CVRA and the Profound Impact on Local Governance

City Managers Department Meeting
February 15, 2019
Ed Shikada
City Manager,
City of Palo Alto
and ICMA
Boardmember

Introduction and Context for Today’s Discussion
Doug Johnson
President,
National Demographics Corporation

Approaches and Considerations in Creating Districts
### Rules & Goals for Drawing Maps

#### Federal Laws
- Equal Population
- Federal Voting Rights Act
- No Racial Gerrymandering

#### Traditional Redistricting Principles
- Communities of interest
- Compact
- Contiguous
- Visible (Natural & man-made) boundaries
- Respect voters’ choices / continuity in office
- Planned future growth
“Respecting” Communities of Interest
Looking Ahead

• Tone of Debate
  • Once the decision to go to districts is made, it helps to shift to focus on the opportunities and decisions that change offers

• Let Policy Goals determine mapping decisions, not just what looks nice
  • This can be a tough sell to public and media

• Transition Time
  • Formerly at-large Councilmembers do not radically change behavior
  • Big culture shifts happen when new Councilmembers are elected who never won at-large
Managing the Emotional Side of the Transition

Valerie Barone
City Manager,
City of Concord
The 5 Stages of Grief

1. Denial
   - Avoidance
   - Confusion
   - Elation
   - Shock
   - Fear

2. Anger
   - Frustration
   - Irritation
   - Anxiety

3. Bargaining
   - Overwhelmed
   - Helplessness
   - Hostility
   - Flight

4. Depression
   - Struggling to find meaning
   - Reaching out to others
   - Telling one's story

5. Acceptance
   - Exploring options
   - New plans
   - Moving on
Go Back to Basics: What makes your Council Effective?

Effective Councils

- Unity of Purpose
- Roles & Responsibilities
- Positive Governance Culture
- Norms, Protocols & Policies

From: ILG
Back to Basics: Roles of Council vs. Staff

From: ILG
Our working goal for this council workshop is to facilitate a strategic conversation among the council and executive staff to determine how effective governance principles and practices can be maintained and potentially strengthened under the district election system.

From: ILG
Governing Under The District Elections System

• Engage in dialogue about the opportunities, risks and uncertainties facing Concord through this transition

• Work through the impacts of at-large to district-based elections

• Develop a Unified Vision of Governance

• Discuss existing and potential governance norms

• Review and discuss potential policy impacts
<table>
<thead>
<tr>
<th>Risks</th>
<th>Opportunities</th>
<th>Uncertainties</th>
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<tbody>
<tr>
<td>Inequity of power among districts</td>
<td>More outreach and community engagement</td>
<td>Appointment of commissioners and board members</td>
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<tr>
<td>Loss of potential outstanding councilmembers/Unprepared future councilmembers</td>
<td>Building leaders in segments of the population previously not represented</td>
<td>How handle Citywide policy that has disproportionate impacts on some districts</td>
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<td>Allocation of resources by district vs. by need</td>
<td>Focus more attention on specific areas of the City</td>
<td>Sub-committee assignments</td>
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<td>Councilmembers becoming over-involved in operations</td>
<td>More representative leadership</td>
<td>Allocation of resources</td>
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<td>Parochialism in decision making</td>
<td>Easier for a new person to run for office (less money needed)</td>
<td>People moving into districts to get elected</td>
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<tr>
<td>Community feeling disenfranchised</td>
<td></td>
<td>Whose benefited by districts</td>
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</tbody>
</table>
Discuss Key Questions

• Is “election by district” the same as “governing by district”?
• What is required to change under district elections?
• What can be done to assure that decisions are made based on what is best for the city as a whole?
• What happens when a constituent from someone else’s district reaches out to you?
• How do you maximize the opportunities and minimize the risks?
• How do you address uncertainties?
Council Adopted: “One Concord”

• Make decisions that are best for the entire city
• Continue to follow good governance principles including respect for the council-manager form of government
• All councilmembers to be involved in any/all city issues regardless of districts
• Allocations of resources, including $ & staffing, based on the overall needs of the City
• When making decisions, councilmembers will consider needs and concerns of all Concord residents not just district residents
• Continue focus on customer service and communication
Jan Perkins
Vice President, Management Partners

Multi-Agency Experiences Through Transitions
Navigating in the New World of Districts
What’s Changed?

For Management
- Councilmembers want to be more of the “go to” person on follow-up to resident complaints
- More explanations needed about how resources are allocated
- Higher volume of information requests, meeting requests
- Orienting and guiding staff about what should and should not change
- Including discussions of governing in annual goal-setting sessions
- Concerns that strategic citywide perspectives could be diminished
- Appointing council liaison staff, in some cases

For Council
- Mayor playing more of a role in advocating for a citywide view
- Paying greater attention to constituent services
- Deeper understanding of the concerns of neighborhoods
- Some residents think councilmembers have more power than before
- Concerns about losing citywide view
- Interest in district-meetings, district-specific information to constituents
City Managers Are in the Lead: *Three Tips*

1. Provide leadership – don’t sit back
2. Initiate conversations with the council and department heads
3. Help your council set principles for good governance
1. Lead

