

**City of Carpinteria
City Council Minutes
Special Meeting
Council Chamber
Monday, July 31, 2017**

CALL TO ORDER

Mayor Shaw called the meeting to order at 5:30 p.m.

ROLL CALL

Councilmembers present:

Councilmember Gregg A. Carty
Councilmember Al Clark
Councilmember J. Bradley Stein
Vice Mayor Wade Nomura
Mayor Fred Shaw

Staff members present:

Dave Durlinger, City Manager
Dylan Johnson, on behalf of Brownstein Hyatt Farber Schreck, LLP acting as City Attorney of the City of Carpinteria
Brian C. Barrett, Assistant to the Public Works Director/Acting City Clerk

PLEDGE OF ALLEGIANCE

All present were led in the salute to the flag by Mayor Shaw.

CITY COUNCIL

The City Council will meet for the following purpose:

1. To conduct a presentation and discussion of a notice of violation of California Voting Rights Act.

Dave Durlinger, City Manager, presented the staff report. He summarized the process for conducting at-large elections and district elections in California.

Dylan Johnson, on behalf of Brownstein Hyatt Farber Schreck, LLP acting as City Attorney of the City of Carpinteria, provided a slide presentation and addressed the Notice of Violation that the City received alleging a violation of the California Voting Rights Act (CVRA). He summarized the premise of the CVRA Act; at-large versus district-based election systems; CVRA procedures after receiving a Notice of Violation;

and CVRA statistics of cities and school districts who have transitioned to a district-based election system after receiving a CVRA notice. He noted that there was no reported case of an agency prevailing in litigation, and attorneys fee awards range from \$400,000 to \$3.5 million.

Mr. Durflinger outlined the next steps and timeline, which would include the City Council deciding whether to adopt a resolution of intent by August 17, 2017. He stated that if the resolution of intent is adopted, the City Council would then have to adopt an ordinance by November 12, 2017 to transition to a district-based election system, and the City Council would conduct four hearings between August 17 and November 12, 2017. He also stated there could be an alternative timeline established through a settlement agreement if there is a pre-litigation settlement.

Councilmember Stein inquired whether the City could have more than five Councilmembers if it were to transition to a district-based election system. Dylan Johnson, on behalf of Brownstein Hyatt Farber Schreck, LLP acting as City Attorney of the City of Carpinteria, responded that this would be unlikely due to the size of the city. He noted that the plaintiffs indicated they are willing to consider either five districts or four districts with the Mayor being elected at-large.

Councilmember Stein inquired whether local special districts could be targeted for a violation of the CVRA. Dylan Johnson, on behalf of Brownstein Hyatt Farber Schreck, LLP acting as City Attorney of the City of Carpinteria, responded that special districts are also subject to the CVRA and the same notice could be served on them.

Councilmember Stein noted that these types of CVRA notices of violation are sweeping the State and he inquired whether State Legislators are looking into amending this provision of the CVRA. Dylan Johnson, on behalf of Brownstein Hyatt Farber Schreck, LLP acting as City Attorney of the City of Carpinteria, agreed that notices of violation of the CVRA are sweeping the State and there are well known attorneys who are serving these notices; however, he does not believe there is any current movement to alter this law.

Mayor Shaw inquired whether district lines would be drawn and applied should the City enter into a settlement agreement to transition to a district-based election system in 2022. Dylan Johnson, on behalf of Brownstein Hyatt Farber Schreck, LLP acting as City Attorney of the City of Carpinteria, explained that the City would enter into a settlement agreement and the process of drawing district boundaries would not occur until after the information from the 2020 Census is available. He stated that once this information is available the City would go through the process of conducting four hearings to consider district boundaries and then adopt an ordinance.

Councilmember Stein inquired whether there was nothing to preclude another attorney from filing a separate CVRA Notice of Violation if the City were to enter into a settlement agreement with the plaintiffs. Dylan Johnson, on behalf of Brownstein Hyatt Farber

Schreck, LLP acting as City Attorney of the City of Carpinteria, responded that this was correct and anybody could file an additional CVRA Notice of Violation threatening litigation even if the City enters into a settlement agreement with the current parties. He stated that he believed the CVRA would cap the recovery of attorneys' fees at \$30,000 total for everybody that threatens to sue the City; however, this is not an issue that has been litigated and he was uncertain whether a court would say this is how to read this law.

PUBLIC COMMENT WILL BE HEARD CONCERNING ONLY THE AGENDIZED ITEM FOR THIS SPECIAL MEETING

Bob Franco spoke in support of district-based elections for the City of Carpinteria. He thanked Jatzibe Sandoval and Francisco Gonzales for bringing this matter to the City's attention. He stated that he believed the City has gone too long without equal representation, and he expressed his hope that the City Council would decide to move to district-based elections. He also stated that he believed this was an opportunity for the City Council to show the community they all stand together for democracy and equal representation.

