



# .CITY OF LODI COUNCIL COMMUNICATION

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**AGENDA TITLE:** Second Public Hearing to Receive Overview and Take Input Regarding Process and Criteria for Drawing Voting Districts as Part of the Transition to By-District Elections for City Council Members

**MEETING DATE:** January 17, 2018

**PREPARED BY:** City Attorney

**RECOMMENDED ACTION:** Second Public hearing to receive overview and take input regarding process and criteria for drawing voting districts as part of the transition to by-district elections for city council members.

## **BACKGROUND INFORMATION:**

### **Summary:**

The City Council adopted Resolution No. 2017-223, at a Special Meeting on December 12, 2017, outlining the Council's intention to transition from at-large elections to by-district elections pursuant to Elections Code section 10010(e)(3)(A). A copy of the Resolution is attached.

As set forth in the Resolution, the City Council took action in furtherance of the purposes of the CVRA. As required by Elections Code section 10010(a)(1), the City must now hold the second of two (2) public hearings before the drawing of any draft maps of proposed voting districts in order to receive public input and comment regarding the composition of the proposed districts.

### **Discussion:**

The next step in the process of converting from the City's current at-large method of electing council members to a by-district system is to hold tonight's public hearing, the second of five public hearings, to receive an overview of the process and public input and comment regarding the composition of the yet to be formed districts (Elections Code §10010(a)(1)). Following the hearing proposed district maps will be drawn for consideration and comment by the City Council and the public.

The purpose of the first two hearings in the process of transitioning to by-district elections is to identify neighborhoods within the City, "communities of interest", and other factors that should be taken into consideration and used as "building blocks" when the drawing of the draft maps begins. The public is encouraged to participate in the process and propose districting maps.

In addition to public input concerning the composition of the City's yet to be formed voting districts, the Council will need to comply with mandatory criteria in the creation of the final map. Those criteria are:

- a. Population equality across districts. "Districts shall be as nearly equal in population as may be." (Elections Code §21601 and Government Code §34884.)

APPROVED: \_\_\_\_\_  
Stephen Schwabauer, City Manager

- b. Race cannot be a “predominant” factor or criteria when drawing districts. (*Shaw v. Reno* (1993) 509 US 630; *Miller v. Johnson* (1995) 515 US 900; and *Cooper v. Harris* (2017) 137 S.Ct. 1455.
- c. Compliance with the Federal Voting Rights Act, which among 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. (*Bartlett v. Strickland* (2009) 566 US 1.)

Pursuant to Elections Code section 21601 and Government Code section 34884, the City Council may consider the following factors when establishing districts:

The City Council may (i) plan for future growth, (ii) consider boundaries of other political subdivisions, (iii) consider the physical/visual geographical and topographical features, whether natural or manmade, and (iv) to the extent possible avoid head-to-head contests between incumbents. The Council may choose to include some, all, or none of these criteria, or may choose to outline a unique set of criteria that Council Members believe are applicable to the City of Lodi. In addition, members of the public may suggest additional or alternative criteria for the Council’s consideration. A Resolution adopting line drawing criteria for creating Council district boundaries was adopted by the Council at the first public hearing on December 20, 2017.

Following the January 17, 2018 public hearing, several proposed voting district maps will be drawn, and together with any qualified maps prepared and submitted by members of the public presented to the City Council for consideration. The City Council will then have the opportunity to request modifications to the options presented or may create a different option entirely. Public hearings to comment on the maps and discuss election sequencing will be held on January 21 and February 7, 2018. Of note, most communities take a phased approach to implementing by-district elections, since by law the terms of sitting council members cannot be cut short. The final map and election sequencing will be considered by the City Council at a public hearing on February 21, 2018, along with the introduction of an ordinance establishing district boundaries and election sequencing.

