



Town Council Agenda Report

Date: February 22, 2022

To: Honorable Mayor and Town Council

Subject: SECOND PUBLIC HEARING FOR REDISTRICTING; CONSIDERATION OF ORDINANCE TO ALLOW MAPS TO BE ADOPTED BY RESOLUTION; AND CONSIDERATION OF ORDINANCE TO ESTABLISH SEPARATELY ELECTED MAYOR AND TO ALLOW MAPS TO BE ADOPTED BY RESOLUTION

From: Douglas Robertson, Town Manager

Submitted by: Thomas A. Rice, Town Attorney
La Vonda M-Pearson, Director of Government Services

Budgeted Item: Yes No N/A

RECOMMENDED ACTION

- A. Receive a report from staff and the Town's redistricting consultant on the redistricting process and permissible criteria to be considered to redraw district boundaries; and
- B. Receive input from the public on the appropriate criteria for redistricting; and
- C. Consider and adopt either:
1. ORDINANCE NO. 549(A) – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING SECTION 2.04.140 AND ADDING SECTION 2.04.150 TO CHAPTER 2.04 OF TITLE 2 OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE TRANSITIONING TO BY-DISTRICT ELECTIONS FOR FOUR COUNCILMEMBERS AND AN AT-LARGE MAYOR AND ALLOWING MAPS TO BE ADOPTED BY RESOLUTION; or
 2. ORDINANCE NO. 549(B) – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING SECTION 2.04.140 OF TITLE 2 OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE ALLOWING MAPS TO BE ADOPTED BY RESOLUTION.

Note: Council may also chose to adopt neither ordinance; and

D. Provide direction to the Town's redistricting consultant relating to the drawing of new district maps.

BACKGROUND:

In 2019, in response to a threat of litigation under the California Voting Rights Act and like many jurisdictions throughout the state, the Town transitioned from an at-large to a by-district election system. The Town did so after a lengthy public outreach process, which included holding five public hearings and a workshop. The Town is presently divided into five districts, which were based on the following factors:

- Geography
 - Use major roadways as dividing lines
 - Consider future growth areas
- Communities of Interest
 - Attempt to keep distinct communities together
 - Attempt to place some commercial property in every district
 - Attempt to place some parks or open space in every district
 - Attempt to split the North Apple Valley Industrial Specific Plan (NAVISP) so a single council member is not responsible for the entire area
- Cohesiveness, Contiguity, Integrity, and Compactness of Territory
 - Accept that it will be natural for there to be a wide variation in district size due to lack of density in various parts of Town
 - Do not prioritize trying to make districts the same size in area terms

In November 2020, the Town held its first by-district elections. Districts 1 and 2 were the subject of the election. Incumbent candidates were not challenged during the election and were, therefore, reelected automatically.

On January 11, 2022, the Town Attorney provided an update on the redistricting process. At that meeting, the Town Council requested the Town Attorney provide the Town Council with an opportunity to consider a transition to a "4+1" system with an at large Mayor. On January 24, 2022, the Town entered into a contract with National Demographics Corporation (NDC) to perform redistricting services, including the drawing of maps.

On February 8, 2022, the Town Council held its first redistricting hearing and received a presentation from NDC on the appropriate criteria for consideration. The Town Council discussed and deliberated on a proposed ordinance to transition to a "4+1" system with an at large Mayor. At the conclusion of the hearing, the Town Council chose to introduce two ordinances in order to facilitate further public input on the possible transition. One ordinance would leave the Town Council with five districts; the other would transition to a "4+1" system with an at large Mayor. Both ordinances would permit the Town Council to adopt new maps by resolution.

DISCUSSION:

Redistricting

Every ten years, cities with by-district election systems must use new census data to review and, if needed, redraw district lines to reflect how local populations have changed. This process, called redistricting, ensures all districts have a nearly equal population. The redistricting process for the Town of Apple Valley must be completed by April 17, 2022.

