



JOSHUA BASIN WATER DISTRICT
SPECIAL MEETING OF THE BOARD OF DIRECTORS
WEDNESDAY, MARCH 13, 2019, AT 6:30 PM
61750 CHOLLITA ROAD, JOSHUA TREE, CA 92252

AGENDA

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **DETERMINATION OF A QUORUM**
4. **APPROVAL OF AGENDA**
5. **PUBLIC COMMENT**
Members of the public may address the Board at this time with regard to matters within the Board’s jurisdiction that are not listed on the agenda. State law prohibits the Board of Directors from discussing or taking action on items not included on the agenda. Members of the public will have the opportunity for public comment on any item listed on the agenda when it is addressed on the agenda. Please limit comments to three (3) minutes or less.
6. **PUBLIC HEARING** – At this time the Board will conduct a Public Hearing to receive and discuss public input & comment regarding the potential transition from an “at-large” election system to a “district-based” election system pursuant to Elections Code Section 10010 (a) (1).
The public hearing should be conducted as follows:
 - A. HEARING OPENED BY PRESIDING OFFICER
 - B. STAFF AND CONSULTANT PRESENTATIONS
 - C. QUESTIONS OF STAFF BY BOARD
 - D. PUBLIC TESTIMONY OPENED BY PRESIDING OFFICER
 - E. PUBLIC TESTIMONY HEARING CLOSED
 - F. QUESTIONS BY BOARD
 - G. DISCUSSION BY BOARD
 - H. ACTION BY BOARD
7. **EMPLOYEE RECOGNITION AND AWARDS PROGRAM** – Recommend that the Board approve the Employee Recognition and Awards Program.
8. **REQUEST FOR STAFF REPORT ON EMPLOYEE BENEFITS**– Recommend that the Board advise the General Manager on how to proceed.

Pages 3-30

Pages 31-33

Pages 34-35

9. **CLOSED SESSION –**

At this time the Board will go into Closed Session pursuant to Government Code Section 54957 (b) (1) – General Manager Performance Evaluation; and

Pursuant to Government Code Section 54957.6 to consult with the Board’s designated representatives (Ad Hoc Negotiation Committee (President Johnson and Vice President Unger) with regard to potential compensation adjustments and the potential extension of the General Manager’s Employment Agreement.

RETURN TO OPEN SESSION –

10. **ADJOURNMENT**

INFORMATION

The public is invited to comment on any item on the Agenda during discussion of that item.

Any person with a disability who requires accommodation in order to participate in this meeting should telephone Joshua Basin Water District at (760) 974-0072, at least 48 hours prior to the meeting in order to make a request for a disability-related modification or accommodation.

Materials related to an item on this Agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the District’s office located at 61750 Chollita Road, Joshua Tree, California 92252 during normal business hours.

JOSHUA BASIN WATER DISTRICT

AGENDA REPORT

DATE: MARCH 13, 2016

TO: GENERAL MANAGER/BOARD OF DIRECTORS

FROM: SPECIAL COUNSEL, JENNIFER FARRELL (RUTAN & TUCKER LLP)

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

RECOMMENDED ACTION:

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

BACKGROUND:

On December 21, 2018, the District received a letter from Kevin Shenkman, an attorney of the law firm of Shenkman & Hughes threatening to sue the District for alleged violations of the California Voting Rights Act ("CVRA") (Elec. Code §§ 14025-14032) unless the District voluntarily converts to a district-based election system. The CVRA only applies to jurisdictions, like the Joshua Basin Water District, that utilize an at-large election method, where voters of the entire jurisdiction elect each of the members of the Board. 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. Every public agency 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. A copy of Mr. Shenkman'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 District retains its at-large election method of election, at the District's February 6, 2019 hearing, the Board adopted Resolution No. 19-994 outlining its intention to transition from at-large to district-based elections, pursuant to Elections Code section 10010(e)(3)(A). (Attachment B.) As stated in that Resolution, the Board took that action in furtherance of the purposes of the CVRA. Pursuant to Elections Code section 10010(a)(1), the Board 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 "district-based" 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, No. 17cv2032-WQH-JLB) ___ F.Supp.___.)

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 district-based elections to provide a “safe harbor” process designed to protect agencies from litigation. (Elec. Code § 10010(e)(3).) If a public entity receives a demand letter, such as the Shenkman letter here, the public entity is given 45 days of protection from litigation to assess its situation. If within that 45 days, the public entity adopts a resolution declaring the Council or Board'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 District retains its at-large election method of election, at the Board's February 6, 2019 hearing, the Council adopted Resolution No. 19-994 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 District before May 7, 2019.

Now that the District has adopted a resolution of intent, the first step in the process in the District's conversion from its current at-large method of election to a district-based 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 13, 2019 hearing is the first such hearing, and the second will occur on March 20, 2019. Based in part on input received at these hearings, the District'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, 2019 and April 17, 2019. The Board will have the ability to request modifications to the options presented. NDC will be leading the discussion of this item at the March 13 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 District’s yet to be formed voting districts should be considered, there are several mandatory criteria that the District 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 sufficient 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 Board *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 Board may also plan for future growth, avoid head-to-head contests between incumbents (to the extent possible), consider boundaries of other political subdivisions, and consider physical/visual geographical and topographical features (natural and man-made). The Board may choose to include some, all or none of these criteria, or may choose to come up with unique criteria that Board believes is applicable to the District. In addition, members of the community may suggest additional or alternative criteria that the Board may want to consider.

- **Permissible Forms of By District Government**

In addition to the above criteria, the District has several options when it comes to the number of districts permitted. A public entity 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 District 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 public entity that adopts a district-based method of election but establishes a separately elected at-large mayoral/presidential 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/president is separately elected at large. Only an at-large method of election can violate the CVRA. (Elec. Code § 14027.) Accordingly, while many entities 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.

ENVIRONMENTAL ANALYSIS:

This item is not subject to CEQA review.