**Fiscal Impact:**

The fiscal impact of voluntarily converting to by-district elections is estimated to be approximately \$100,000. In addition, there will be significant staff time needed to transition to by-district-based elections and to administer the process, including the need for five (5) public hearings and community outreach. The demographic and election consultants’ costs are anticipated to be approximately \$40,000 to \$50,000. Publication notices, translation fees for council communications, and the cost to have interpreters’ at all public hearings are anticipated to be \$30,000 to \$40,000. Special legal fees could be incurred for additional analysis and public hearings, but are not anticipated to exceed \$10,000. The City will also be required to reimburse MALDEF for its documented attorney’s fees and costs up to \$30,000.

**Environmental Review:**

This action is not subject to CEQA review.

**Public Notification:**

A notice of public meeting for this agenda item was published in the Lodi News Sentinel on December 30, 2017.

**Recommended Action:**

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

FISCAL IMPACT:                   The estimated \$100,000 cost can be absorbed within known employee vacancy savings in various departments.

FUNDING AVAILABLE:           City Clerk's elections budget (10005000-72450)

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Janice D. Magdich, City Attorney

Attachments:   Resolution No. 2017-223, adopted December 12, 2017  
                  Resolution No. 2017-232, adopted December 20, 2017

RESOLUTION NO. 2017-223

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

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

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

WHEREAS, 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 by-district system or by-district system with an elective mayor without the need to put such a change to voters; and

WHEREAS, on October 31, 2017, the City received a letter from the Mexican American Legal Defense and Education Fund (MALDEF) asserting that the City's at-large system of voting results in Latino vote dilution and prevents Latino voters from electing candidates of their choice and threatening action against the City under the California Voting Rights Act (CVRA), a period of less than forty-five (45) days before the date of this Resolution; and

WHEREAS, a violation of the CVRA is established if it is shown that racially polarized voting occurs in elections (Elections Code §14028(a)). "Racially polarized voting" means voting in which there is a difference in the choice of candidates or other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate (Elections Code §14026(e)); and

WHEREAS, although the letter from MALDEF was not accompanied by any evidence to support the claim of a CVRA violation, 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 furtherance of the purposes of California Voting Rights Act and to avoid costs associated with defending a lawsuit based on the CVRA, even if that lawsuit settles; and

WHEREAS, the City Council has directed staff to initiate the process to transition from an at-large system to a district-based system in accordance with the procedural rules outlined in Government Code section 34886 and Elections Code section 10010; 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; and

WHEREAS, once the draft map has been publicized for at least seven (7) days, the City will hold at least two (2) additional public hearings, over a period of 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 considers adoption of the 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 California Voting Rights Act, and will take into account the preferences expressed by the members of the districts.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi as follows

Section 1. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. The City Council hereby resolves, pursuant to Elections Code section 10010, to adopt 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.

Section 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 hearing schedule attached hereto as Exhibit "A".

Section 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 as necessary, in accordance with the City's proposed timeline.

Section 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.

Section 6. All public hearings shall be noticed 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.

Section 7. The City Attorney and the City Manager are authorized to take any and all other necessary actions to give effect to this Resolution.

Section 8. This Resolution shall become effective immediately upon its adoption.

Dated: December 12, 2017

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I hereby certify that Resolution No. 2017-223 was passed and adopted by the City Council of the City of Lodi in a special meeting held December 12, 2017, by the following vote:

- AYES: COUNCIL MEMBERS – Johnson, Kuehne, Mounce, and Mayor Nakanishi
- NOES: COUNCIL MEMBERS – Chandler
- ABSENT: COUNCIL MEMBERS – None
- ABSTAIN: COUNCIL MEMBERS – None
- DISQUALIFIED: COUNCIL MEMBERS – None

