



**CHICO AREA RECREATION AND PARK DISTRICT**  
**545 VALLOMBROSA AVENUE, CHICO, CA 95926**  
**Phone (530) 895-4711 Fax (530) 895-4721**  
**Monday, November 15, 2021 – 2:30 p.m.**

*Posted Prior to 2:30 pm  
Friday, November 12, 2021*

**BOARD MEMBERS:**

Tom Lando, Chair  
Michael McGinnis, Vice Chair  
Thomas Nickell  
Michael Worley  
Dave Donnan

**CARD STAFF:**

Annabel Grimm, General Manager  
Heather Childs, Finance Manager  
Jennifer Marciales, Administrative Manager  
Anjie Goulding, Recreation Manager  
Scott Schumann, Parks and Facilities Manager

**GENERAL INFORMATION:**

1. Agendas:

Agendas are available at the meeting or may be picked up in advance at the CARD Office the day prior to the Board meeting without charge.

2. Agenda Items:

Agenda items are available for public inspection at each meeting or in advance at the CARD Office the day prior to the Board meeting. Copies of agenda items will be available at 20¢ per page.

Notice: if a writing that is a public record pursuant to Government Code Section 54957.5(a) and that relates to an item on this agenda for open session is distributed less than 24 hours prior to this meeting, the writing shall be available for public inspection at the offices of the Chico Area Recreation and Park District, located at 545 Vallombrosa Avenue, Chico, California, at the time the writing is distributed to all or the majority of all of the members of the body.

3. Items Not Appearing On Posted Agenda:

This agenda was posted at least 24 hours in advance of this meeting. For each item not appearing on the posted agenda upon which the Board wishes to take action, it must make one of the following determinations:

- a. Determine by a majority vote that an emergency exists as defined in Government Code 54956.5.
- b. Determine by a two-thirds vote or by a unanimous vote if less than two-thirds of the Board is present, that the need to take action arose subsequent to the agenda being posted.
- c. Determine that the item appeared on a posted agenda for a meeting occurring not more than five calendar days prior to this meeting, and the item was continued to this meeting.

Notwithstanding the above, items may be added to the agenda for Board discussion only or to acknowledge receipt of correspondence or other information.

4. Consent Agenda: All items listed under the Consent Agenda are considered to be routine and will be enacted by one motion. Resolutions will be read by title only. There will be no separate discussion of these items unless members of the Board, or persons in the audience, request specific items to be removed from the Consent Agenda to the Regular Agenda for separate discussion, prior to the time the Board votes on the motion to adopt the Consent Agenda. If any item(s) are removed from the Consent Agenda, the item(s) will be considered at the beginning of the Regular Agenda.

5. Assistance for the Disabled: If you are disabled in any way and need accommodation to participate in the meeting, please contact the CARD Office at (530) 895-4711 at least 48 hours prior to the start of the meeting so the necessary arrangements can be made.

6. Identity of Speakers: Speakers are asked to state their names before speaking and to voluntarily write their names on the provided record.



**CLOSED SESSION OF THE CHICO AREA RECREATION  
AND PARK DISTRICT BOARD OF DIRECTORS  
545 VALLOMBROSA AVENUE, CHICO, CA 95926  
Phone (530) 895-4711 Fax (530) 895-4721  
Monday, November 15, 2021 – 2:30 p.m.**

*Posted Prior to 2:30 pm  
Friday, November 12, 2021*

**AGENDA**

**1.0 CALL TO ORDER/ROLL CALL**

**2.0 CLOSED SESSION**

- 2.1 Conference with Legal Counsel – Threatened Litigation - Significant exposure to litigation, Gov. Code section 54956.9(d)(2) (one threatened case).

**OPEN SESSION**

**3.0 ADJOURNMENT**

Adjourn to the Special Meeting of the Board of Directors of the Chico Area Recreation and Park District.



