

RESOLUTION NO. 5472-19

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNION
CITY DECLARING ITS INTENT TO TRANSITION FROM AT-LARGE ELECTIONS
TO DISTRICT-BASED COUNCILMEMBER ELECTIONS PURSUANT TO
ELECTIONS CODE SECTION 10010**

WHEREAS, members of the City Council of the City of Union City (“City”) are currently elected in “at-large” elections, in which each of the four City councilmembers, as well as mayor, is elected by the registered voters of the entire City; and

WHEREAS, California Government Code Section 34886 authorizes the legislative body of a city to adopt an ordinance to change its method of election from an “at-large” system to a “by-district” election system in which each councilmember is elected only by the voters in the district in which the candidate resides; and

WHEREAS, the City received a certified letter on March 15, 2019 from the Mexican American Legal Defense and Education Fund (“MALDEF”) alleging that the City's at-large councilmember electoral system violates the California Voting Rights Act (“CVRA”) and threatening litigation if the City declines to voluntarily change to a district-based election system for electing councilmembers; and

WHEREAS, the City Council for the City of Union City reflects the broad diversity of Union City's residents; and

WHEREAS, the City is committed to diversity and inclusion and denies its election system violates the CVRA or any other provision of law and asserts the City's election system is legal in all respects and further denies any wrongdoing whatsoever in connection with the manner in which it has conducted its elections; and

WHEREAS, furthermore the letter from MALDEF was not accompanied by any evidence to support the claim of a CVRA violation;

WHEREAS, nevertheless, in order to avoid costs associated with defending a lawsuit based on the CVRA, the City Council has directed staff to initiate the process to transition to district-based elections; and

WHEREAS, the public interest will be served by Council consideration of a proposal to transition to a district-based electoral system because of the potentially extraordinary cost of defending a CVRA lawsuit, even if the City were to prevail; and

WHEREAS, pursuant to Elections Code Section 10010, if the City adopts a resolution outlining its intention to transition from at-large to district-based elections, specific steps it will undertake to facilitate this transition, and an estimated time frame for doing so, then a prospective plaintiff may not bring a CVRA lawsuit within a 90 days after that resolution's passage and attorneys' fees would be capped at a maximum of \$30,000; and

WHEREAS, prior to the City Council's consideration of an ordinance to establish district boundaries for a district-based electoral system, California Elections Code Section 10010 requires all of the following:

1. Prior to drawing a draft map or maps of the proposed boundaries of the districts, the City shall hold at least two (2) public hearings over a period of no more than thirty (30) days, at which the public will be invited to provide input regarding the composition of the districts;
2. After all draft maps are drawn, City shall publish and make available for release at least one draft map and, if members of the City Council will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections shall also be published. The City Council shall also hold at least two (2) additional hearings over a period of no more than forty-five (45) days, at which the public shall be invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable. The first version of a draft map shall be published at least seven (7) days before consideration at a hearing. If a draft map is revised at or following a hearing, it shall be published and made available to the public for at least seven (7) days before being adopted; and

WHEREAS, the City intends to retain an experienced demographer to assist the City to develop a proposal for a district-based electoral system; and

WHEREAS, the adoption of a district-based elections system will not affect the terms of any sitting Councilmember, each of whom will serve out his or her current term; and

WHEREAS, the adoption of a district-based elections system will not change the at-large election of the Mayor by all citizens of Union City; and

WHEREAS, MALDEF has agreed to provide the City with an additional ninety (90) days to complete the transition pursuant to Elections Code section 10010(e)(3)(C)(i).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Union City as follows:

1. The above recitals are true and correct and are incorporated herein.
2. The City Council hereby declares its intent to adopt an ordinance to transition to a district-based election system as authorized by Government Code Section 34886 for use in the City's general municipal election for City councilmembers, pursuant to Elections Code Section 21606(c) and Section 10522. The position of mayor will continue to be elected at-large.
2. The City Council directs staff to work with a demographer, and other appropriate consultants as needed, to provide a detailed analysis of the City's current demographics and any other information or data necessary to prepare a draft map that divides the City into voting

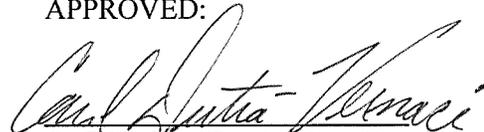
districts in a manner consistent with the intent and purpose of the California Voting Rights Act and the Federal Voting Rights Act.

3. It is the intent of the City Council to complete the transition to district-based elections within 180 days of the adoption of this resolution. The City Council anticipates holding the first two public hearings to receive public comment and input regarding the potential composition of the districts within sixty days, and conducting additional outreach to the community over the summer, before publishing draft maps in August or September. The City anticipates holding two public hearings to receive public comment and input on the draft maps in August or September, before adopting the ordinance to establish the districts in September or October. This timeline may be adjusted as deemed necessary, provided that such adjustments shall not prevent the City from complying with the time frames specified by Elections Code Section 10010.
4. The City Council directs staff to post information regarding the proposed transition to a district based election system, including maps, notices, agendas and other information and to establish a means of communication to answer questions from the public.
5. This resolution shall become effective immediately upon its passage and adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Union City at a meeting held on the 23rd day of April, 2019 by the following vote:

AYES: Councilmembers Duncan, Gacoscos, Patiño, Vice Mayor Singh, Mayor Dutra-Vernaci
NOES: None
ABSENT: None
ABSTAIN: None

APPROVED:


CAROL DUTRA-VERNACI
Mayor

ATTESTED:


ANNA M. BROWN
City Clerk

APPROVED AS TO FORM:


KRISTOPHER J. KOKOTAYLO
City Attorney