections.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Gilroy hereby finds and resolves 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 bring the transition to a district-based election system for members of the City Council by ordinance as authorized by California Government Code Section 34886, for use in the City's Municipal Election for City Councilmembers in November 2026 and November 2028, and intends to do so within 90 days of this resolution absent an extension.
3. The City Council further resolves to retain a qualified demographer and to hold at least five public hearings for public input, with the first two hearings being for the purpose of public input on communities of interest and how maps should be drawn, with at least two more hearings at which draft maps will be presented. Any map that the City Council will consider will be published on the City's website and available to the public at least seven days in advance of that hearing. In these later hearings, the City Council will also receive public input on the sequence of elections to further the purposes of the CVRA. The City will publicly release a draft schedule of the public hearings in advance, within a reasonable timeframe from this Resolution, and post the same on its website.
4. At a fifth or final meeting, the City Council will select a map, and also set the order of elections in 2026 and 2028 in the spirit of the CVRA.
5. Working with the demographer, staff is directed to publicize relevant maps, information, notices, agendas and other materials regarding district-based 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 7 calendar days in advance of the hearing and publication at least 7 days in advance of the hearing by means contemplated to provide notice to City residents including publication in local newspapers or other means; at least one of the CVRA hearings will occur on a Saturday or after 6 pm on a weekday.
7. The City will adopt a proposed schedule to complete the transition from an at-large elections system to a district-based elections system. The currently proposed schedule of the required public hearings is as follows. This schedule may be changed or augmented by future Council action.

Date	Event
March 3, 2025	Public Hearing No. 1
March 17, 2025	Public Hearing No. 2
April 7, 2025	Public Hearing No. 3
April 21, 2025	Public Hearing No. 4
May 5, 2025	Public Hearing No. 5

8. The City Administrator is authorized to take any and all other necessary actions to give effect to this Resolution.

9. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 3rd day of March, 2025 by the following roll call vote:

AYES: **COUNCIL MEMBERS:** BRACCO, FUGAZZI, MARQUES, HILTON,
RAMIREZ, CLINE, BOZZO

NOES: **COUNCIL MEMBERS:**

ABSTAIN: **COUNCIL MEMBERS:**

ABSENT: **COUNCIL MEMBERS:**

APPROVED:

Signed by:


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Greg Bozzo, Mayor

ATTEST:

DocuSigned by:



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Beth Minor, Interim City Clerk

CERTIFICATE OF THE CLERK

I, **BETH MINOR**, Interim City Clerk of the City of Gilroy, do hereby certify that the attached **Resolution No. 2025-07** is an original resolution, or true and correct copy of a City Resolution, duly adopted by the Council of the City of Gilroy at a Regular Meeting of said held on Council held **Monday, February 24, 2025**, with a quorum present.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of the City of Gilroy this **26 FEBRUARY 2025**.

DocuSigned by:

Beth Minor

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Beth Minor

Interim City Clerk of the City of Gilroy