CONCLUSION:

Staff recommends that the Board receive and discuss public comment regarding the composition of the District’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 (\$8,500), the District’s anticipated legal fees (\$18,000), and the amount likely to be paid to Shenkman under the CVRA safe harbor provision (\$30,000), is estimated to be approximately \$56,500. Additional legal costs could be incurred for additional analysis and public hearings.

ALTERNATIVE ACTION:

The Board could provide other direction.

SUPPORTING DOCUMENTS:

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VIA CERTIFIED MAIL

JBWD
DEC 26 2018
RECEIVED BY: PE

December 21, 2018

Mickey Luckman, President
Curt Sauer, General Manager
Joshua Basin Water District
P.O. Box 675
61750 Chollita Road
Joshua Tree, CA 92252

Re: *Violation of California Voting Rights Act*

I write on behalf of our client, Southwest Voter Registration Education Project and its members. The Joshua Basin Water District ("JBWD" or "District") relies upon an at-large election system for electing candidates to its Board of Directors. Moreover, voting within the Joshua Basin Water District is racially polarized, resulting in minority vote dilution, and, therefore, the District'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. City of Modesto* (2006) 145 Cal.App.4th 660, 667 ("*Sanchez*"). For example, if the U.S. Congress were elected through a nationwide at-large 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 elected. 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 its 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 election 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 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 (2001-2002 Reg. Sess.) as amended Apr. 9, 2002, p. 2.

The California Legislature dispensed with the requirement in *Gingles* that a minority group demonstrate that it is sufficiently large and geographically compact to constitute a “majority-minority 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 CVRA, 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); *also see* Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001-2002 Reg. Sess.) as amended Apr. 9, 2002, p. 3 (“Thus, this bill puts the voting rights horse (the discrimination issue) back where it 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 the voters of the political subdivision.” Elec. Code § 14028(a). The CVRA specifies the elections that are 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 the action.” *Id.*

Factors other than “racially polarized voting” that are required to make out a claim under the FVRA – under the “totality of the 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 voting 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.*

The Joshua Basin Water District’s at-large system dilutes the ability of Latinos (a “protected class”) – to elect candidates of their choice or otherwise influence the outcome of the District’s elections. The District serves the city of Joshua Tree. As of the 2010 Census, the City of Joshua Tree had a population of 7,414. According to this data, Latinos comprise approximately 18%. However, in the District’s history, there has not been a single Latino Board member. Therefore, not only is the contrast between the significant Latino proportion of the electorate and the absence of Latinos to be elected to the JBWD Board of Directors outwardly disturbing, it is also fundamentally hostile towards participation by members of this protected class.

The JBWD’s at-large election system has also impeded the emergence of Latino candidates from the community. Again, in the District’s history, there has only been one Latino who has emerged as a candidate for the JBWD Board. Opponents of fair, district-based elections may attribute the lack of Latinos vying for elected positions to a lack of interest in local government from these communities. On the contrary, the alarming absence of Latino candidates seeking election to the District’s Board reveals vote dilution. See *Westvego Citizens for Better Government v. City of Westvego*, 872 F. 2d 1201, 1208-1209, n. 9 (5th Cir. 1989).

- The District’s election history is additionally illustrative. Notwithstanding the fact that there has never been a Latino to serve on the JBWD’s Board, Al Marquez announced his candidacy in 2008 but lost that election. Once more, in 2010, Mr. Marquez ran for the Board and lost. Even still, Mr. Marquez declared his candidacy in 2012 and most recently in 2018. Despite support from the local Latino community in each of these four elections, Mr. Marquez lost each time. These four (4) elections evidence vote dilution which is directly attributable to the JBWD’s unlawful at-large election system.

As you may be aware, in 2012, we sued the City of Palmdale for violating the CVRA. After an eight-day trial, we prevailed. After spending millions of dollars, a district-based remedy was ultimately imposed upon the Palmdale city council, with districts that combine all incumbents into one of the four districts.

More recently, this month, after a 7-week trial, we also prevailed against the City of Santa Monica, after that city needlessly spent millions of dollars defending its illegal election system – far in excess of what was spent in the Palmdale litigation - taxpayer dollars which could have been more appropriately spent on indispensable municipal services and critical infrastructure improvements. Just prior to the trial in that case, counsel for the City of Santa Monica - Kahn Scolnick, a partner at Gibson Dunn & Crutcher LLP proclaimed that, “the reality is that if Santa Monica fails the CVRA test, then no city could pass, because Santa Monica is doing really well in terms of full representation and success of minority candidates.” (“In Rare California Voting Rights Trial, Gibson Dunn Steps Up for Santa Monica”, Law.com, August 1, 2018). Notwithstanding Mr. Scolnick’s prediction, Plaintiffs succeeded in proving that Santa Monica’s election system was in violation of the CVRA and the Equal Protection Clause of the California Constitution.

Given the historical lack of Latino representation on the Joshua Basin Water District’s Board of Directors in the context of racially polarized elections, we urge the District to voluntarily change its at-large system of electing its Board members. Otherwise, on behalf of residents within the jurisdiction, we will be forced to seek judicial relief. Please advise us no later than February 12, 2019 as to whether you would like to discuss a voluntary change to your current at-large system.

We look forward to your response.

Very truly yours,



Kevin I. Shenkman

RESOLUTION NO. 19-994

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE JOSHUA BASIN WATER DISTRICT EXPRESSING THE BOARD'S INTENTION, PURSUANT TO ELECTIONS CODE SECTION 10010 (e)(3)(A), TO INITIATE PROCEDURES FOR ESTABLISHING AND IMPLEMENTING DISTRICT-BASED ELECTIONS FOR BOARD MEMBERS

WHEREAS, the Joshua Basin Water District, ("District") is duly organized under the constitution and laws of the State of California; and

WHEREAS, the members of the Board of Directors of the District are currently elected in at-large elections, in which each Board member is elected by all registered voters of the entire District; and

WHEREAS, Section 10650 of the Elections Code authorizes any district change to a district-based system without the need to put such a change to voters; and

