

Olivehurst Public Utility District



Agenda Item Staff Report

Meeting Date: March 17, 2022

Item description/summary:

Consider Approval of Plan for Transitioning from At-Large Elections to District-Based Elections (Strategic Plan VS-6, CV-1, 6.0, 8.0).

Background:

As previously reported to the Board, the California Voting Rights Act (Elections Code Sections 14025, et seq.) is intended to protect the rights of voters and to avoid “racially polarized” voting. Many special districts, including OPUD, currently use the at-large method to elect directors. To further the ideals of diversity and inclusion and to avoid any allegation of racially polarized voting in an at-large voting approach, various special districts are moving from at-large to by-district voting. In an at-large approach, all voters in the District vote for all Board candidates. By contrast, in a by-district system, a Board candidate must live in the district he or she represents and be elected only by the voters in that district.

Elections Code Section 10650 (attached) permits a governing body of a special district to require, by resolution, that members of its governing body be elected using district-based elections without being required to submit the resolution to voters for approval. A resolution adopted pursuant to this provision must include a declaration that the change in the method of electing members of the governing body is being made in furtherance of the purposes of the California Voting Rights Act of 2001.

(Discussion continued on attached page.)

Fiscal Analysis:

None.

Employee Feedback

None.

Sample Motion:

Move to approve the attached Resolution transitioning from At-Large to District-Based voting.

Prepared by:

Deirdre Joan Cox, OPUD Legal Counsel

In addition to declaring that the change in the method of electing members of the governing body is being made in furtherance of the purposes of the California Voting Rights Act of 2001, the District must also comply with a variety of state and federal rules regarding the size of districts and the process for the transition after structured public input.

The issues include the following:

1. **Number of Districts:** The number of districts is determined by the physical size of the agency and population areas, as the population in each district generally must be equal. For a five-person Board, there may be five districts; that decision is part of the transition process.
2. **Permissible Criteria to Establish Voting District Boundaries:**
 - a. Each district generally must be equal in population with no more than a 10% deviation in population between districts. (Elections Code Section 22000 - 22001).
 - b. The Board also may consider topography, geography, cohesiveness, contiguity, integrity and compactness as well a community of interest. (Elections Code Section 21601)
 - c. Other appropriate criteria include where current council members live, following political boundaries, use of census blocks, and location of streets and other facilities; in certain cases, race may be considered.
3. **Public Input and Hearing Process:** Districts changing to by-district voting must include public input in the process. Legally, only one duly noticed public meeting is required. However, OPUD held three public meeting and two community workshops and provided notices in the local newspaper and through social media to allow greater public input into the determination of the boundaries of the district.
4. Three draft division boundary configurations were prepared and presented to the Board and the public for consideration at public meetings held in January, and February, 2022. During these public meetings, staff were directed to proceed with a proposed configuration that complies with various statutory requirements. A final draft boundary configuration was prepared and presented to the Board and to the community at a Community Workshop on March 4, 2022.
5. **Election of Board Members:** A change to by-district voting applies prospectively and does not cut short current Board terms. When a Board seat is up for re-election, the Board member must be a registered voter in the district that he/she will represent at the time nomination papers are issued. (Elections Code Section 22000-22001).
6. No change in boundaries can be made less than 180 days before a Board election. Because OPUD's Board meets only once a month, OPUD's deadline to pass its Resolution is April, 2022.
7. **Adjustment of Voting District Boundaries:** Once established, voting district boundaries must be reviewed, at a minimum, every 10 years after the federal census, or when there is a change in the district's boundaries.

Recommended Path Forward:

- Approve and adopt the attached Resolution establishing the boundaries of the First, Second, Third, Fourth, and Fifth Directors' Divisions of the Olivehurst Public Utility District.

RESOLUTION NO. 2390

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
OLIVEHURST PUBLIC UTILITY DISTRICT
TO ADOPT A PLAN FOR DISTRICT-BASED ELECTIONS**

WHEREAS, prior to the adoption of this Resolution, the five members of the governing board (“Board”) of the Olivehurst Public Utility District (“District”) were elected in at-large elections in which each Board member was elected by the registered voters of the entire District on a staggered basis to serve four-year terms; and

WHEREAS, in district-based elections, candidates for the Board of Directors must reside within a specific geographic sub-area of the district and candidates are elected only by the voters of that sub-area / district; and

WHEREAS, district-based elections substantially reduce the risk of minority vote dilution; and

WHEREAS, California Elections Code section 10650 provides that notwithstanding any other law, a governing body of a special district may require, by resolution that the members of its governing body be elected using district-based elections, as defined in subdivision (b) of Elections Code Section 14026, without being required to submit the resolution to the voters for approval; and

WHEREAS, the Board is committed to furthering diversity and inclusion in the District and in the opinion of the Board, the public interest will be well served by transitioning from an at-large voting system to district-based elections in that district-based voting will allow for a greater number of candidates to run for seats on the Board by eliminating the costs associating with running for election on a district-wide basis and will also allow for Board members and their constituents to get to know each other better; and

WHEREAS, pursuant to Elections Code Section 10650, it is declared that the change in method of electing Board members made by this Resolution is in furtherance of the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of the Elections Code; and

WHEREAS, on July 15, 2021, the Board of Directors (“Board”) of the Olivehurst Public Utility District (“District”) at a regularly noticed public meeting received a report from the District’s general counsel regarding the legal and policy criteria governing a plan for district-based elections, based on adjusted, “validated” 2020 Census data; and