  
JENNIFER M. FERRAIOLO  
City Clerk

**EXHIBIT "A"**

**CALIFORNIA VOTING RIGHTS ACT (CVRA) DISTRICT ELECTION TIMELINE**

City receives letter alleging violation of California Voting Rights Act	October 31, 2017
<b>Special Meeting:</b> City Council adopts resolution setting forth intention and timeline for adopting by-district elections.	December 12, 2017
<b>Public Hearing:</b> Overview of the process and city demographics. Gather input from public to be used in establishing options for district boundaries. Adopt resolution setting forth mandatory and permissive districting criteria.	December 20, 2017
<b>Public Hearing:</b> Second hearing to gather input from public to be used in establishing options for district boundaries.	January 17, 2018
Draft maps available for public review.	On or before January 23, 2018
<b>Public Hearing:</b> First public hearing to discuss and take public comment on draft maps and proposed sequence of elections.	January 31, 2018
<b>Public Hearing:</b> Second public hearing to discuss and take public comment on draft maps and proposed sequence of elections.	February 7, 2018
Publish final map for public review	February 10, 2018
<b>Public Hearings:</b> Public hearing to discuss and take public comment on final map and proposed sequence of elections.  Introduce ordinance for first reading establishing district boundaries and transition plan/sequence of elections.	February 21, 2018
<b>Public Meeting:</b> Second reading and adoption of ordinance establishing district maps and transition plan/sequence of elections.	March 7, 2018

All public hearings will take place during a City Council meeting starting at 7:00 p.m. in the City Council Chambers, Carnegie Forum, 305 West Pine Street, Lodi, CA 95240.

RESOLUTION NO. 2017-232

A RESOLUTION OF THE LODI CITY COUNCIL ADOPTING  
LINE DRAWING CRITERIA FOR ESTABLISHING DISTRICT  
BOUNDARIES FOR BY-DISTRICT ELECTIONS FOR CITY  
COUNCIL MEMBERS

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WHEREAS, the City Council of the City of Lodi ("City") was elected under an "at large" election system whereby Council Members were elected by voters of the entire City; and

WHEREAS, the City Council adopted Resolution No. 2017-223 to change to "by-district" elections whereby each Council Member must reside within the designated district boundary and is elected only by voters of that district; and

WHEREAS, the Federal Voting Rights Act (42 U.S.C. Section 1973) prohibits the use of any voting qualification, or prerequisite to voting, or standard practice or procedure in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color; and

WHEREAS, Federal law and the equal protection clause of the United States Constitution require that each district be equal in population to ensure compliance with the "one person, one vote" rule; however, deviations approximating five to ten percent may be permitted under the equal protection clause where required to meet an official criteria; and

WHEREAS, the City Council has instructed city staff to develop draft maps that fully comply with legal requirements and intends to provide official criteria for any needed deviations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi as follows:

Section 1. The City Council of the City of Lodi does hereby adopt the following criteria to guide the establishment of districts for council elections (each, a "Council District"):

1. Each Council District shall contain a nearly equal number of inhabitants;
2. Council District borders shall be drawn in a manner that complies with the Federal Voting Rights Act;
3. Council Districts shall consist of contiguous territory in as compact form as possible;
4. Council Districts shall respect communities of interest as much as possible;
5. Council District borders shall follow visible natural and man-made geographical and topographical features as much as possible; and

6. If the Council is so inclined, Council District borders may respect the previous choices of voters by avoiding the creation of head-to-head contests between Council Members previously elected by the voters, insofar as this does not conflict with Federal or State law.

Dated: December 20, 2017

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I hereby certify that Resolution No. 2017-232 was passed and adopted by the City Council of the City of Lodi in a regular meeting held December 20, 2017, by the following vote:

AYES:	COUNCIL MEMBERS – Johnson, Kuehne, and Mounce
NOES:	COUNCIL MEMBERS – Chandler
ABSENT:	COUNCIL MEMBERS – Nakanishi
ABSTAIN:	COUNCIL MEMBERS – None
DISQUALIFIED:	COUNCIL MEMBERS – None