The Town's districts must now be redrawn using the 2020 census data and in compliance with the FAIR MAPS Act, which was adopted by the California legislature as AB 849 and took effect January 1, 2020. Under the Act, the Town Council shall draw and adopt boundaries using the following criteria in the listed order of priority (Elections Code 21621(c)):

1. Comply with the federal requirements of equal population and the Voting Rights Act;
2. Be geographically contiguous;
3. Undivided neighborhoods and "communities of interest" (socio-economic geographic areas that should be kept together);
4. Display easily identifiable boundaries;
5. Be compact (do not bypass one group of people to get to a more distant group of people); and
6. Shall not favor or discriminate against a political party.

Once the prioritized criteria are met, other traditional districting principles can be considered, such as:

1. Minimize the number of voters delayed from voting in 2022 to 2024;
2. Respect voters' choices/continuity in office; and
3. Future population growth.

By law, the Town must hold at least four public hearings that enable community members to provide input on the drawing of district maps:

- At least one hearing must occur before the agency draws draft maps;
- At least two hearings must happen after the drawing of draft maps (the fourth hearing can happen either before or after the drawing of draft maps); and
- Agency staff or consultants may hold a public workshop instead of one of the required public redistricting hearings.

To increase the accessibility of these hearings, the Town must take the following steps:

- At least one hearing must occur on a Saturday, Sunday, or after 6:00 p.m. on a weekday;
- If a redistricting hearing is consolidated with another local government meeting, the redistricting hearing must be begin at a pre-designated time; and
- Local public redistricting hearings must be made accessible with people with disabilities.

The Town has set the following schedule for the redistricting process and this is the second step in the process:

February 8, 2022	First Public Hearing – Hearing begins at 7:30 p.m.
February 22, 2022	Second Public Hearing – Hearing begins at 7:30 p.m.
March 1, 2022	Draft Maps Released; Mapping Tool Released to Public
March 8, 2022	Third Public Hearing - Consideration and input on proposed draft maps
March 15, 2022	New Maps released - if any
March 22, 2022	Fourth Public Hearing and Adoption of Map

The purpose of this public hearing is to inform the public about the districting process and to hear from the community on what factors should be taken into consideration while creating district boundaries. In addition to hearing from the public, this is an opportunity for the Town Council to provide NDC with direction on the draft maps. The Council and public are requested to provide input regarding communities of interest and other local factors that should be considered while drafting district maps. A community of interest under the relevant Elections Code for the Town (Section 21621(c)) is, “a population that shares common social or economic interests that should be included within a single district for purposes of its effective and fair representation.”

Possible features defining community of interest might include, but are not limited to:

1. School attendance areas;
2. Natural dividing lines such as major roads, hills, or highways;
3. Areas around parks and other neighborhood landmarks;
4. Common issues, neighborhood activities, or legislative/election concerns; and
5. Shared demographic characteristics, such as:
 - Similar levels of income, education, or linguistic isolation;
 - Languages spoken at home; and
 - Single-family and multi-family housing unit areas.

The Town’s consultant will again provide analysis of the Town’s current district boundaries, adjusted for the 2020 Census data, and will address the population balance among districts. Determining population balance is done by measuring the spread, or deviation, between the least populated district and the greatest populated district.

Deviations of 10% or less are generally considered acceptable under U.S. Supreme Court rulings on the equal population standard under the U.S. Constitution. Because the Town's districts are no longer population balanced, at a minimum, the district boundaries must be adjusted to achieve a population balance with less than a 10% deviation.

Another consideration is the distribution of minority voters throughout the Town, and whether there is a possibility of creating a majority/minority voting district as addressed in the federal Voting Rights Act. This analysis involves reviewing the ethnicity demographics from the census data, specifically citizens of voting age populations (CVAP). Upon review of the City's CVAP data, creation of a majority/minority voting district (a district in which an identified minority comprises the majority of voting age population) may not be possible. Further analysis of this data will occur when draft maps are proposed. A complete demographic breakdown of the existing districts is attached to this report.

