

RESOLUTION NO. 18-137

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES  
DECLARING ITS INTENTION TO TRANSITION FROM AT-LARGE TO BY-  
DISTRICT ELECTIONS AND SETTING FORTH THE PROCESS FOR  
TRANSITIONING TO BY-DISTRICT ELECTIONS

WHEREAS, Council members of the City of El Paso de Robles (“City”) are currently elected by at-large elections, as each member is elected through a City-wide vote; and

WHEREAS, the California Voting Rights Act (“CVRA”) became law in 2003 and provides a means for prospective plaintiffs to allege racially polarized voting and to seek a change from a jurisdiction’s at large election system to a different system, typically a by-district or by-division election system where only registered voters within a specific division may vote for a candidate running from their specific division, and also allows for the recovery of a plaintiff’s attorneys’ fees; and

WHEREAS, a violation of the CVRA may be established if it is shown that racially polarized voting has combined with an at-large voting system to impair the ability of a protected class of voters to elect candidates of its choice or to influence the outcome of an election; and

WHEREAS, “racially polarized voting” under the CVRA means voting in which there is a difference between 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 preferred by voters in the rest of the electorate; and

WHEREAS, on or around August 13, 2018 the City received a certified letter from attorney Kevin Shenkman of the law firm Shenkman & Hughes, on behalf of his client, the Southwest Voter Registration Education Project, asserting that the City’s at-large election system may violate the CVRA and threatening litigation if the City does not voluntarily transition to a district-based election system for electing its City Council; and

WHEREAS, the City denies that its election system violates the CVRA or any other similar law; and

WHEREAS, the City Council has nevertheless determined due to the high cost of litigation, including the potential payment of plaintiff’s attorneys’ fees, that the public interest is better served by initiating a process for transition to a division-based election system in order to avoid the costs associated with defending a lawsuit under the CVRA; and

WHEREAS, the City Council expresses its desire and intent that the division-based election system be implemented in a way that will minimize divisiveness in the community; and

WHEREAS, the California Legislature has provided in Elections Code Section 10010 a method whereby a jurisdiction may expeditiously transition to a district- or division-based election system and avoid the high cost of litigation under the CVRA by its adoption of AB 350; and

WHEREAS, Section 10010 will delay the initiation of CVRA litigation and limit attorneys’ fees associated with a CVRA claim if, within forty-five (45) days of receipt of a claim under the CVRA, the City adopts a resolution stating its intent to transition to district-based elections and within ninety (90) days thereafter (or as otherwise stipulated by the parties), the City takes action to transition to a district-based election system consistent with the intent and purpose of the California Voting Rights Act; and

WHEREAS, prior to the City's consideration of a resolution to establish boundaries for a division-based electoral system, the City is first required under Elections Code section 10010 to hold public hearings where the public may provide input on the composition of the divisions, then to draw proposed maps that must be published and available for the public to comment on during at least two public hearings, and to thereafter adopt a resolution with the new maps showing the divisions; and

WHEREAS, the City Council now desires to declare its intention to adopt a resolution transitioning from an at-large to district-based elections for its next election, establish specific steps it will undertake to facilitate this transition, and establish an estimated timeframe for doing so.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CITY OF EL PASO DE ROBLES HEREBY RESOLVES AS FOLLOWS:

Section 1. Recitals

The recitals set forth above are true and correct.

Section 2. Intent to Transition to District-Based Elections

The City Council intends to consider adoption of a resolution, consistent with and Elections Code Section 10010, to transition to a division-based or zone election system for use in the City's next general election for its City Council and directs its legal counsel to inform Mr. Shenkman of the City's adoption of this resolution and its intent to transition from an at-large election system to a by-district system.

Section 3. Upcoming Actions

The City Council shall take, or shall cause City staff to take, the following actions, within the time frames established by Elections Code Section 10010 following the effective date of this Resolution, taking into consideration time required for public outreach and input, agenda requirements under the Brown Act, and the City Council's meeting schedule:

- (a) hiring of a qualified consultant to provide demographic services and assist in the preparation of proposed district maps;
- (b) Conduct public outreach, including to non-English speaking communities, to explain the districting process and to encourage public participation;
- (c) Before drawing a draft map or maps of the proposed division boundaries, hold at least two public hearings at which the public is invited to provide input regarding the composition of the divisions and to consider division boundaries as provided in Elections Code Section 10010;
- (c) After drawing a draft map or maps, publish the draft map(s) and the potential sequence of the division elections and hold at least two public hearings at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections; and
- (e) Hold a public hearing at which the City Council will consider and adopt a resolution establishing division elections, including the adoption of a division boundary map and the sequence of the division elections.

Section 4. Severability

The City Council declares that, should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Resolution as hereby adopted shall remain in full force and effect.

Section 5. Repeal of Conflicting Provisions

All of the provisions heretofore adopted by the City or the City Council that are in conflict with the provisions of this Resolution are hereby repealed.

Section 6. Effective Date

This Resolution shall take effect upon its adoption.

Section 7. CEQA

The transition from at-large to district-based elections is exempt from environmental review under the California Environmental Quality Act ("CEQA") (Public Resources Code §§ 21000 *et seq.*) pursuant to State CEQA Guidelines (Cal. Code Regs., tit. 14 § 15000 *et seq.*) sections 15061(b)(3), 15320, and 15378(b)(3). Adoption of this Resolution is an organizational and administrative activity of the City, does not have the potential to result in either a direct or reasonably foreseeable indirect physical change in the environment, and is therefore not a project for purposes of CEQA. In the event adoption of this Resolution does constitute a project, it is categorically exempt under Class 20 (Changes in the Organization of Local Governments) categorical exemption.

Section 8. City Manager Authorization

The City Manager is hereby authorized to enter into a professional services contract as necessary with a consultant qualified to provide demographic services to the City.

Section 9. Certification

That the Clerk shall certify to the passage and adoption of this Resolution.

PASSED AND APPROVED this 25<sup>th</sup> day of September, 2018.

AYES: Gregory, Hamon, Strong, Reed, Martin  
NOES:  
ABSENT:  
ABSTAIN:

  
\_\_\_\_\_  
Steven W. Martin, Mayor

ATTEST:

  
\_\_\_\_\_  
Kristen L. Buxkemper, Deputy City Clerk