Francisco Gonzalez stated that the metrics discussed regarding the Carpinteria Latino community for insurance, college degrees, and wages were appalling, and he expressed concern with the cost of living in Carpinteria. He noted that a local resident shared with him that he has worked for a local company for 18 years, he earns \$11 per hour, and shares a living room with somebody. He stated that the matter is not about extortion or making money, but about a community. He noted that Latinos make up nearly 50 percent of the community and they are struggling financially according to the metrics. He stated that this matter deals with reaching a balance and equal representation.

Lisa Gruvavitz expressed concern with getting into an "us" and "them" attitude over this matter. She stated that better representation in policy-making positions benefits the entire community. She noted that historically people have fought hard to get equal rights and it did not come easily, and this would be an opportunity to make a difference for everybody in the community.

Gabriel Lucatero stated that as a Latino he supports district-based elections. He also stated that he wanted more representation on the City Council. He asked the City Council to adopt district-based elections, which would benefit him and make him feel more welcomed in the community.

Jatzibe Sandoval noted that at the previous City Council meeting there was the idea that district-based elections would separate the people. She stated that district-based elections bring the community together. She indicated that she wanted to be able to know the person running for election and that the person lives down the street from her. She expressed her hope that the City could move forward with district-based elections.

Jacqueline Inda, member of the District Elections Committee in Santa Barbara and one of the plaintiffs in the district-elections lawsuit, stated that the point of district election committees in the county is to diversify City Councils so that the voices of every part of the community of every neighborhood is more properly represented. She also stated that she understood the fear or lack of understanding regarding the logic of asking people to reconsider district-elections as a voting right in order to try to eliminate the cost of lawsuits. She commented that the legal system is the voice of the voiceless people in the community and it was not whether there is a lawsuit pending or how much it will cost, but rather it was about investing in the community to make a difference. She noted that originally the City of Santa Barbara would not budge, they litigated and spent thousands of dollars, and in the end the lawsuit was settled. She also noted that the City of Santa Maria avoided the lawsuit, went into a settlement, and drafted a plan with no community involvement. She also noted that the Goleta City Council and the community chose to establish a commission to extend district-based elections to 2022 following the Census, and to have the commission have the power to look at the ability of community involvement including evaluating things that would help more people get elected such as setting term limits, pay for City Councilmembers, and get community members more actively involved in civic engagement. She stated that the City Council has an opportunity to step outside the box and not think about this as litigation with dates and times, but to think about this as a process to engage the community that has not previously participated in City Council meetings.

Lanny Eberstein, lifelong resident of the south coast of Santa Barbara County, referred to the 1980 Census compared to the 2010 Census. He noted that in 1980 the City of Carpinteria was approximately 30 percent Latino; in the 2010 Census the City was approximately 44 percent Latino; in 1985 the student enrollment in Carpinteria Unified School District was approximately 36 percent Latino; and in 2010 the student enrollment Carpinteria Unified School District was approximately 70 percent Latino. He stated that this was one of the reasons why he believed district elections would be more appropriate than in the past because of the change in demography in Carpinteria, and that this was the reason that district-based elections are sweeping the State of California. He also stated that he believed the best proposal before the City Council would be to consider a pre-litigation settlement. He further stated that he believed establishing four districts and electing the Mayor at-large would be a good outcome and have it phased-in in a manner that allows the community time to become aware. He expressed his belief that this would be something that would bring everybody in the community together.

Michael Romero stated that on the surface at-large elections appear to be a logical and simple means for electing city officials; however, this type of election system produces an underlying cost that is often absorbed by underrepresented communities throughout the area. He also stated that in the case of Carpinteria and similar cities, district-based elections would bring more diversity of political, economic, and social thought to local government. He commented that district elections would also allow increasingly more

individuals to represent their local neighborhoods or communities in years to come and bring a greater sense of cohesiveness to the City. He stated that districts would serve to interconnect the city through the application of district-elected City Councilmembers, and district elections are the easiest way to bring local government closer to the communities and the people it serves. He commented that district elections would make it much easier for individuals to run for City Council. He stated that the management system would be more efficient by ensuring that a City Councilmember is elected from a particular district, and Councilmembers would be able to focus on their own districts while tying in their plans for economic development and growth with one another. He also stated that district elections would also serve to improve participation in Carpinteria's local government, and increased voting may be a direct byproduct of district elections due to local residents voting for the district Councilmembers who are up for election.

Harry Manuras stated that it was interesting to see the way that the machinery of government is changing and that he found it humorous that people such as attorneys are profiteering off the wellbeing of communities. He stated that it was not being done under the guise of opportunity but under the guise of profit, and this was giving opportunity a negative connotation. He expressed concern with having something mandated and having a policy forced upon people under the realistic restraints that they are witnessing under the legal process. He noted that the City Council heard many sincere opinions from people and that it was unfortunate that the community was being put into a position of being mandated to make decisions because of dollars. He stated that this was unfair to everyone in the community because they do not really have a choice. He also stated that this action was occurring because of law enacted in Sacramento, and he questioned what would occur in two or four years should the law be reversed and there is no mandate for cities to go to district elections.

