

STAFF REPORT

To: Board of Directors
From: Jennifer Buckman, General Counsel
Date: October 6, 2020
Subject: Division-based Elections – Public Hearing No. 4, October 14, 2020

RECOMMENDED ACTIONS

Introduce and waive first reading of Ordinance establishing electoral divisions, approving map of electoral divisions, and setting sequence of division elections

BACKGROUND

On May 13, 2020, the Board of Directors adopted a resolution of intention to transition from at-large to division-based elections. Pursuant to Elections Code 10010, the District was required to hold at least two public hearings over a period of no more than 30 days before any map or maps of the boundaries for the proposed voting districts are drawn.

The District started this process with a hearing on June 10, 2020. This hearing was conducted via videoconference with limited in-person participation pursuant to the Governor's COVID-19 emergency executive orders. Members of the public participated in this hearing and submitted comments regarding the factors the District's Board should consider in drawing the proposed electoral divisions. However, the second hearing on July 8, 2020 had to be terminated early due to disruptive conduct by anonymous participants in the videoconference.

The District therefore determined to treat the first two hearings as informational sessions and re-started the Elections Code public hearing process. The District conducted its first hearing on August 3, 2020 and its second hearing on August 5, 2020, at which members of the community provided input regarding the factors that the Board should consider in drawing the maps of the electoral districts and raised questions about the process. Citrus Heights Water District and Fair Oaks Water District submitted a comment letter and proposed maps suggesting that San Juan Water District's wholesale customer agencies constitute communities of interest that should be taken into account when the electoral divisions are drawn. These two agencies also submitted two proposed maps (which San Juan staff labeled Wholesale 1 and Wholesale 2, for purposes of differentiating them) with divisions based, in part, on this criterion. However, the maps were not viable because they did not accurately reflect the San Juan Water District boundaries.

Members of the public also submitted comments stating that San Juan's retail customer areas should be considered a community of interest on equal footing with the wholesale customer agencies. Several retail customers also expressed concern that drawing

electoral divisions in a way that would result in the majority of the retail customers being in one division would lead to a voting structure where the wholesale customer agencies could control the San Juan Board and shift costs onto the retail customers. Members of the public also stated their opinions that the rural portions of Granite Bay and Orangevale constitute a community of interest, particularly since the water needs of hobby farms/ranchettes may be different than the demands generated by typical suburban development.

At the conclusion of the August 3 public hearing, and based on the comments received and input from the community, the Board of Directors identified criteria relevant to communities of interest for the demographer to consider when creating the proposed district maps. These criteria included: existing county and city lines, rural areas (horse property, small farms, ranchettes), communities represented by bona fide community associations, and boundaries of other special districts (water, fire, parks, cemetery, etc.).

Following the initial two public hearings, and in response to a request from members of the public, the District scheduled an informational workshop on August 15, 2020. Members of the public attended the workshop and asked questions about how the voting for the electoral districts would work, how the divisions would be phased in, how the District is composed of both retail service area and wholesale customer agencies and what implications that hybrid nature might have on this process, and the factors that the District must consider in drawing the maps.

Thereafter, on August 27, 2020, the Board conducted a workshop with the demographer who has been hired to prepare the maps. At that workshop, the demographer presented draft versions of six maps: Plan A, Plan B, DR Plan, DR Plan 2, which had been developed by the demographer based on input from the Board and staff, and Wholesale (revised) Plan and AB Plan, which had been developed by the demographer based on plans submitted by others. The Wholesale (revised) Plan was based on the maps submitted by Citrus Heights and Fair Oaks Water Districts, but the demographer corrected the map so that it accurately reflects the San Juan boundaries, and then reconfigured the divisions slightly to adjust the populations in each division. The AB Plan was submitted by a retail service area customer.

