

RESOLUTION NO. 1076

A RESOLUTION OF THE CARPINTERIA VALLEY WATER DISTRICT BOARD OF DIRECTORS, DECLARING ITS INTENT TO TRANSITION FROM AT-LARGE TO BY-DIRECTOR DIVISION ELECTIONS, OUTLINING SPECIFIC STEPS TO BE UNDERTAKEN TO FACILITATE THE TRANSITION AND ESTIMATING A TIME FRAME FOR ACTION

WHEREAS, the members of the Board of Directors of the Carpinteria Valley Water District ("District") are currently elected in "at-large" elections in which each member of the Board of Directors is elected by the registered voters of the entire District and serves a four-year term; and

WHEREAS, California Elections Code section 10650, in certain circumstances, authorizes the Board of Directors of a special district to change its method of election from "at-large" to "by-divisions" in which each member of the Board of Directors is elected only by the voters residing in the division in which the candidate resides; and

WHEREAS, the District received a certified letter on April 23, 2020 ("April 23, 2020 letter"), from the law firm of Shenkman & Hughes, asserting that the District's electoral system violates the California Voting Rights Act ("CVRA") and threatening litigation if the District declines to change voluntarily to a by-division election system for electing board members; and

WHEREAS, the April 23, 2020 letter contains factual inaccuracies pertaining to the District's potential liability under the CVRA; and

WHEREAS, litigation under the CVRA is very expensive, and if the defendant loses, it is required to pay the plaintiff's reasonable attorneys' fees and expenses, which in most cases to date have been significantly over a million dollars; and

WHEREAS, the California Legislature, in amendments to Elections Code section 10010 and in Elections Code section 10650, has provided a method whereby a special district can change to a by-division election system and be protected from litigation under the CVRA; and

WHEREAS, changing to a by-division electoral system pursuant to Elections Code section 10010 would avoid the extraordinary cost to defend against a CVRA lawsuit, even if the District were to prevail in that action; and

WHEREAS, the 2020 decennial Census is currently underway, the results of which will be reported in 2021:

NOW, THEREFORE, BE IT RESOLVED, the Board of Directors of the Carpinteria Valley Water District does resolve as follows:

1. The forgoing recitals are true and correct and form the basis of this Resolution.

2. The Board of Directors does not believe the District is in violation of the CVRA, and on that basis denies the allegations in the April 23, 2020 letter. Nevertheless, to avoid the extremely high cost of litigation, the Board of Directors hereby states its intention to implement a by-division electoral system for use in the District's elections for members of the Board of Directors.

3. The Board of Directors directs the District's General Manager, on or before June 30, 2020 to retain a demographer and other appropriate consultants as needed, to provide a detailed analysis of the District's current demographics and any other information or data necessary to prepare a draft map that divides the District into voting divisions in a manner consistent with the intent and purpose of the California Voting Rights Act and the Federal Voting Rights Act, other applicable state and federal law, and this Resolution.

4. The Board of Directors approves the tentative timeline set forth in Exhibit A, attached to and made a part of this Resolution, for conducting a public process pursuant to Elections Code section 10010. The timeline may be modified as necessary to accommodate the business of the District and the schedules of the Directors and the District's consultants; provided, however, that no modification shall interfere with the District's goal to establish a by-division electoral system within 90 days of the date of this Resolution.

5. The Board of Directors delegates to the District General Manager authority to develop and institute a program to inform the residents of the District of this Resolution and the process set forth in Exhibit A, and to facilitate and encourage public participation.

6. The District Board of Directors reserves the right to repeal this resolution or re-establish at-large elections in accordance with law should the CVRA be declared illegal, or as may be in the best interests of the District.

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PASSED AND ADOPTED this 3rd day of June 2020, at a special meeting of the Board of Directors of the Carpinteria Valley Water District, California by the following vote:

AYES: Roberts, Van Wingerden, Capozza, Holcombe and Johnson

NOES: NONE

ABSTAIN: NONE

ABSENT: NONE



Mathew Roberts, President

APPROVED AS TO FORM:



Roger Myers, District General Counsel



Ursula Santana, Secretary

EXHIBIT A

TENTATIVE TIMELINE: IMPLEMENTATION OF BY-DIVISION ELECTION SYSTEM

DATE	EVENT	COMMENT
May 15, 2020	180 days Prior to General District Election for Board of Directors	Elections Code § 22000(d)
June 3, 2020	Resolution of Intention: District Board of Directors Adopts Resolution Declaring its Intention to Transition From At-large to By-division Elections.	CVRA Lawsuit cannot be commenced for 90 days. Elec. Code § 10010(e)(3)(B) & Ex. Orders N-34-20 & N-48-20
June 3 – 24, 2020	Public Outreach Retain demographer	NO MAPS YET DRAWN
June 24, 2020	1st Public Hearing	Re: Composition of Director Divisions NO MAPS YET DRAWN
July 8, 2020	2nd Public Hearing (Within 30 Days of 1st Public Hearing) Provide Instruction to Demographer About Criteria to Guide Development of Electoral Districts	Re: Composition of Director Divisions NO MAPS YET DRAWN
July 10, 2020	Deadline for Receipt of Maps From Members of Public	
July 15, 2020	Publish Draft Maps and Potential Sequence of Elections for Each Map	
July 22, 2020	3rd Public Hearing	Re: Draft Maps and Election Sequence
August 5, 2020	Publish any Amended Maps and Potential Sequence of Elections	
August 12, 2020	4th Public Hearing (Within 45 Days of 3rd Public Hearing) Select Preferred Map for Adoption	Re: Draft Maps and Election Sequence
August 26, 2020	5th Public Hearing Approval or Defeat of Resolution Establishing By-division Elections	To be used at next feasible election for members of the Board of Directors
September 1, 2020	End of Safe-Harbor Period	90 Days after June 3, 2020

2021-2022	Receipt of 2020 Census Data and Consideration of Need to Adjust Electoral Division Boundaries	
May 12, 2022	180 Days Prior to 11/8/22 General District Election for Board of Directors	Elections Code § 22000(d)
November 8, 2022	First Election Using new Director Division Election System	