Councilmember Stein inquired whether district elections are based on population and dividing the boundaries. He also requested additional information on the ward system. Dylan Johnson, on behalf of Brownstein Hyatt Farber Schreck, LLP acting as City Attorney of the City of Carpinteria, responded that the City has retained a demographer that deals with CVRA issues. He noted that the demographer is working with the City's legal counsel in assessing the claims. He stated that if the City Council were to make the decision to move forward with district elections, the demographer would assist the City in determining how to appropriately draw the lines. He stated that it was his understanding that the district boundary lines would have to be drawn in a way that complies with federal law, and the lines would have to be based on factors that do not necessarily take race into account. He also stated that his guess would be that it would be based on dividing population evenly amongst districts.

Mr. Durflinger noted that he had referred to wards from municipal reform in the early 19th century, and the at-large election system came out of that election system.

Councilmember Carty stated that he has an open mind, he believes in equality, and he strives to do what is best for the community as a whole. He also stated that he has some fears about lines being drawn in the City and the potential for balkanization. He further stated that has always seen Carpinteria as one community and he would hate to see it divided.

Vice Mayor Nomura expressed concern that the Asian population does not fit in the statistics that were provided. He reflected how his family was treated in the past, and noted that his parents and grandparents were interned in a desert internment camp for four years. He noted that he works with many international people for world peace. He commended the speakers who work with districts because they were very cordial and the City Council feels included. He noted that the fear is that they could be dividing the community and that would be the one thing that they could not do. He commented that as they move forward they needed to work together cordially. He stated that he sees the need to increase diversity in leadership within their community and within the world. He noted that currently they were looking at a specific Latino ethnic group, but what they did not include was the other population. He commented that if there is 50 percent Caucasian and 41 percent Latino, where is the other nine percent and where do they fit in. He noted that there is 50 percent female population in the community as well, yet the City Council is all male and he did not see districting address this and they should consider every person of interest. He questioned what has been done to encourage younger people from all ethnicities to create a leadership role and their understanding to change the community. He stated that he believed that along with working with districting, the City should also address and take a look at youth activities and see how they can develop younger people to respect each other in a better, more profound way. He commented that in the future he sees districting as a potential benefit to the community if they work together.

Councilmember Clark stated that he was very supportive of increasing democracy, especially when it comes to recognizing those who were previously unrepresented. He also stated that he believes that district elections would be more inclusive rather than divisive, except for the unrepresented groups as mentioned by Vice Mayor Nomura. He commented that the part that makes him leery about district elections is that the members from the different districts might favor their own particular district over the city as a whole because they would be beholden to the voters who voted them into office instead of the voter who lives in the other side of the city.

Kathleen Reddington requested to speak. Mayor Shaw noted that the Public Comment period had closed.

Mayor Shaw commented that the City needed to have young people involved because they are the future. He stated that he believes district elections are a good path forward

to accomplish that, but it was more than just that. He also stated that they needed to get the community as a whole involved in the electoral process because nothing happens if people do not vote and do not elect the candidates of their choice. He further stated that he believed it was very important to have diversity on the City Council.

Councilmember Clark agreed with Mayor Shaw and noted that the City Councilmembers are all over 60 years of age. He stated that he would welcome young people to be involved in the process. He also stated that the efforts of the community to educate the youth and organize them are important for governance.


Councilmember Stein stated that good government starts with being courteous. He expressed his appreciation for the people who took the time to attend the City Council meeting to voice their opinion. He noted that he has served on the City Council since 1990 and he has seen very good Latino representation and very good Councilmembers, and he has seen very bad representation. He stated that it all starts with being courteous, working together, and listening. He expressed his appreciation to the community for coming out to get involved. He noted that has asked many Latino people to run for office, but they say they are too busy.

Mayor Shaw expressed his appreciation for everyone coming to the meeting. He stated that he wanted to schedule a Closed Session for August 7, 2017, at 5:30 p.m. The City Councilmembers agreed.

Dylan Johnson, on behalf of Brownstein Hyatt Farber Schreck, LLP acting as City Attorney of the City of Carpinteria, noted that the Closed Session would be under the litigation exception for purposes of discussing this case. He also noted that there would be an opportunity for Public Comment prior to the City Council's adjournment to Closed Session. Mr. Durflinger stated that there would be no Open Session items at that meeting and no decision-making by the City Council.


ADJOURNMENT

The meeting was adjourned at 6:39 p.m. by Mayor Shaw.



Fred Shaw, Mayor

ATTEST:



Fidela Garcia, CMC, City Clerk