At the August 27 workshop, the Board considered all 6 maps, and the demographer answered questions from the Board and members of the public. During the workshop, Director Miller proposed another map, which would keep nearly all the Placer County residents in one electoral division. This map was identified as the "Plan KM." At the conclusion of the workshop, the Board determined to advance all 6 of the maps presented, as well as the new Plan KM, and the unaltered maps submitted by Citrus Heights Water District and Fair Oaks Water District, for a total of 9 draft maps.

Pursuant to Elections Code section 10010, the District is required to conduct two additional public hearings over a period of no more than 45 days, where the public is invited to provide input regarding the content of the draft maps and the proposed

sequence of elections. Public hearings for this purpose were scheduled for September 9, 2020 and October 14, 2020.

The District published and made available on its website all nine 9 draft maps and a proposed sequence of district elections seven days in advance of the September 9, 2020 public hearing.

At the September 9, 2020 hearing, the Board considered all 9 of draft maps and received further public input and comment on the maps, the proposed district divisions, as well as the proposed sequence of elections.

Rejection of Wholesale 1 and Wholesale 2 Plans

The Board rejected the two plans termed Wholesale 1 and Wholesale 2 because the maps did not accurately reflect the San Juan Water District boundaries.

Rejection of Plan A, DR Plan, and Wholesale Revised Plans

Of the remaining plans, the Board determined that none of the maps evidenced any unconstitutional racial gerrymandering. However, at the outset, the Board rejected Plan A, DR Plan, and Wholesale Revised as viable options to be advanced because none of the maps satisfied the constitutionally-required reasonably-equal population standard.

The Board's Consideration of Other Traditional Districting Factors for Plan AB, Plan B, DR Plan 2, and KM Plan

The Board then considered the remaining four maps, Plan AB, Plan B, DR Plan 2, and KM Plan for adherence to other traditional districting factors. The Board first considered how well each of the remaining four maps represented identified communities of interest, along with the contiguity and compactness of the district divisions.

The California Constitution defines a "community of interest" as a contiguous population that shares common social and economic interests and that should be included in a single district for purposes of its effective fair representation. (Cal. Const., art. XXI, §2(d)(4).) The Constitution's examples of the types of shared interests this term contemplates include "interests common to an urban area, a rural area, an industrial area, or an agricultural area," as well as "those common to areas in which the people share similar living standards, use the same transportation facilities, have similar work opportunities, or have access to the same media of communication relevant to the election process." (*Id.*) Thus, communities of interest means communities which can transcend more traditional lines such as boundaries of maps and political subdivisions.

In the prior hearings and workshops, the Board had identified the following communities of interest: existing counties and cities, less densely developed rural areas (horse property, small farms, ranchettes), communities represented by bona fide community associations, special districts including water districts, the retail service area and customers, post-office designated neighborhoods (ZIP codes), and existing election boundary lines (an administrative consideration requested by the registrar of voters in Sacramento County related to the efficient printing of ballots).

As explained during the workshop on August 27, it is not possible to draw divisions of reasonably equal populations that are contiguous and compact and that also respect exactly all identified communities of interest. Boundaries must be adjusted to ensure reasonably equal populations and compact divisions, and this will necessarily result in an imperfect ability to keep all portions of all identified communities of interest together.

A division is considered "contiguous" if you can travel from any point in the district to any other point in the district without crossing the district's boundary. Districts are considered compact when they do not bypass nearby population for people farther away.

After consideration of the remaining 4 plans, the Board determined that Plan B best reflects communities of interest as identified by the Board based on the public comments and hearings, and its electoral divisions are both contiguous and compact. The Board agreed, as demonstrated by the demographer at the August 27 workshop, that Plan B follows the population density map as nearly as practicable so as to create a division that represents the Granite Bay and Orangevale rural area community of interest identified by the Board. Although the Board determined that Plan AB also meets this criterion, it is less compact and would have required adjustment to ensure contiguity. Plan B and Plan DR 2 also refrain from "packing" all the retail customers into one division and effectively diluting the voting power of this group, in contrast to the Wholesale Plan and Plan KM. Plan B also follows the county, city, and special district boundaries to the extent practicable while still balancing populations among divisions.