  
JENNIFER M. FERRAIOLO  
City Clerk



*Please immediately confirm receipt  
of this fax by calling 333-6702*

CITY OF LODI  
P. O. BOX 3006  
LODI, CALIFORNIA 95241-1910

**ADVERTISING INSTRUCTIONS**

**SUBJECT:** PUBLIC HEARING TO RECEIVE PUBLIC INPUT REGARDING COMPOSITION OF YET TO BE FORMED VOTING DISTRICTS AS PART OF THE CITY'S TRANSITION FROM AN "AT-LARGE" ELECTION SYSTEM OF ELECTING CITY COUNCIL MEMBERS TO A "BY-DISTRICT" ELECTION SYSTEM

**PUBLISH DATE:** SATURDAY, DECEMBER 30, 2017

**LEGAL AD**

**TEAR SHEETS WANTED:** One (1) please

**SEND AFFIDAVIT AND BILL TO:** JENNIFER M. FERRAIOLO, CITY CLERK  
**LNS ACCT. #0510052** City of Lodi  
P.O. Box 3006  
Lodi, CA 95241-1910

**DATED:** WEDNESDAY, DECEMBER 27, 2017

**ORDERED BY:** JENNIFER M. FERRAIOLO  
CITY CLERK

*Pamela M. Farris*  
PAMELA M. FARRIS  
DEPUTY CITY CLERK

\_\_\_\_\_  
ELIZABETH BURGOS  
ADMINISTRATIVE CLERK

**Verify Appearance of this Legal in the Newspaper – Copy to File**

LNS Emailed to the Sentinel at classified1@lodinews.com at \_\_\_\_\_(time) ON \_\_\_\_\_(date) \_\_\_\_\_(pages)  
Phoned to confirm receipt of all pages at \_\_\_\_\_(time) \_\_\_\_\_EB \_\_\_\_\_PMF (initials)



## DECLARATION OF POSTING

### **NOTICE OF PUBLIC HEARING TO RECEIVE PUBLIC INPUT REGARDING COMPOSITION OF YET TO BE FORMED VOTING DISTRICTS AS PART OF THE CITY'S TRANSITION FROM AN "AT-LARGE" ELECTION SYSTEM OF ELECTING CITY COUNCIL MEMBERS TO A "BY-DISTRICT" ELECTION SYSTEM**

On Wednesday, December 27, 2017, in the City of Lodi, San Joaquin County, California, a copy of a Notice of Public Hearing to receive public input regarding composition of yet to be determined voting districts as part of the City's transition from an "at-large" election system of electing City Council Members to a "by-district" election system (attached hereto, marked Exhibit "A") was posted at the following locations:

Lodi City Clerk's Office  
Lodi City Hall Lobby  
Lodi Carnegie Forum  
WorkNet Office

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 27, 2017, at Lodi, California.

ORDERED BY:

**JENNIFER M. FERRAILOLO  
CITY CLERK**

*Pamela M. Farris*  
PAMELA FARRIS  
DEPUTY CITY CLERK

\_\_\_\_\_  
ELIZABETH BURGOS  
ADMINISTRATIVE CLERK



# CITY OF LODI

**Carnegie Forum**  
305 West Pine Street, Lodi

## NOTICE OF PUBLIC HEARING

**Date:** January 17, 2018

**Time:** 7:00 p.m.

For information regarding this notice please contact:

**Jennifer M. Ferraiolo**

**City Clerk**

**Telephone: (209) 333-6702**

**EXHIBIT A**

### NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** that on **Wednesday, January 17, 2018**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following item:

- a) **Receive public input regarding composition of yet to be formed voting districts as part of the City's transition from an "at-large" election system of electing City Council Members to a "by-district" election system.**

The City Council adopted a resolution of intention on December 12, 2017, to transition from at-large to by-district elections in order to ensure compliance with the California Voting Rights Act of 2001 ("CVRA") and Federal Voting Rights Act of 1965 ("FVRA"). At the public hearing described in this notice, the City Council may receive staff presentations on City demographics, criteria for establishing districts in compliance with FVRA, public testimony to be used in establishing options for district boundaries, and consider mandatory and permissive districting criteria, pursuant to Elections Code section 10010 and Government Code section 34886.