WHEREAS, the District Board of Directors has determined that it is in the best interest of the District to move from its current at-large electoral system to a district-based election for members of the District Board, in response to the provisions of the California Voting Rights Act (CVRA); and

WHEREAS, the District intends to make the transition from an at-large system to a district-based system in accordance with the procedural rules outlined in Election Code 10650 and Elections Code 10010; and

WHEREAS, the District received a letter threatening action under the California Voting Rights Act on December 26, 2018 less than forty-five (45) days before the date of this Resolution; and

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

WHEREAS, before drawing a draft map of the proposed boundaries of the districts, the District 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 District 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 District will hold at least two (2) additional public hearings, over no more than forty-five 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 District Board of Directors 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 District chooses to adopt it; and

WHEREAS, in determining the final sequence of staggered District elections, the District Board of Directors will give special consideration to the purposes of the CVRA, and will take into account the preferences expressed by the public; and

NOW, THEREFORE, BE IT RESOLVED by the Board of the Joshua Basin Water District, as follows:

1. The above recitals are true and correct and are incorporated herein by this reference.
2. The Board of Directors hereby resolves, pursuant to Elections Code section 10010, to consider adopting a district-based election system by ordinance as authorized by California Elections Code section 10650, for use in the Districts General Election for Board Members.
3. The Board of Directors 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 District's redistricting/demographic consulting firm, acting under the supervision of special counsel, is hereby authorized to direct and formulate one or more electoral district scenarios for review by the public and Board at two or more public hearings if necessary, in accordance with the District'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 District-based elections and to establish means of communication to answer questions from the public.

6. All public hearings shall be noticed on the District's website, and in addition, as follows: posting on the District'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 District.
7. The General Manager is 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 the Regular Meeting of the Board of Directors of the Joshua Basin Water District on the 6th day of February, 2019, by the following vote:



Bob Johnson, President
Joshua Basin Water District and of
the Board of Directors thereof;

ATTEST:



Curt Sauer, Secretary
Joshua Basin Water District and of
the Board of Directors thereof;

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF)


I, Curt Sauer, Secretary of the Board of Directors of the Joshua Basin Water District do hereby certify that the foregoing Resolution No.19-994 was duly adopted and passed at the regular meeting of the Board of Directors on the 6th day of February 2019, by the following vote to wit:

AYES: *Reynolds, Huckman, Bond, Unger, Johnson*

NOES:

ABSTAIN:

ABSENT:

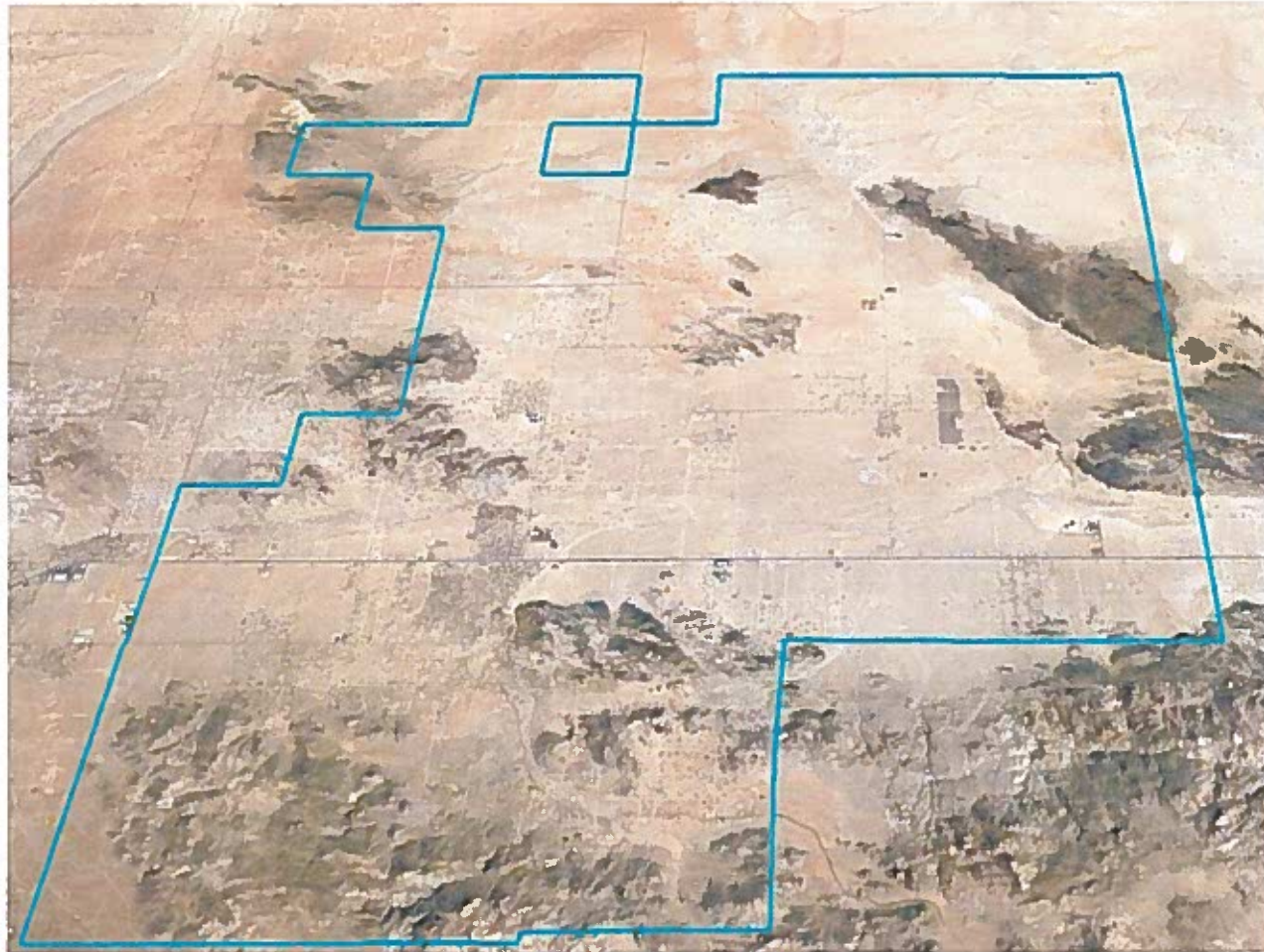

Curt Sauer, Secretary
Joshua Basin Water District and of
the Board of Directors thereof;

