



CITY OF LAGUNA NIGUEL CITY COUNCIL AGENDA ITEM

To: Honorable Mayor and Council Members

FROM: Scott C. Smith, City Attorney
Justin J. Martin, Assistant City Manager

DATE: January 16, 2024

SUBJECT: Second Reading and Adoption of Ordinance No. 2023-226 Adding Division 9 of Title 2 of the Laguna Niguel Municipal Code Establishing By-District Elections, Defining District Boundaries, and Scheduling Elections Within the Districts

RECOMMENDATION

Staff recommends that the City Council conduct a second reading, by title only, and adopt Ordinance No. 2023-226:

Ordinance No. 2023-226

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGUNA NIGUEL, CALIFORNIA, ADDING DIVISION 9 OF TITLE 2 OF THE LAGUNA NIGUEL MUNICIPAL CODE ESTABLISHING BY-DISTRICT ELECTIONS, DEFINING DISTRICT BOUNDARIES, AND SCHEDULING ELECTIONS WITHIN THE DISTRICTS

BACKGROUND

The City of Laguna Niguel currently elects its five-member City Council through an “at-large” election system in which each Council Member may reside anywhere in the City. In the current system, each City Council Member is elected by voters Citywide to provide Citywide representation. This is in contrast to a “by-district” election system where a city is divided into geographical districts, each Council candidate must reside in the district they will represent, and only voters within a given district vote for that district’s Council Member.

On June 16, 2023, the City received a letter from the Law Offices of Michelle R. Jackson on behalf of unnamed community group and minority voters residing within the City, claiming that the City’s at-large voting system dilutes the ability of minority voters to elect candidates of their choice or to otherwise influence the outcome of City elections. As a result, Ms. Jackson claims, the City’s at-large elections violate the California Voting Rights Act (“CVRA”). This letter is sent as a prerequisite to any lawsuit claiming CVRA violations.

In response to Ms. Jackson's claim, the City Council adopted a Resolution of Intention to transition to by-district elections at its meeting held on July 26, 2023.

ANALYSIS

To complete the transition to by-district elections, State law requires the City Council to hold a total of four public hearings, with two held before the drawing of district maps and two held following the drawing of district maps. The City Council held the first of four required public hearings on September 5, 2023, the second on September 19, 2023, the third on November 7, 2023, and the fourth on December 5, 2023.

On December 5, 2023, following the public hearing, the City Council approved the introduction and waiver of the first reading of Ordinance No. 2023-226 by a 5-0 vote. If adopted, the Ordinance (Attachment A) will take effect 30 days after adoption.

ALTERNATIVES CONSIDERED

The City Council could choose not to adopt Ordinance No. 2023-226 establishing by-district elections, defining district boundaries, and scheduling elections within the respective districts. Staff, however, does not recommend this action, as the failure to convene would disrupt the City's process of transitioning to district-based elections and compromise its ability to settle this claim.

FISCAL REVIEW

There is no fiscal impact as a result of the adoption of Ordinance No. 2023-226.

LEGAL REVIEW

The City Attorney's Office has reviewed and approved this report and corresponding Ordinance as to form and content.

CONCLUSION

Staff recommends that the City Council conduct a second reading, by title only, and adopt Ordinance No. 2023-226:

Ordinance No. 2023-226

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGUNA NIGUEL,
CALIFORNIA, ADDING DIVISION 9 OF TITLE 2 OF THE LAGUNA NIGUEL
MUNICIPAL CODE ESTABLISHING BY-DISTRICT ELECTIONS, DEFINING DISTRICT
BOUNDARIES, AND SCHEDULING ELECTIONS WITHIN THE DISTRICTS



Tamara S. Letourneau
City Manager



Justin J. Martin
Assistant City Manager



Scott C. Smith
City Attorney

Attachment:

A. Ordinance No. 2023-226

- Exhibit A – City of Laguna Niguel District Map

ATTACHMENT A

Ordinance No. 2023-226

ORDINANCE NO. 2023-226

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAGUNA NIGUEL, CALIFORNIA, ADDING DIVISION 9 OF TITLE 2 OF THE LAGUNA NIGUEL MUNICIPAL CODE ESTABLISHING BY-DISTRICT ELECTIONS, DEFINING DISTRICT BOUNDARIES, AND SCHEDULING ELECTIONS WITHIN THE DISTRICTS

WHEREAS, the City Council of the City of Laguna Niguel is an elected legislative and deliberative public body serving the citizens of the City of Laguna Niguel, a California general law city; and

WHEREAS, members of the City Council of Laguna Niguel are currently elected in November of even-numbered years and pursuant to an “at-large” election system in which registered voters of the entire jurisdiction elect candidates to the City Council; and

WHEREAS, California Elections Code Section 10010 permits a city council to adopt a resolution to change its method of elections from an “at-large” system to a “district-based” system in which each member of the city council is elected only by the voters in the voting district in which the candidate resides; and

WHEREAS, the City received a letter on or about June 16, 2023, from Attorney Michelle Jackson on behalf of unnamed community group and minority voters residing within the City, asserting that Laguna Niguel’s present at-large election system violates the California Voting Rights Act (“CVRA”); and

WHEREAS, the City Council is committed to acting in the City’s best interest as a whole and supporting full participation of all eligible voters from protected classes in electing Members of the City Council in accordance with the CVRA; and

WHEREAS, to avoid the significant costs of any potential litigation under the CVRA, the City Council adopted Resolution No. 2023-1444 at its meeting held on July 26, 2023, declaring the City Council’s intention to transition from at-large to district-based elections and outlining specific steps the City Council would undertake to facilitate this transition, and an estimated time frame for doing so pursuant to Elections Code Section 10010; and

WHEREAS, under the provisions of California Election Code section 10010, a City that changes from an at-large method of election to a district-based election must do all of the following before a public hearing at which the City Council votes to approve or defeat an ordinance establishing district-based elections:

- Before drawing a draft map or maps of the proposed boundaries of the districts, the City must hold at least two public hearings over a period of no more than thirty (30) days, at which the public is invited to provide input regarding the composition of the districts.

