



DATE: October 1, 2024

TO: Mayor and City Council

FROM: City Attorney

SUBJECT: Public Hearing No. 5 to Select the Final Map Identifying District Boundaries, Provide Direction on the Sequence of District Elections Beginning in 2026, and Introduce an Ordinance to Amend the Hayward Municipal Code to Add Article 16 to Chapter 2, Establishing District-Based City Council Elections Beginning in 2026, and Finding the Action is Exempt from CEQA Review.

RECOMMENDATION

That Council conducts public hearing number five, selects the final map identifying district boundaries, provides direction on the sequence of district elections beginning in 2026, and introduces an ordinance (Attachment II) amending the Hayward Municipal Code (“HMC”) to add Article 16 to Chapter 2, establishing district-based City Council elections beginning in 2026.

SUMMARY

On April 16, 2024, the City Council adopted a resolution declaring its intent to begin the process of transitioning from at-large elections to district-based elections beginning with the 2026 election cycle. The election of the Mayor will continue to be conducted at-large. The transition process began with two public hearings required by Elections Code section 10010, to be held prior to the drawing of draft maps. Two additional hearings were held after draft maps were drawn, as also required by Elections Code section 10010. Those four hearings were held on May 14, 2024, May 28, 2024, August 13, 2024, and September 3, 2024, respectively. During these hearings, the City Council received input from the community regarding the composition of the proposed districts. During the September 3, 2024, hearing, the Council moved to advance Map 1 as the final map evidencing district boundaries, with modifications.

This will be the fifth public hearing on this matter. The Council will select the final map identifying the boundaries of six voting districts, identified by Numbers 1 through 6, which can be viewed at [Draft Maps | City of Hayward Districting Project \(maphayward.org\)](https://www.maphayward.org). The Final Map was developed by the demographer following Public Hearing No. 4 by incorporating feedback from the Council and the community. It was published on the City’s website on September 6, 2024. The Council will also provide direction regarding the sequencing of district elections beginning in 2026. Finally, the Council will introduce an

Ordinance establishing a district-based election system beginning in 2026. This transition process does not impact the upcoming November 2024 election.

BACKGROUND

The City of Hayward currently utilizes an at-large election system for the Mayor and City Council members. This means that the voters from the entire City choose the Mayor and six (6) City Council members. A district-based election system is one in which the city is geographically divided into separate districts, each with one Council member who resides in the district and is chosen by the voters residing in that particular district.

On March 10, 2024, the City received a letter from attorney Scott Rafferty, which asserted that the City's at-large method of election could be in violation of the California Voting Rights Act (the "CVRA"). The CVRA allows a city to declare its intent to change to district-based elections and gives it 90 days within which to adopt districts. At the time it adopted its resolution of intent, the City's deadline for adoption of districts was July 15, 2024. However, state law also allows the parties to a CVRA complaint to extend the deadline by another 90 days, and on May 15, 2024, the parties agreed that the City would have until October 14, 2024 to adopt districts for use in the 2026 elections.

DISCUSSION

Public Hearing Timeline

Pursuant to Elections Code section 10010, the City was required to hold at least four public hearings in connection with the establishment of electoral districts. More specifically, the City was required to hold at least two public hearings over a period of no more than 30 days before any draft map(s) of proposed voting district boundaries were drawn. After all draft maps were drawn, the City was then required to publish at least one draft map and to hold two additional public hearings over a period of no more than 45 days, so the public could provide input on the content of the draft map(s) and proposed sequencing of elections.

The first two public hearings to receive input regarding composition of the proposed districts occurred on May 14, 2024 and May 28, 2024 respectively. A third public hearing was held on August 13, 2024, during which Council received additional community input and provided initial direction to the demographer regarding the preparation of draft district maps.

Three draft district maps were posted to the City's districting website on August 27, 2024, as required by state law. Copies of the staff reports, as well as video and audio recordings of these hearings, and links to the three draft maps are available for the public through the following link: [Schedule | City of Hayward Districting Project \(maphayward.org\)](https://www.maphayward.org)

At the fourth public hearing, held on September 3, 2024, the City Council received input from the community regarding the three draft district maps prepared by the demographer. Additionally, the demographer provided a PowerPoint presentation which is currently

elections under the new districts, the Council shall give special consideration to the purposes of the CVRA and “shall take into account the preferences expressed by members of the districts.”

The purpose of the CVRA is to prohibit use of an at-large method of election that impairs the ability of a protected class to elect candidates of its choice or to influence the outcome of an election. Because the CVRA challenge against the City was brought on behalf of Asian American voters, Council could consider whether the purposes of the CVRA would be best met by allowing districts with large numbers of Asian American voters to have an election in 2026 or in 2028. Because turnout is often higher in presidential election years, an argument can be made for scheduling districts with higher numbers of the protected class in those years. There is also an argument, however, that it is better for such districts to be up at the first available election to avoid any further claims of vote dilution. The Council should seek public input on this issue before deciding on the sequencing for the first elections under the new plan. After receiving public comment on these issues and after consideration of the factors to be taken into consideration, staff will be in a position to advise on the districts to be prioritized in sequencing for 2026 and 2028.

Ordinance

The attached ordinance (Attachment II) would amend the Municipal Code by adding Article 16 to Chapter 2. The ordinance would establish six (6) City Council districts for the City of Hayward, as described in the final district map selected by the Council and establish the sequence in which the respective districts would be up for election, commencing in 2026. The specific election sequence will be incorporated into the ordinance based on the Council’s direction as part of the introduction process.

Community Outreach

The City conducted community outreach under the facilitation of City staff and consultant Tripepi Smith. The City established a website in May of 2024 ([Welcome | City of Hayward Districting Project \(maphayward.org\)](https://www.hayward-ca.gov/welcome-city-of-hayward-districting-project-maphayward.org)) to facilitate sharing information and gathering input on the drawing of district-election maps. The website shows the district maps and communities of interest maps that were submitted by community members over the past few months. The draft district maps prepared by the demographers are also posted to the website. Moreover, the final map selected by the City Council, with modifications, is posted to the website.

Community members can ask questions and provide input about the maps by calling (510) 583-4444 or by sending an email to districting@hayward-ca.gov.

Since the draft district maps were posted on the website, Tripepi Smith worked with City staff to call over 100 targeted community stakeholders to notify them of the opportunity to comment on the maps and to attend the September 3 Public Hearing. Additionally, the City has sent emails to the 62,573 subscribers of the City’s e-newsletter with information about the

draft maps and the public hearings in September and October. In addition to the public hearings, the City held a virtual workshop on June 11, 2024 and an in-person workshop on July 9, 2024 at Chabot College where interested community members could learn about the districting process. The City continued its outreach efforts as we moved toward Public Hearing No. 5.

Please note that Spanish, Mandarin, Vietnamese and Tagalog interpreters continue to be available at all public hearings upon request.

FISCAL IMPACT

Significant staff resources will be devoted to carrying out the process described in this report, including public outreach strategies. The City will also incur costs related to the engagement of outside legal counsel, the demographers and other consultants that may be necessary.

Prepared by: Michael Vigilia, Senior Assistant City Attorney
Amy Rothman, Deputy City Attorney

Recommended by: Michael Lawson, City Attorney

Approved by:



Dustin Claussen, Interim City Manager