

DISTRIBUTION DATE: ___7/11/12___



MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: Scott Miller

SUBJECT: Redistricting

DATE: July 11, 2012

City Administrator

Date

Approval

/s/**Deanna J. Santana**

7/11/12

INFORMATION

According to the City Charter, Article II, Section 203 (Nomination and Election of Councilmembers), the Council District boundaries should be revisited every ten years after its first redistricting effort in 1993. The last redistricting occurred in 2003 and the Ordinance 12495 was adopted with the revised City Council District boundaries, which resulted less than a half percent (0.50%) difference in percentage of total population among all seven Districts. The 2003 Redistricting effort, using an outside consultant, cost the City approximately one hundred and ten thousand dollars (\$110,000). If the City were to follow a similar process today, the anticipated to cost would be an upward of \$125,000. At this time, a redistricting exercise and expenditure appears unwarranted, given the very close population statistics gathered from the 2010 Census efforts in comparison to the 2000 population statistics utilized in the 2003 Redistricting effort and other criteria outlined in this memorandum. However, because the aforementioned Charter Section 203 states that “In the year 1993, and every ten years thereafter...the Council shall form new districts not exceeding seven”, the Council will need to adopt an ordinance establishing districts. Should the Council accept the considerations and principles outlined in this memorandum, the Council would be presented with an ordinance that essentially re-adopts the existing Council district boundaries, as opposed to redrawing district boundaries.

Population Change

The Department of Planning, Building and Neighborhood Preservation conducted an initial assessment of the total population in both 2000 and 2010 in preparation for the Redistricting 2013. As noted in Table 1 below, comparing the total population within each District in 2010, it was found that the largest percentage difference in all seven Districts was less than three percent at two point seventy percent (actual was 2.70%), occurring between the comparison of District 2 with 13.30% and District 3 with 16.00%. The City Charter requires that the “Districts shall be composed of contiguous territory, as equal as possible in population, and as geographically compact as practicable.” The term “equal population” has generally come to mean that the legislative districts should differ by no more than ten percent (10%). It should be noted that the

largest difference in percentage between Council Districts of 2.70% between District 2 and District 3 is much below the 10% standard deviation threshold.

Table 1: **REDISTRICTING - INITIAL STUDY (Total Population in Block level)**

Council District	2010		2000*		% Difference
	Total Population	Percentage of Total	Total Population	Percentage of Total	
1	58,108	14.87%	57,273	14.34%	0.21%
2	51,983	13.30%	57,285	14.34%	-1.33%
3	62,510	16.00%	57,090	14.29%	1.36%
4	55,618	14.23%	57,702	14.44%	-0.52%
5	52,813	13.52%	56,604	14.17%	-0.95%
6	54,544	13.96%	56,595	14.17%	-0.51%
7	55,148	14.11%	57,445	14.38%	-0.57%
TOTAL	390,724	100.00%	399,484	100.13%	

*Ordinance 12495 includes two 2000 Census Blocks (Blocks 1002 and 2000 in Tract 4049) in both CCD4 and CCD5, resulting the total percentage for Population in 2000 more than 100% (100.13%).

In addition, Staff looked into redistricting criteria in compliance with the Fourteenth Amendment to the U.S. Constitution and Federal Voting Rights Act and determined that the current City Council District boundaries are still viable to use. Criteria considered in the initial assessment included:

- Equalize population among all seven districts as much as possible, preferably under 10% difference;
- Maintain the current contiguity of the Districts as much as possible and avoid unseating the current City Councilmembers;
- Avoid dividing school districts wherever possible;
- Maintain cohesive neighborhoods within Districts; and,
- Prevent over-compacting or fragmenting ethnic communities.

Voting results and trends were specifically excluded due to possible legal disputes and actions if such elements were taken into consideration.