- After all draft maps are drawn, the City must publish and make available for release at least one (1) draft map and the potential sequence of the elections and the potential sequence of elections.
- The City must hold at least two additional hearings over a period of no more than forty-five (45) days, at which the public is invited to provide input regarding the content of the draft map(s) and the proposed sequence of elections. The first version of a draft map must be published at least seven days before consideration at a hearing; and

WHEREAS, the City engaged an expert demographer to assist the City with the process of analyzing the City's population, developing draft maps, and gathering input from residents on the possible maps; and

WHEREAS, the City Council held public hearings held on September 5, 2023, and September 19, 2023, at which time the public was invited to participate and provide input as to the proposed boundaries, content and composition of the districts, and the potential sequencing of elections; and

WHEREAS, draft election maps were published on the City's webpage for public review on or before October 31, 2023, at least seven (7) days before the third public hearing held on November 7, 2023; and

WHEREAS, on November 7, 2023 the Council held a third public hearing and selected to elevate three public submittal maps for further consideration: Maps 199731, 203848, and 203709; and

WHEREAS, the three public submittal maps were published on the City's webpage for public review on or before November 28, 2023, at least seven (7) days before the fourth public hearing held on December 5, 2023; and

WHEREAS, on December 5, 2023, the City Council of the City of Laguna Niguel held a fourth final public hearing on establishing Council election district boundaries, received additional public input, and formally selected the voting district Map E, as reflected in Exhibit A to this Ordinance; and

WHEREAS, at the conclusion of the City Council's deliberations on December 5, 2023, the City Council introduced, read by title, and waived further reading of this Ordinance; and

WHEREAS, the purpose of this Ordinance is to enact, pursuant to California Government Code section 34886, an ordinance providing for election of the Members of the City Council of the City of Laguna Niguel by-district in five (5) single-member districts, as reflected in Exhibit A to this Ordinance; and

WHEREAS, pursuant to California Government Code section 34886, it is declared the change in the method of electing members of the City Council of the City of Laguna Niguel made by this Ordinance is being made in furtherance of the purposes of the CVRA (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code) and to implement the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution; and

WHEREAS, all information in the staff reports, maps, presentations, Council debate and public testimony referenced above is hereby incorporated into this decision and serves as evidentiary basis for these findings and legislative decision; and

THE CITY COUNCIL OF THE CITY OF LAGUNA NIGUEL, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

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

SECTION 2. Division 9 is hereby added to Title 2 (Administration and Personnel) of the Laguna Niguel Municipal Code to read as follows:

DIVISION 9 – BY-DISTRICT ELECTIONS

Section 2-9-1 By-District Elections

(a) Pursuant to California Government Code section 34886, Members of the City Council shall be elected by-district in five (5) single-member districts.

- (1) Members of the City Council shall be elected in the electoral districts established by subdivision (b) of this Section and subsequently reapportioned as provided by State law. Elections shall take place “by-district” as that term is defined in California Government Code section 34871, meaning one Council Member shall be elected from each district by the voters of that district alone.
- (2) A Council Member elected or appointed to represent a district must reside in that district and be a registered voter in that district, and any candidate for City Council must reside in, and be a registered voter in, the district in which he or she seeks election at the time nomination papers are issued.
- (3) Termination of residency in a district by a Council Member shall create a vacancy for that City Council district unless a substitute residence within the district is immediately declared and established within thirty (30) days after the termination of residency.
- (4) Notwithstanding any other provision of this Section, each Council Member in office at the time this Section takes effect shall continue in office until the expiration of the term to which he or she was elected. In the event a vacancy

occurs before the expiration of the term of a Council Member in office at the time this Section takes effect, a person who is appointed or elected by special election to fill such vacancy may reside anywhere within the corporate boundaries of the City. A person appointed or elected to fill such a vacancy shall hold the office in accordance with State law.

- (b) All five Council Members shall be elected on a “by-district” basis from the Council districts shown and numbered on the map titled ‘**City of Laguna Niguel District Map**’ attached as Exhibit A, a copy of which shall be on file in the City Clerk’s office. In 2024, and every four years thereafter, the following three City Council districts shall be elected by-district: District 1; District 3; and District 5. In 2026, and every four years thereafter, the following two City Council districts shall be elected by-district: District 2 and District 4.
- (c) Pursuant to Elections Code section 21601, as it may be amended from time to time, the City Council shall adjust the boundaries of any or all of the districts following each decennial federal census to ensure that the districts are in compliance with all applicable provisions of law.

SECTION 3. Technical District Changes. If necessary to facilitate the implementation of this Ordinance, the City Clerk is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The City Clerk shall consult with the City Manager and City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts.

SECTION 4. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 5. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after its passage.

SECTION 6. Publication. The City Clerk shall certify the adoption of this Ordinance and shall post or publish this Ordinance as required by law.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Laguna Niguel this 16th day of January, 2024.

Kelly Jennings, Mayor

ATTEST:

Marissa J. Asistin, City Clerk

CERTIFICATION

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

I, Marissa J. Asistin, City Clerk of the City of Laguna Niguel, do hereby certify that the foregoing ordinance is the actual ordinance duly and regularly adopted by the City Council at a regular meeting on the 16th day of January, 2024, by the following vote to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Marissa J. Asistin, City Clerk

EXHIBIT A

City of Laguna Niguel District Map

EXHIBIT A

Election Sequencing

2024: Odd-numbered
districts

2026: Even-numbered
districts