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 the 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

City/Political	Subdivision Defendant Settlement Conditions	Attorneys' Fees	Notes
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-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/Political	Subdivision Defendant Settlement Conditions	Attorneys' Fees	Notes
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: major remained 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/Political	Subdivision Defendant Settlement Conditions	Attorneys' Fees	Notes
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 Marcus	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; moved to districts within safe harbor	Ongoing	Ongoing
	TOTAL PAYMENTS TO PLAINTIFFS' ATTORNEYS	\$15,007,000	



Joshua Basin Water District

March 11, 2019

Introduction to Districting

- ❑ Under the Federal Voting Rights Act (passed in 1965), a jurisdiction must fail 4 factual tests before it is in violation of the law.
- ❑ The California VRA makes it significantly easier for plaintiffs to force jurisdictions into “by-district” election systems by eliminating two of the US Supreme Court *Gingles* tests:
 - ~~1. Can the protected class constitute the majority of a district?~~
 - 2. Does the protected class vote as a bloc?
 - 3. Do the voters who are not in the protected class vote in a bloc to defeat the preferred candidates of the protected class?
 - ~~4. Do the “totality of circumstances” indicate race is a factor in elections?~~
- ❑ Liability is now determined only by the presence of racially polarized voting
- ❑ There only “floor” protecting small jurisdictions is a state ban on by-district elections for jurisdictions with less than 100 registered voters.

CVRA Impact

3

- Switched (or in the process of switching) as a result of CVRA:
 - At least 170 school districts
 - 28 Community College Districts
 - 100+ cities
 - 1 County Board of Supervisors
 - At least 15 water, hospital and other special districts.

- Palmdale, Santa Clara and Santa Monica have gone to trial, and all of them lost (Santa Monica and Santa Clara are on appeal).
 - Palmdale spent \$2 million on its defense
 - Santa Clara spent \$500,000 so far
 - Santa Monica spent at least \$5 million so far

- Sample Settlement Payments to Plaintiffs:
 - Palmdale: \$4.7 million
 - Modesto: \$3 million
 - Highland: \$1.35 million
 - Rancho Cucamonga: \$1.3 million
 - Anaheim: \$1.1 million
 - Whittier: \$1 million
 - Santa Barbara: \$600,000
 - Tulare Hospital: \$500,000
 - Madera Unified: about \$170,000
 - Hanford Joint Union Schools: \$118,000
 - Merced City: \$42,000
 - Placentia: \$20,000

March 11, 2019

Districting Process

4

Step	Description
Two Initial Hearings March 13 and 20	Held prior to release of draft maps. Education and to solicit input on the communities in the District.
Release draft maps	Maps must be posted at least 7 days prior to 3 rd hearing.
Two Draft Map Hearings April 3 and 17	Two meetings to discuss and revise the draft maps and to discuss the election sequencing.
Final Hearing and Adoption May 1	Public hearing to discuss and take public comment on draft maps and proposed sequence of elections. Map selection & ordinance introduction.
2020	First by-division elections
2021	Map adjusted using 2020 Census data
2022	Remaining districts hold first by-zone elections

Districting Rules and Goals

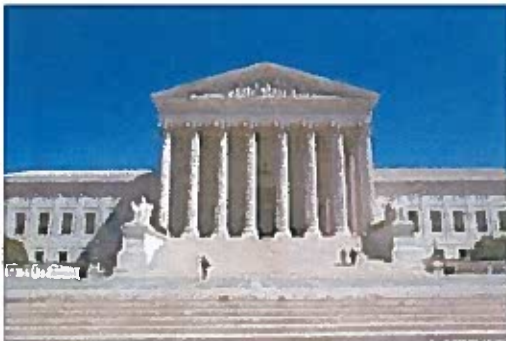
5

Federal Laws

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

Traditional Redistricting Principles

- ❑ Communities of interest
- ❑ Compact
- ❑ Contiguous
- ❑ Visible (Natural & man-made) boundaries
- ❑ Respect voters' choices / continuity in office
- ❑ *Planned future growth*



March 11, 2019



6

Demographic Summary

Latinos are 16% of the total population and 16% of the eligible voters (measured by Citizen Voting Age Population data).

Asian-Americans are 7% of eligible voters and African-Americans are 1%.