- Don’t cry fire – it’s one more change in our evolving landscape
- Be intentional…not accidental
- Figure out what can be beneficial
- Be clear what the staff can and cannot do – systems, professional practices
- Be clear that the council-manager form of government remains
- Create a simple way of talking about it: “Citywide services and governance – while paying attention to all neighborhoods and each district”
2. Initiate Conversations

- Talk to councilmembers about their role in citywide governance while being mindful of their districts
- Encourage your mayor to reinforce the citywide view
- Orient new councilmembers to a citywide focus while caring about their districts
- Listen to what councilmembers are hearing in their districts
3. Help Your Council Create Principles for Good Governance
Council Governance Discussion

- What factors and principles have made the city **successful** in the first place?
- What is a **citywide** concern and what is a **district** concern?
- What will help maintain a **citywide perspective**?
- What might **residents** expect from the new way of electing councilmembers?
- What may be **beneficial** from the new system?
Examples of District-Related Principles from Other Cities
Examples: Indio and Santa Clara

“...A Council election district is not a political subdivision. All five elected Councilmembers are obligated by the Municipal Code and the oath they take to represent the entire City – all citizens....their obligation is citywide....”

Excerpt from City Manager Mark Scott’s newsletter

Santa Clara Council

• We all care about and will govern for the entire Santa Clara community.
• We will follow our Santa Clara ethical values.
• We will follow our council-manager form of government.
• We recognize that our administrative structure and service delivery systems, data, and programs are structure based on our citywide governance structure
• We will govern for the whole City, not by Council District....we value our citywide framework.

Deanna Santana, City Manager
### Examples: Garden Grove and Fremont

#### Fremont Council
- Maintain a citywide perspective, while being mindful of our districts.
- Move from *I* to *we*, and move from campaigning to governing.
- Find consensus when we can; find the area of agreement within the areas of disagreement.
- Never assume intent. Do not ascribe motives.
- Respect the roles of council and staff in creating policy and in implementing policy. Respect the council/manager form of government.
- Communicate concerns about staff to the city manager; do not criticize staff in public.

*(excerpt)*

**Mark Danaj, City Manager**

#### Garden Grove Council
- Encourage a citywide perspective.
- Be informed of interests and issues within each district.
- Maintain professionalism in our work (e.g., service delivery based on needs, data-based decisions, customer focused)
- Utilize long range plans to provide big picture context that is realistic and achievable.
- Educate and engage the public about city services and needs, and be continually transparent with information.
- Honor the roles of the council-manager form of government.

**Scott Stiles, City Manager**
"Whereas, the City Council understands the value of at-large governance regardless of the method from which City Councilmembers are elected..."

Jason Stilwell,
City Manager
Recap

- City Managers need to lead
- Embrace the change
- Be intentional about the governance conversation
  - With staff
  - With Council
- Keep in focus the professional practices that have helped local government be successful
- Help the Council create governance principles
Ongoing CVRA Legislative and Legal Activities
Questions?
Reference Slides: Summaries of Recent Court Cases
Kaku v. City of Santa Clara

• Plaintiffs alleged that City’s at-large elections dilute Asian American votes in violation of the CVRA

• Santa Clara convened Charter Review Committees
  • Proposed 2 districts with 3 Council seats in each & ranked-choice voting
  • Voters rejected the proposal by a margin of 52% to 48%

• Evidence presented at trial:
  • Asian Americans constitute 30.5% of eligible voters; 21.2% of actual voters
  • No Asian American has ever been elected to the City Council
  • From 2002 to 2016, Asian Americans ran in 10 elections and lost each time

• Court ruled in favor of Plaintiffs
• Attorney fee award: $3.16 million
• Santa Clara has filed an appeal
• Plaintiffs alleged that City’s at-large elections dilute Latino/a votes in violation of the CVRA

• Evidence presented at trial:
  • Latino/as constitute 13% of citizen voting age population
  • At the time the lawsuit was filed, City had a Mexican-American Mayor
  • City Council has had at least one latino/a member since 2012
  • From 2002 to 2016, Latino/a-preferred candidates won approx. 70% of the time
  • Plaintiffs agree no district can be drawn that has more than 30% latino/a voters

• Court issued tentative decision in favor of plaintiffs

• City has filed objections to proposed decision

• After final decision, City will consider options, including appeal
  • More info: https://www.santamonica.gov/Election-Litigation-PNA-V-Santa-Monica-FAQ
Higginson v. Xavier Becerra

• City of Poway adopted district elections in response to demand letter
• Former Poway Mayor sued in federal court
  • Former Mayor alleged that districting decisions under the CVRA are race-based classifications lacking a compelling interest and narrow tailoring in violation of the equal protection clause
• Attorney General filed a motion to dismiss the lawsuit
• Southern California Federal District Court granted the motion
• Higginson appealed and Ninth Circuit Court of Appeals reversed
  • Court held Higginson adequately alleged that “he resides in a racially gerrymandered district and that the city’s adoption of Map 133 reduced the number of candidates for whom he can vote”
• Case went back down to Federal District Court and Attorney General moved to dismiss again and court granted motion but also granted Higginson leave to amend