Legal Review

With regard to the 14th Amendment (one person, one vote), “a ten percent (10%) maximum deviation does not (in and of itself) provide a safe harbor. However, it is a rebuttable presumption.”¹ Ultimately, deviations are only constitutional where the divergences are based on

¹ Daly v. Hunt, 93 F. 3d 1212, 1220 (4th Cir. 1996)

legitimate considerations put into effect by a rational policy.² Staff believes that the abovementioned redistricting criteria, coupled with the results of staff's initial redistricting study, would justify not changing the current Council district lines. Below is additional considerations and policies of each criterion that strengthens the City's position in regard to preserving the existing district boundaries.

1) *Equalize population among all seven districts as much as possible, preferably under 10% difference.*

- Deviations may be made to make districts compact and contiguous.³ When the City Council drew the current district boundaries in 2003, it found, "that the Council districts as set forth . . . are composed of *contiguous territory* and are as equal as practicable in population as shown by the 2000 Federal Census, are as *geographically compact* as practicable, and take into consideration the topography, geography, cohesiveness, *contiguity*, integrity, *compactness of territory*, the City Charter's requirement of preserving incumbents within their existing districts, and communities of interests" (Ordinance 12495, emphasis added.) The current Council districts are indeed compact and contiguous. Maintaining the current districts would continue the compactness and contiguity.

2) *Maintain the current contiguity of the Districts as much as possible and avoid unseating the current City Councilmembers.*

- Deviations may be made to protect incumbents in a non-partisan and non-discriminatory manner.⁴ All the incumbents were elected in the current districts. Maintaining the current districts would maintain the districts that all the incumbents have been representing.

3) *Avoid dividing school districts wherever possible.*

- Deviations may be made to preserve discrete local political boundaries.⁵ By definition, the Oakland Unified School District Board member boundaries are contiguous with the City Council district boundaries. Not changing the Council district boundaries would therefore preserve the existing school district boundaries.

4) *Maintain cohesive neighborhoods within Districts*

² Larios v. Cox, 300 F. Supp. 2d 1320, 1341 (N.D.Ga. 2004), aff'd, 542 U.S. 947 (2004).

³ Larios v. Cox, 300 F. Supp. 2d 1320, 1347 (N.D.Ga. 2004), aff'd, 542 U.S. 947 (2004)

⁴ Id.

⁵ Id. at 1346.

- Deviations may be made to maintain the cores of prior districts.⁶ If the current Council districts are not changed, the cores of prior districts would stay in the same districts.

5) *Prevent over-compacting or fragmenting ethnic communities*

- Deviations may be made to recognize communities of interest.⁷ When the City Council drew the current district boundaries, it recognized the City's communities of interest. (Ordinance 12495)

The considerations and principles supporting deviation must be applied consistently throughout all seven Council districts, free from any taint of arbitrariness or discrimination, and free from bias towards any particular political interest or geographic area. The City must "work with both political and census data."⁸ These considerations and principles would strengthen the City's position in regard to keeping the existing district boundaries.

In addition, in 2011, Alameda County Local Agency Formation Commission (LAFCo) revised and distributed the new City Limit boundary, which differs slightly from the previous version of the City Limit utilized in the 2003 redistricting process. The Department of Planning, Building and Neighborhood Preservation (the Community and Economic Development Agency at the time) has reviewed and confirmed that the new boundary is correct. The District boundaries meeting other neighboring Cities will be revised to correspond with the new City Limit. Also, there is a necessity for revision on a section where it lists Census Tracts and Blocks in each District of the Ordinance. This is because there have been changes in boundaries of the Census Blocks, which led to the total number increasing to 6,319 blocks in 2010 from 4,312 in 2000.

Respectfully submitted,

/s/

SCOTT MILLER

Interim Planning and Zoning Director,
Department of Planning, Building and
Neighborhood Preservation

For questions, please contact Scott Miller, Interim Planning and Zoning Director, Department of Planning, Building and Neighborhood Preservation, at (510) 238-2235.

⁶ Id. at 1337

⁷ Id. at 1349

⁸ Gaffney v. Cummings, 412 U.S. 735, 753-754 (1973)