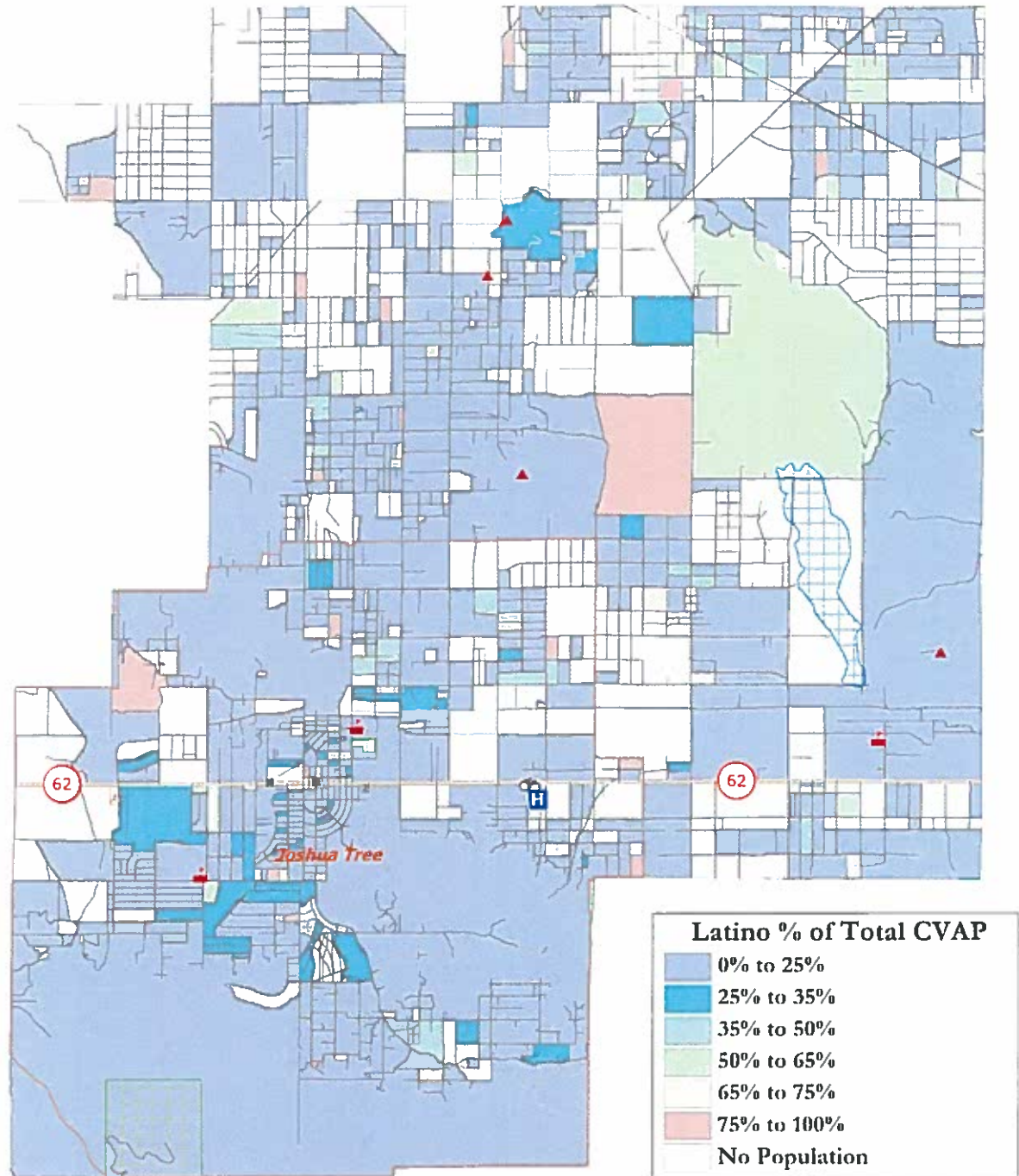
With 5 divisions, each district would have about 1,908 residents.

Category	Field	Count	Pct	Category	Field
Total Pop	Total Pop	9,542		ACS Pop. Est.	Total
	Hisp	1,556	16%	Age	age0-19
	NH White	7,184	75%		age20-60
	NH Black	317	3%		age60plus
	Asian-American	186	2%	Immigration	immigrants
Citizen Voting Age Pop	Total	6,737			naturalized
	Hisp	1,092	16%	Language spoken at home	english
	NH White	4,947	73%		spanish
	NH Black	63	1%		asian-lang
Asian/Pac.Isl.	417	7%	other lang		
Voter Registration (Nov 2016)	Total	4,238		Language Fluency	Speaks Eng. "Less than Very Well"
	Latino est.	421	10%	Education (among those age 25+)	hs-grad
	Spanish-Surnamed	378	9%		bachelor
	Asian-Surnamed	35	1%		graduatedegree
	Filipino-Surnamed	18	0%	Child in Household	child-under18
	NH White est.	3,582	85%	Pct of Pop. Age 16+	employed
Voter Turnout (Nov 2016)	NH Black	86	2%	Household Income	income 0-25k
	Total	3,349			income 25-50k
	Latino est.	303	9%		income 50-75k
	Spanish-Surnamed	272	8%		income 75-200k
	Asian-Surnamed	26	1%	income 200k-plus	
	Filipino-Surnamed	13	0%	Housing Stats	single family
NH White est.	2,862	85%	multi-family		
NH Black	69	2%	rented		
Voter Turnout (Nov 2014)	Total	1,820			owned
	Latino est.	125	7%		
	Spanish-Surnamed	112	6%		
	Asian-Surnamed	13	1%		
	Filipino-Surnamed	10	1%		
	NH White est.	1,576	87%		
	NH Black est.	60	3%		

Protected Class Populations

Latinos are spread throughout the District, but slightly more concentrated in the northeast.

There is no large concentration of Asian-American, African-American or Native American voters in the District.



Defining Communities of Interest

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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

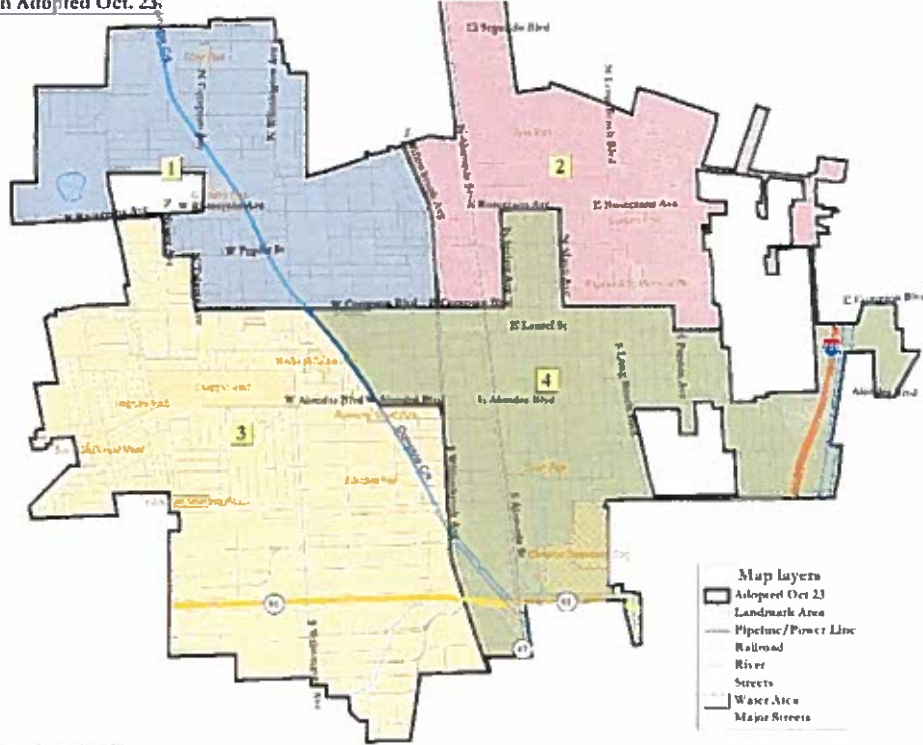
2nd Question: Does a Community of Interest want to be united in one district, or to be divided to have a voice in multiple elections?