As a result, the Board determined to advance Plan B to be considered for adoption as the Electoral Division Map for elections to the Board of Directors of the San Juan Water District, with revisions as directed by the Board on September 9, 2020. The Board approved a minor change to the numbering of the electoral divisions as shown on the map and adjusted the proposed sequencing of elections. The revisions were made to the map and the proposed sequencing of elections, as directed by the Board, and the map and sequence of proposed elections were published on October 7, 2020, prior to the Board's October 14 public hearing to consider adoption of these items.

Next Steps

Today, staff recommends that the Board introduce and waive the first reading of the Ordinance, attached hereto, which transitions the District to by-division elections, approves the map to establish the District's electoral divisions, and establishes a sequence for future by-division elections. If the Board introduces and waives the first reading of the Ordinance today, the Ordinance may be considered for approval at the November 9, 2020 regular Board Meeting.

Attachments

Proposed Ordinance, including:

{00201640.2}

Exh. 1 - Electoral Division Map

Exh. 2 - Sequence of Elections

ORDINANCE NO. 20-02

AN ORDINANCE OF THE SAN JUAN WATER DISTRICT PROVIDING FOR THE ELECTION OF DIRECTORS BY DIVISION, ESTABLISHING THE BOUNDARIES AND IDENTIFICATION NUMBER OF EACH ELECTORAL DIVISION, AND ESTABLISHING THE ORDER OF ELECTION FOR EACH DIVISION

Section 1. The Board of Directors of the San Juan Water District hereby finds and declares as follows:

- A.** The San Juan Water District is governed by five (5) Directors, who are elected by an at-large system which provides that each voter within the District is eligible to cast a vote for each Director;
- B.** At-large electoral systems provide that a Director may reside in any location within the District;
- C.** The District received a demand letter from Shenkman and Hughes, PC on behalf of the Southwest Voter Registration Education Project on March 30, 2020, asserting that the District's at-large electoral system violates the California Voting Rights Act, which threatened costly litigation should the District not voluntarily transition to a district-based electoral system;
- D.** The District disputes the assertion that its at-large electoral system violates the California Voting Rights Act;
- E.** The District determined that it would be prohibitively costly to defend against any lawsuit alleging its at-large electoral system violates the CVRA, and the District further determined it was in the best interests of its ratepayers to transition voluntarily to a district-based electoral system;
- F.** Following a public hearing, on May 13, 2020, the District adopted a resolution noticing an intent to transition to district-based elections, whereby the District will be divided into five electoral divisions, and the voters of each division will elect one Director who resides within the boundaries of that division to represent that division on the Board;
- G.** The District held public engagement sessions during public Board meetings on June 10, 2020 and July 8, 2020, during which it provided information to the public regarding the division-based elections process and invited and received public comment;
- H.** The District held two (2) public hearings on July 27, 2020, and August 3, 2020, in accordance with Elections Code section 10010, during which it invited and received

input from the public and established criteria relevant to the creation of electoral districts;