Information regarding this item may be obtained in the Office of the City Attorney, 221 West Pine Street, Lodi, (209) 333-6701. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2<sup>nd</sup> Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

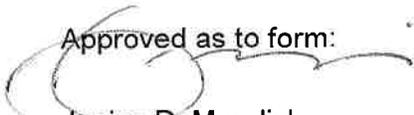
If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

  
Jennifer M. Ferraiolo  
City Clerk

**Dated: December 20, 2017**

Approved as to form:

  
Janice D. Magdich  
City Attorney

**AVISO:** Para obtener ayuda interpretativa con esta noticia, por favor llame a la oficina de la Secretaria Municipal. a las (209) 333-6702.



## CITY OF LODI

Carnegie Forum  
305 West Pine Street, Lodi

### AVISO DE AUDIENCIA PÚBLICA

Fecha: 17 de Enero de 2018

Hora: 7:00 p.m.

Para información pertinente a este aviso por favor contacte a:

**Jennifer M. Ferraiolo**  
**Actuaria Municipal**  
**Teléfono: (209) 333-6702**

### **AVISO DE AUDIENCIA PÚBLICA**

**POR LA PRESENTE SE NOTIFICA QUE** el miércoles 17 de enero de 2018, a la hora de las 7:00 p.m. o tan pronto sea posible que se pueda oír este asunto, el Consejo Municipal efectuara una audiencia pública en el Carnegie Fórum, 305 West Pine Street, Lodi, para considerar el siguiente punto:

- a) **Para obtener una visión general del público pertinente a la composición de los distritos electorales que serán formados como parte de la transición del sistema de “elecciones generales” para la elección de los miembros del Consejo Municipal a un sistema de elección “por-distrito**

El 12 de Diciembre de 2017, el Consejo Municipal adopto una resolución de propósito para convertirse de elecciones generales a votaciones por distrito, para asegurar el acatamiento de la Ley de Derecho al Voto de California del 2001 (“CVRA”) y la Ley Federal de Derecho de Votación de 1965 (“FVRA”). En la audiencia pública descrita en este aviso, el Consejo Municipal puede obtener presentaciones del personal sobre demográficas de la Ciudad, criterio para establecer los distritos conforme a la Ley Federal de Derecho de Votación de 1965 (FVRA), testimonio del público para que sea empleado al instituir opciones para las demarcaciones de los distritos y para considerar los criterios permisivos e imperativos de delimitación de distritos, de acuerdo al Código de Elecciones, Artículo 10010 y el Código Gubernamental, Artículo 34886.

Se puede obtener Información pertinente a este punto en la Dirección del Fiscal Municipal, 221 West Pine Street, Lodi, (209) 333-6701. Toda persona interesada está invitada a presentar su punto de vista y su comentario sobre el tema. Declaraciones por escrito pueden ser presentadas con el Secretario Municipal en City Hall, 221 West Pine Street, 2<sup>do</sup> piso Lodi, 95240, en cualquier momento antes de la audiencia programada en este documento. Declaraciones orales se pueden hacer durante la dicha audiencia.

Si desafía el asunto en un tribunal, usted puede ser limitado a únicamente plantear cuestiones que usted y alguien más haya planteado durante la audiencia pública detallada en este aviso o por correspondencia escrita, entregada al Secretario del Municipio, 221 West Pine Street, durante o antes que se finalice la audiencia pública.

Por Orden del Consejo Municipal:

Jennifer M. Ferraiolo, Actuaria Municipal

**Fechado: 20 de Diciembre de 2017**

Aprobado en su redacción:

Janice D. Magdich, Fiscal Municipal

**OBSERVACIÓN:** Si necesita asistencia con la traducción de este aviso, por favor llame a la oficina del Secretario Municipal, al (209) 333-6702.