Proposed Ordinances

As noted above, at its January 11 meeting, the Town Council asked to explore the possibility of transitioning to a "4+1" system with a directly elected Mayor. The Town Attorney's Office prepared a draft ordinance that would achieve this goal. In order to ensure the Town can achieve the April deadline for redistricting, and to reduce future bureaucracy, the ordinance also permitted the adoption of district maps by resolution. At its February 8 meeting, discussed and deliberated the proposed ordinance. At the conclusion of the hearing, the Town Council chose to introduce two ordinances in order to facilitate further public input on the possible transition. One ordinance would leave the Town Council with five districts (Ordinance No. 549(B)); the other would transition to a "4+1" system with an at large Mayor (Ordinance No. 549(A)). Both ordinances would permit the Town Council to adopt new maps by resolution.

Traditionally, cities wishing to transition to a directly elected Mayor would be required to submit the question to voters in accordance with Government Code section 34900 et seq. However, in response to early challenges under the California Voting Rights Act (CVRA), the state legislature adopted SB 493, which added Section 34886 to the Government Code. This new law allows the legislative body of a city, e.g., the Town Council, to adopt an ordinance requiring members to be elected either wholly by district or by district with an elective mayor without submitting the question to voters. Such an ordinance must be adopted with a declaration that the change is being made in furtherance of the CVRA. The election of an at large Mayor may be in furtherance of the CVRA for a number of possible reasons including, but not limited to: (1) the Town's first elections without at large council seats were uncontested and, therefore, slightly increasing the size of districts might result in increased interest in running for office and therefore result in more democracy; (2) the Town's last competitive elections were at large and, therefore, the adjustment to a "4+1" system will still result in greater minority voting power than at prior competitive elections of the Town; (3) it is possible to draft new four-district maps which provide minority voters with very similar, and perhaps even greater, voting power to that under legally defensible five-district maps; and (4) the addition of an at-large mayoral component provides minority voters with an additional opportunity to coordinate with other voter segments to influence the outcome of an election (for example, in addition to coordination within a district with a higher minority population on a district election,

minority voting groups may find greater success coordinating with another subset of voters from the Town at large in the election of an at large Mayor). Ordinance No. 549(A) includes the required declaration. In addition, Ordinance No. 549(A) would make the term of the at large Mayor two years rather than the Town's traditional four-year term. Such a change would obviously increase the opportunity for all Town voters to influence elections more regularly. However, there may be a cost to stability as the composition of the Council could change every two years.

The Council may adopt either Ordinance No. 549(A) or Ordinance No. 549(B), or neither. It may not adopt both ordinances as they conflict.

FISCAL IMPACT:

The redistricting process should cost the Town approximately \$50,000 depending on the number of public meetings the consultant attends. However, the Town must incur this cost in order to comply with applicable law. The proposed ordinances involve relatively minimal staff time. However, if Ordinance No. 549(A) is adopted, staff may need to incur costs in reviewing the Town's Code to ensure it is otherwise consistent with an at large Mayor in advance of the next election. In addition, long term, there may be an additional costs if the City Council chooses associated with the two-year term option for the Mayor's position as this may result in an additional election cost every four years.

ATTACHMENTS:

1. Current District Map
2. Proposed ORDINANCE NO. 549(A) – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING SECTION 2.04.140 AND ADDING SECTION 2.04.150 TO CHAPTER 2.04 OF TITLE 2 OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE TRANSITIONING TO BY-DISTRICT ELECTIONS FOR FOUR COUNCILMEMBERS AND AN AT-LARGE MAYOR AND ALLOWING MAPS TO BE ADOPTED BY RESOLUTION.
3. Proposed ORDINANCE NO. 549(B) – AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY AMENDING SECTION 2.04.140 OF TITLE 2 OF THE TOWN OF APPLE VALLEY MUNICIPAL CODE ALLOWING MAPS TO BE ADOPTED BY RESOLUTION.