WHEREAS, on January 20, 2022, the Board of Directors (“Board”) of the Olivehurst Public Utility District (“District”) held a public meeting to receive a presentation from the District’s general counsel regarding the legal and policy criteria governing a plan for district-based elections, and from the District’s retained demographer, Redistricting Partners, on certain

demographic information regarding various options for establishing five voting districts within District boundaries, based on adjusted, “validated” 2020 Census data; and

WHEREAS, at the duly-noticed public hearing and meeting of the Board on January 20, 2022, the demographer presented three draft plans (Plans A, B, and C), for the consideration of the Board and the public; and

WHEREAS, following the presentation of the draft plans on January 20, the Board solicited public comment regarding the draft plans, after which the Board directed the demographer to modify the draft plans for further consideration of the Board at a subsequent public meeting; and

WHEREAS, on February 17, 2022, the Board received another presentation from its general counsel and retained demographer, and reviewed and adopted criteria that should guide the adjustment of the District’s board member area boundaries based on the 2020 Census data; and

WHEREAS, at a duly-noticed meeting of the Board on February 17, 2022, the demographer presented three revised draft plans (Plans A, B, and C), which also were posted to the District’s website, for review by the Board and the public; and

WHEREAS, the retained demographer thereafter formulated an alternative redistricting scenario for review by the public at a Community Workshop and for consideration by the Board of Directors, based on the criteria adopted by the Board at its January and February meetings; and

WHEREAS, the District published notice of its February and March public meetings and its March Community Workshop in the Territorial Dispatch on February 11, 2022 and March 11, 2022; and

WHEREAS, at a community workshop on March 4, 2022, the District’s retained demographer presented a draft plan (Plan 1A) which was developed according to the criteria set forth above, for the consideration of the Board and the public, and was posted to the District’s website for public viewing; and

WHEREAS, following the presentation of Plan 1A on March 4, 2022, the Board held another duly-noticed public meeting on March 17, 2022 to solicit any final public testimony regarding the draft plan before the Board voted to adopt it; and

WHEREAS, the Board of Directors has considered all public comment on the attached draft plan; and

WHEREAS, the population in all five proposed district areas are substantially equal, as defined by law; and

WHEREAS, the attached draft area plan complies with the federal Voting Rights Act, and with all applicable laws and regulations set forth in the California Elections Code; and

WHEREAS, the Board intends that this change in the method of election be implemented over the course of two election cycles; first, in November, 2022, and second, in November 2024; and

WHEREAS, there will be three districts from which governing board members will be elected in November, 2022; and

WHEREAS, there will be two districts from which governing board members will be elected in November, 2024; and

WHEREAS, following the adoption of this Resolution, in accordance with Elections Code 22000.1, and notwithstanding Section 28750.2 of the Public Utilities Code, or any other law, the Board of Directors of a district that is required to adjust division boundaries after each federal decennial census shall adopt the adjusted boundaries of the divisions not later than the deadlines provided in subdivision (b).

NOW, THEREFORE, the Board of Directors of the Olivehurst Public Utility District hereby finds, determines, declares, and resolves as follows:

Section 1. Determination of Recitals. The above recitals are true and correct.

Section 2. Establishment of By-District Elections. The Board of Directors does hereby elect to transition from an at-large method of electing Board members to district-based elections in which candidates for the Olivehurst Public Utility District's Board of Directors must reside within specific sub-areas of the District and are elected only by the voters of that sub-area/district. The transition shall take place over the course of two separate election cycles (November 2022 and November 2024), in accordance with the district boundaries and election sequence described in the above recitals.

Section 3. Adoption of Plan for Five District Areas. The Board of Directors does hereby adopt Plan 1A attached hereto as Exhibit "A" and incorporated herein by this reference, as the area plan to be used in the District's elections on November 8, 2022, and thereafter.

Section 3. Direction to Staff. Staff, including the District's retained demographer when working with the Registrar(s) of Voters during plan implementation and adjustment of precinct configurations, are authorized to make required technical amendments to the new redistricting plan that do not substantively affect the populations in the districts, the district boundaries, compliance with the Board's redistricting criteria or the intent of this resolution, and shall advise the Board of any such amendments that are found to be required in plan implementation.

Section 4. Delegation of Authority. The General Manager and/or his designee shall take all actions necessary to provide whatever assistance may be required by the Elections Department of Yuba County, and to complete the process in a timely fashion to permit implementation of these district areas in connection with the District elections to be held on November 8, 2022.

Section 5. Effective Date. This Resolution shall be effective upon its adoption until otherwise rescinded by the Board.

Section 6. Direction to Board Clerk. The Clerk of the Board is directed to forward a certified copy of this Resolution and attachment to the Yuba County Elections Official no later than March 30, 2022.

APPROVED, PASSED AND ADOPTED by the Board of Directors of the Olivehurst Public Utility District this 17th day of March, 2022, by the following vote:

SO ORDERED.

OLIVEHURST PUBLIC UTILITY DISTRICT

President, Board of Directors

ATTEST:

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

District Clerk and Ex-Officio Secretary

Deirdre Joan Cox, Legal Counsel

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I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly adopted and passed by the Board of Directors of the Olivehurst Public Utility District, Yuba County, California, at a meeting thereof held on the 17th day of March, 2022, by the following vote:

AYES, AND IN FAVOR THEREOF:

NOES:

ABSTAIN:

ABSENT:

District Clerk and ex-officio Secretary