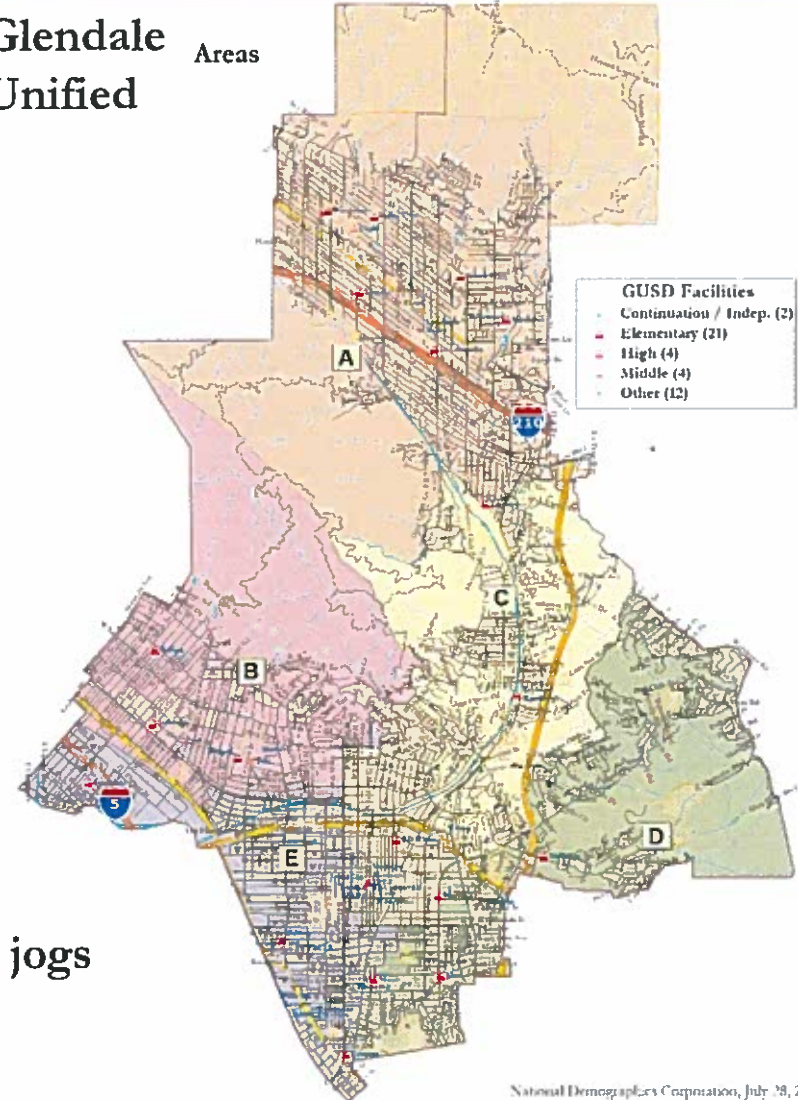
Sample Compact Maps

City of Compton
2012 Redistricting
Plan Adopted Oct. 23,

Compton



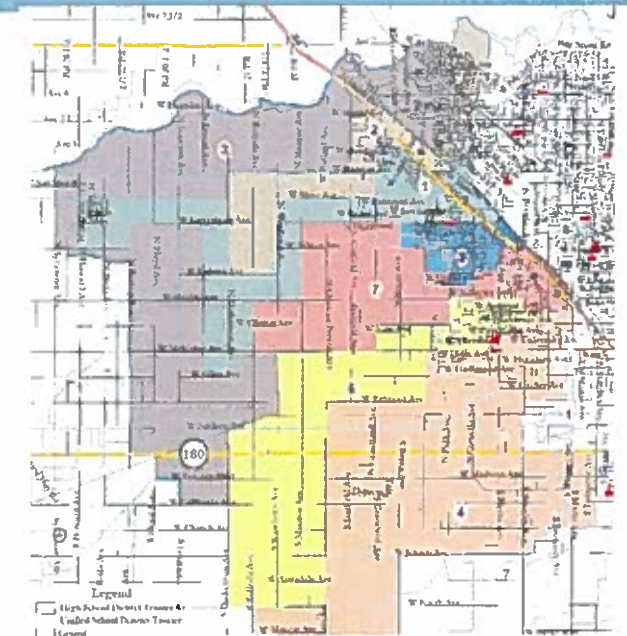
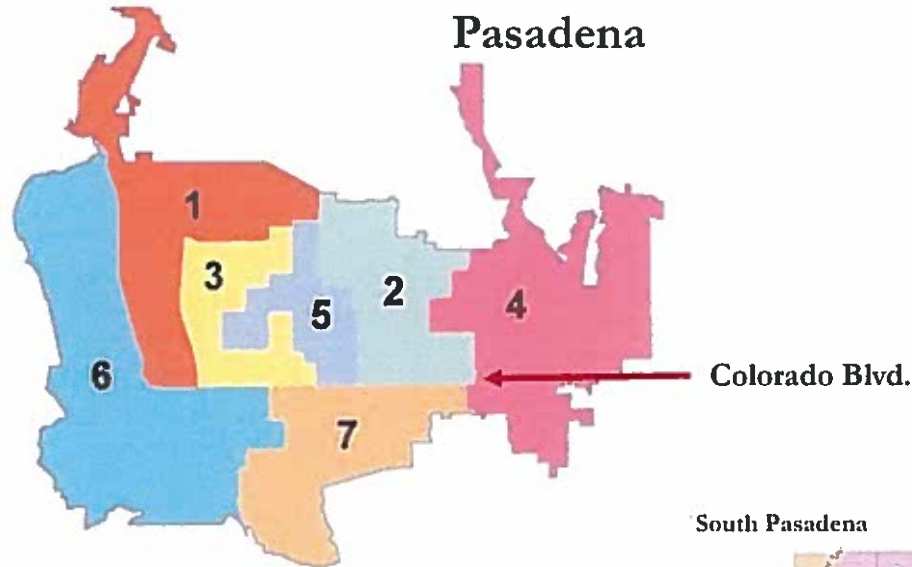
Glendale Unified Areas