- I.** The District retained the services of an expert demographer to prepare draft maps, reflecting the public input received as well as criteria established by the Board for proposed electoral district divisions;
- J.** The District held an additional informational workshop on August 15, 2020, where it invited and received additional input from the public and answered questions concerning the process;
- K.** The demographer prepared four (4) draft maps, based on input from the Board and staff, and two (2) draft maps based on plans submitted by others, and Fair Oaks Water District and Citrus Heights Water District submitted two (2) draft maps;
- L.** The District held an additional informational workshop on August 27, 2020, where it presented the demographer's work and potential mapping options and provided a forum for the Board of Directors to interact with the demographer, and where Director Miller submitted one (1) additional draft map for consideration;
- M.** Pursuant to Elections Code section 10010, the District published and made available on September 2, 2020 all nine (9) draft maps and a potential sequence of elections for consideration in advance of a public hearing scheduled for September 9, 2020;
- N.** At a public hearing held September 9, 2020, the Board considered all nine (9) draft maps and determined one draft map, known as "Plan B" and attached to this Ordinance as "Exhibit 1", most closely satisfied the requisite criteria and determined slight revisions were necessary;
- O.** On October 7, 2020, the District published the revised map;
- P.** The District held a public hearing on October 14, 2020 for purposes of considering adoption of the draft map and sequence of elections advanced after the September 9, 2020 public hearing, and to receive public input on the proposed map as revised, as well as the potential sequence of elections, and at the conclusion of this hearing, the Governing Board did formally select the electoral division map and election sequence as set forth in this Ordinance, which was introduced at this meeting;
- Q.** At its regular meeting on November 9, 2020, the Governing Board adopted this Ordinance;
- R.** The purpose of this Ordinance is to establish a by-division electoral system for the election of Directors of the San Juan Water District, pursuant to Elections Code sections 10010, et seq.

WHEREBY, THE BOARD OF DIRECTORS OF THE SAN JUAN WATER DISTRICT ORDAINS AS FOLLOWS:

Section 2. Section 1100.01 of the Code of Ordinances of the San Juan Water District is amended to read as follows:

1100.01 Election of Directors

The Board of Directors is the governing body of the District. The Board shall act only at its regular meetings, regular adjourned meetings, special meetings, or emergency meetings.

1100.01.1 General

- A. Number of Directors:** One (1) director shall be elected from each of five (5) electoral divisions established by this ordinance and pursuant to 1100.01.2.
- B. Residency:** A candidate for Director must reside within the boundaries of the electoral division that he or she will represent.

1100.01.2 By-District Electoral Divisions

- A. Divisions:** There are established five (5) divisions of the San Juan Water District.
- B. Map of Electoral Divisions:** The boundaries and identifying number of each division shall be described on the San Juan Water District Division Map attached hereto as “Exhibit 1,” a copy of which shall also be on file in the District Office. The Board shall examine and, if necessary, adjust the boundaries of the five divisions in accordance with Government Code section 61026.

1100.01.3 Election Process

- A. Terms:** A Director shall be elected for a term of four years.
- B. Sequence of Elections:** Elections for Divisions 1, 3, and 5 shall initially be held in 2022, and every four years thereafter. Elections for Divisions 2 and 4 shall initially be held in 2024 and every four years thereafter. The San Juan Water District Sequence of Initial Elections is attached hereto as “Exhibit 2,” a copy of which shall also be on file in the District Office.

Section 3. Vacancies. Notwithstanding any other provision of this Ordinance, each Director in office at the time this Ordinance 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

Director in office at the time this Ordinance takes effect, a person who is appointed or elected by special election to fill such vacancy shall not be subject to the provisions of this ordinance, except that the appointee or Director elected by special election shall only serve out the remainder of the at-large term to which he or she is appointed or elected.

Section 4. Effective Date. This ordinance shall take effect 30 days after its adoption.

Section 5. Publication and Posting. The District Secretary is directed to, within 15 days after final adoption of this ordinance, publish a copy of this ordinance in a newspaper of general circulation, and post a copy of this ordinance in the District’s Boardroom and at three public places within the District. The ordinance shall remain posted for at least one week.

INTRODUCED by the Board of Directors on the ____ day of October 2020.

PASSED AND ADOPTED by the Board of Directors of the San Juan Water District at a regular meeting on the __ day of November 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Edward J. “Ted” Costa
President, Board of Directors

Attest:

Teri Grant
District Secretary

EXHIBIT 1
MAP OF ELECTORAL DIVISIONS

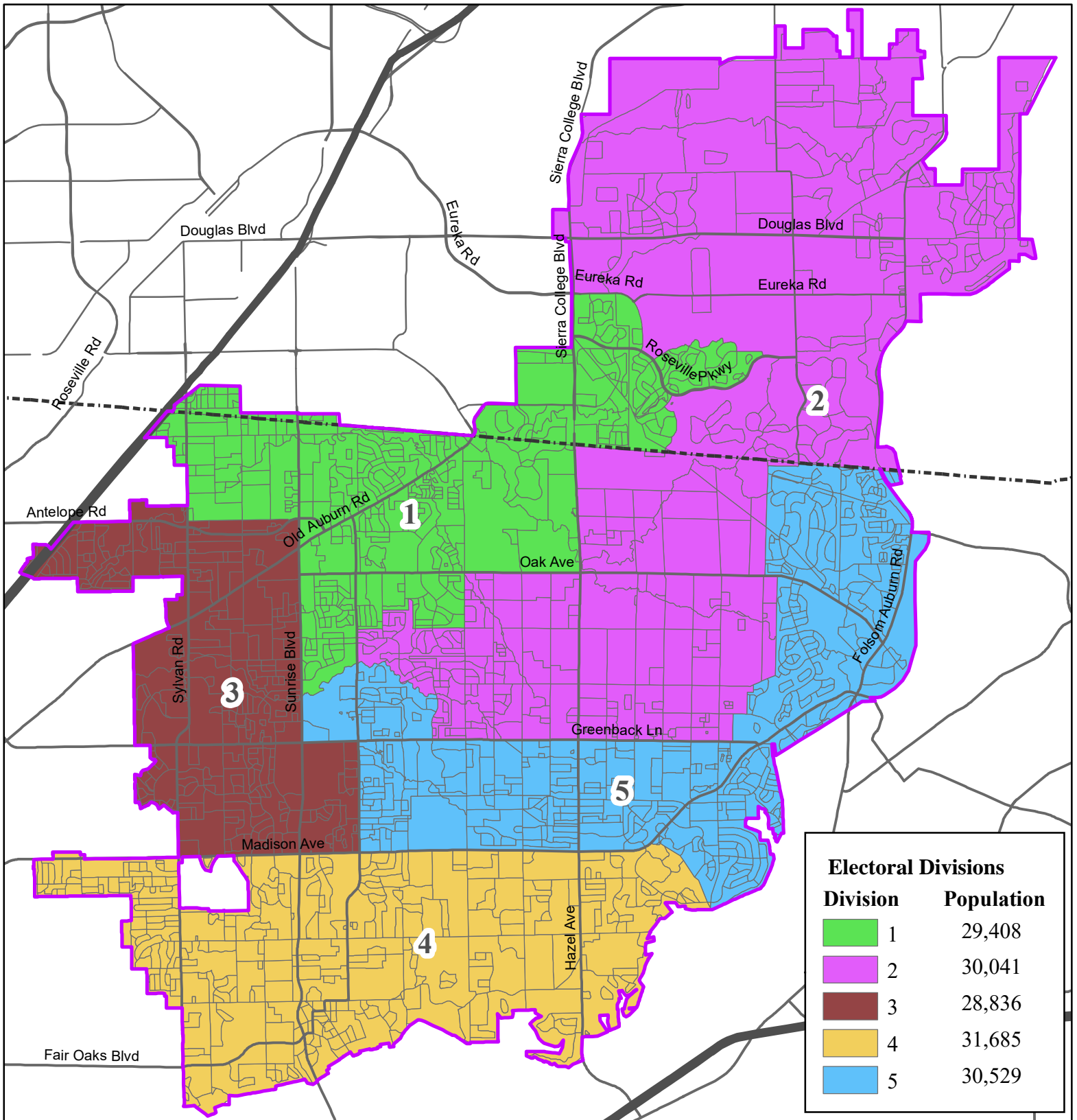


EXHIBIT 2
SEQUENCING OF ELECTIONS BY DIVISION

Divisions 1, 3 and 5 (green, brown and blue, respectively) will stand for election in 2022, and thereafter every four years

Divisions 2 and 4 (purple and yellow, respectively) will stand for election in 2024, thereafter election every four years.