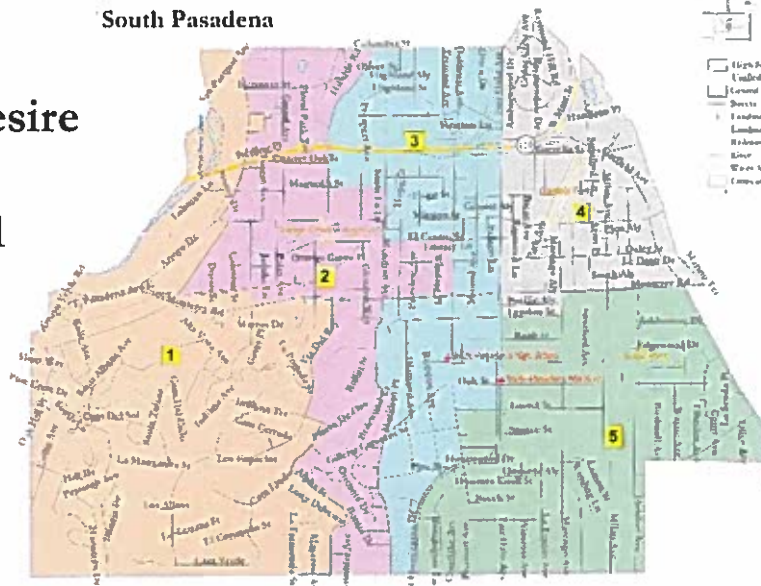
Examples of highly compact maps, with nooks and jogs driven only by equal population requirements.

March 11, 2019

Sample Multiple-Representative Maps



Central Unified



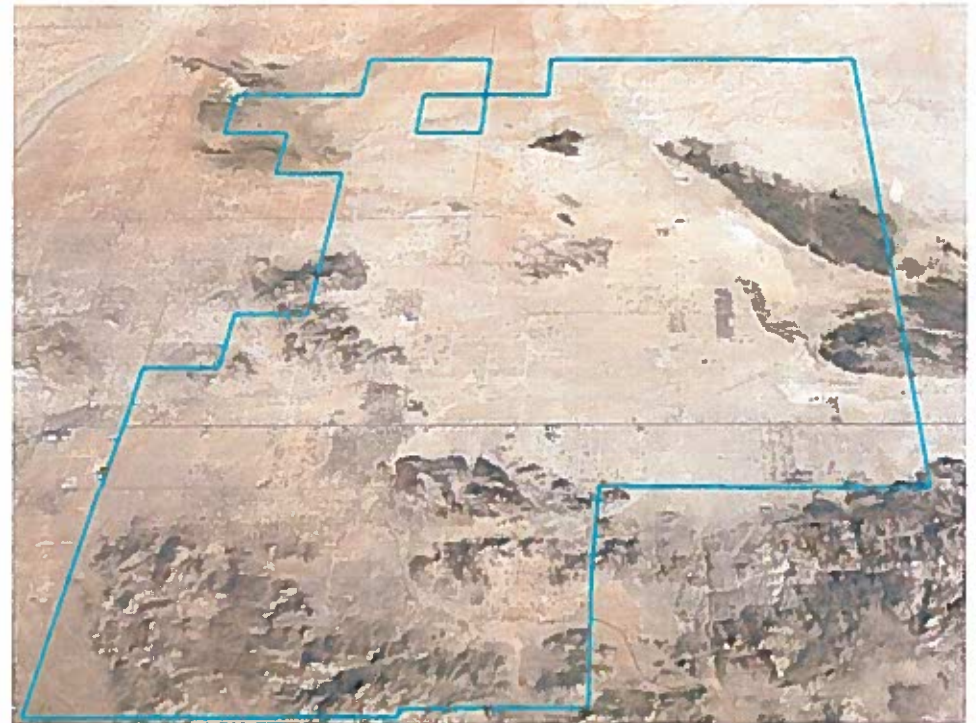
Examples of maps where a desire to have all members touch downtown (Pasadena) or rural areas (Central), or as many neighborhoods as possible (South Pas), led to policy-driven but non-compact maps.

March 11, 2019

Public Hearing

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1. What are the boundaries of your neighborhood or “community of interest”?
2. Do you want your neighborhood united in one division, or with multiple Directors elected from it?
3. What neighborhoods do you think make sense to be with your neighborhood in a division or divisions because of common issues?
4. What other “communities of interest” do you see in the District?



JOSHUA BASIN WATER DISTRICT
MEETING AGENDA REPORT

Meeting of the Board of Directors

March 13, 2019

Report to: President and Board of Directors

Prepared by: Sarah Johnson

TOPIC: EMPLOYEE RECOGNITION AND AWARDS PROGRAM

RECOMMENDATION: Recommend that the Board approve the Employee Recognition and Awards Program

ANALYSIS:

In accordance with Water Code Section 30580 (d), the General Manager shall fix and alter the compensation of employees and assistants subject to approval by the board. By the board adopting this program, the General Manager will have the authority to administer the Employee Recognition and Awards program within guidelines set in the policy.

A thoughtfully administered Employee Recognition and Awards Program benefits both the organization and the employee. Employees feel valued, morale increases, which aids in overall reduced employee stress. In turn the District benefits by increased productivity; improved performance and safety; better-quality customer service; reduced absenteeism, and the increased ability to attract and retain talented employees.

For 2018/2019 Budget year, the amount would be \$2,500 and for FY 2019/2020 the proposed amount will be \$5,000.

Staff recommends that the Board adopts the Employee Recognition and Awards program authorizing the General Manager to administer this program.

Employee Recognition and Awards Program

Purpose: The District strives to recognize individuals and groups for superior achievements which reinforce the District's goals and objectives for performance improvement and staff development.

Policy: By recognizing the truly significant contributions of its employees, the District endeavors to build and maintain a highly motivated workforce and contribute to employee job satisfaction. Awards are based on budget availability and the final approval of the General Manager. Contingent on availability of funds, the District will administer the Employee Recognition and Awards Program in accordance with the following categories, eligibility requirements, and procedures. A line item in each year's budget will establish maximum annual expenditures, as approved by the Board.

Definition: This policy describes the Employee Recognition and Awards Program. Employees may be recognized for substantial District or job-related contributions in the areas defined below.

Performance Award Categories:

The Outstanding Service Award: Recognizes a substantial contribution to the District.

Examples:

Performing duties of a substantial nature, often for an extended period; sustained dedication to quality service for internal/external customers; creating efficiencies that save the District's resources; creating effective work procedures that increase overall performance; substantial leadership skills that lead to the success of a major District activity.

The Safety Award: Recognizes when employees go beyond the call of duty to maintain a safe workplace.

Special Achievement Award Categories:

The Professional Goal Attainment Award: Recognizes a staff member who has achieved a job-related educational or professional goal such as completing a formal program of study or to earning an industry-recognized certification.

Milestone Anniversary Award: Recognizes the contributions, knowledge, and experience of long-term employees. In appreciation of this dedicated service, the District recognizes employees as they reach milestone anniversaries of employment. Active employees become eligible for this award in the year in which they complete 5, 10, 15, 20, 25, 30, and every five years of service thereafter.

Retirement Award: In appreciation of this dedicated service, the District recognizes employees as they retire. Retirement recognition awards are given upon retirement after completion of 20 years of employment without a break in service.

Eligibility:

Performance Award Categories:

In order for employees to be eligible for the Performance Award Category, they must have successfully completed probation, must be on active service, and not have had a formal disciplinary action within the preceding 12 months of the award date.

Special Achievement Award Categories:

In order for employees to be eligible for the Special Achievement Category, they must have successfully completed probation and must be on active service.

Procedures: Human Resources (HR) oversees the administration of the Employee Recognition and Awards Program. Awards will be presented by the supervisor and the General Manager. Special achievement awards will be presented during a District-wide meeting or event closest to the date of achievement. The General Manager may arrange for a special award presentation. Awards will be documented and placed in the awarded employee's personnel file.

1. The supervisor must complete the award recommendation form and submit it to HR. The supervisor may recommend the award type.

Award Types:

- a. Performance Award Category: May include a certificate, trophy, paid time off, cash award, step increase, and/or another comparable award type.
 - b. Special Achievement Category: May include a certificate, trophy, and/or another comparable award type (\$150 max value).
2. Completed forms will be submitted by HR to the General Manager for final approval.
 3. After General Manager approval, HR will coordinate the award recognition process.

JOSHUA BASIN WATER DISTRICT
MEETING AGENDA REPORT

Meeting of the Board of Directors

March 13, 2019

Report to: President and Board of Directors

Prepared by: Curt Sauer

TOPIC: Request for staff report on Employee Benefits.

RECOMMENDATION:

Advise General Manager on how to proceed.

ANALYSIS:

I have received the following email request for a financial report from Director Reynolds.

I would appreciate a financial report on all water district employees full time, part time, temporary and contract. Specifically I would like to know employee names, job titles, gross pay, average overtime and bonuses etc. Also, please include a total dollar amount for complete benefit packages. I would imagine the rest of the board already has this information but if not, would you please provide this report to them as well?

We can certainly create a report answering specific questions, however, Article 4.04.25 of the Administration Code states:

The General Manager shall forward all requests by individual Directors for the “production” of a work product (e.g. summaries, reports, and the like) to the Board for the Board’s consideration. No such work effort shall be undertaken unless approved by the Board in advance, in an open and public meeting.

Much of the information requested is available in existing documents, such as the 2018/19 Budget, current Salary Schedule, MOU, and Resolution 17-974.

Staff estimates production of this report will take approximately 5 hours of staff time. It will include the following:

Compilation of data from the Budget for 2017/18 or 2018/19? Page 13 of the 2018/2019 Budget shows positions by job title and Pages 4 and 5 show salaries by department. The average overtime is figured over the past year and is included in the salary line item of each department e.g. Production and Distribution. Average overtime per employee will have to be compiled.

Salary Schedule: The range of salaries for all positions are available by looking at the Salary Schedule. Individual salaries, based on 2019 January salary table will have to be generated.

MOU: Salary information can be found in Article 17. Performance evaluation information can be found in Article 19. Benefit information can be found in Article 21.

Resolution 17-974: This resolution describes compensation and benefits for the MSC group.

Benefits Overview: An existing benefit overview is a summary of the MOU and Resolution 17-974. Each employee has a health insurance benefit not to exceed \$1,800 per month. Some employees take less than the \$1800 cap.

To the best of my knowledge there have been no bonuses. I am unclear how the Board would wish to define bonuses. If the Board means step increases within the defined salary range for excellent or outstanding annual evaluations (as required in the MOU and personnel manual), then that would be considered differently than a bonus.

If the Board wants individual overtime or other information for each employee, would you want it for the 2017/18 year? That is the latest actual numbers we have, as the 2018/19 fiscal year is not over yet. As for overtime, how would the Board want the overtime split out, by Standby Overtime and Call Out overtime? Or total individual overtime?

Cal Pers retirement benefits and the cost to the District for each individual employee's cost share (our cost) would need to be itemized.