**SPECIAL MEETING OF THE CHICO AREA  
RECREATION AND PARK DISTRICT BOARD OF DIRECTORS  
Monday, November 15, 2021 – 2:30 p.m.**

*Posted Prior to 2:30 pm  
Friday, November 12, 2021*

**AGENDA**

**1.0 CALL TO ORDER**

1.1 Roll Call

**2.0 Public Comments**

NOTE: The Chico Area Recreation and Park District Board of Directors may take official action only on items included in the posted agenda for a specific scheduled meeting. Items addressed during the Public Comment section are generally matters not included on the agenda and therefore, the Board will not take action at this scheduled meeting. However, such items may be put on the agenda for a future meeting. The public shall have the opportunity to address items that are on the posted agenda.

**3.0 Public Hearing/Informational: Presentation of Trustee Area Establishment Process and Public Hearing Regarding Implementation of District-Based Elections** (Staff Report 21-45) - *Action Requested – that the Board of Directors conduct the first public hearing regarding the implementation of District-Based Elections and approve the proposed meeting schedule.*

**4.0 Adjournment**

Adjourn to the Special Meeting of the Board of Directors of the Chico Area Recreation and Park District on December 2, 2021.



**Chico Area Recreation and Park District “Helping People Play”**

**Staff Report 21-45  
Agenda Item 3.0**

# STAFF REPORT

**DATE: November 15, 2021**

**TO: Board of Directors**

**FROM: Jennifer Marciales, Administrative Manager**

**SUBJECT: Public Hearing/Informational: Presentation of Trustee Area Establishment Process and Public Hearing Regarding Implementation of District-Based Elections**

**Discussion:**

Government entities across California, including the City of Chico and Chico Unified School District are transitioning to a new election system. CARD Board Members are currently elected through an “at-large” election system, which means candidates for the Board can reside anywhere within the District’s boundaries and are elected by all registered voters that live within CARD’s boundaries.

At the last Regular Board Meeting, the Board adopted a Resolution outlining its intention to transition to District-Based Elections. Under the Elections Code, the Board must hold two public hearings over a period of no more than 30 days before any map or maps of the boundaries for the proposed voting districts are drawn. King Consulting will use the input received at these meetings to prepare an initial set of draft Trustee Area Maps. This public hearing will be the first of the two required hearings before the draft Trustee Area Maps will be drawn. A proposed meeting schedule for the transition to District-Based Elections is as follows:

Date	Time	Meeting	Topic
November 15, 2021	2:30pm	Special Meeting	Public Outreach Meeting #1
December 2, 2021	6:00pm	Special Meeting	Public Outreach Meeting #2
January 13, 2022	4:00pm	Special Meeting	Presentation of Draft Trustee Area Maps
January 27, 2022	6:00pm	Regular Meeting	First Hearing on Draft Trustee Area Maps
February 10, 2022	4:00pm	Special Meeting	Second Hearing on Draft Trustee Area Maps
February 24, 2022	6:00pm	Regular Meeting	Final map options presented to the Board for adoption

**Recommendation:**

It is recommended that the Board of Directors conduct the first public hearing regarding the implementation of District-Based Elections and approve the proposed meeting schedule.

By \_\_\_\_\_  
Jennifer Marciales  
Administrative Manager

**SHENKMAN & HUGHES, PC**

Attorneys

Malibu, California

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VIA CERTIFIED MAIL

September 17, 2021

Tom Lando, Chair  
Chico Area Recreation and Parks District  
545 Vallombrosa Avenue  
Chico, CA 95926

*Re: Violation of California Voting Rights Act*

I write on behalf of our client, Southwest Voter Registration Education Project and its members residing within the Chico Area Recreation and Parks District (“CARD” or “District”). CARD relies upon an at-large election system for electing candidates to its governing board. Moreover, voting within the District is racially polarized, resulting in minority vote dilution, and, therefore, the District’s at-large elections violate the California Voting Rights Act of 2001 (“CVRA”).

The CVRA disfavors the use of so-called “at-large” voting – an election method that permits voters of an entire jurisdiction to elect candidates to each open seat. *See generally Sanchez v. City of Modesto* (2006) 145 Cal.App.4<sup>th</sup> 660, 667 (“*Sanchez*”). For example, if the U.S. Congress were elected through a nationwide at-large election, rather than through typical single-member districts, each voter could cast up to 435 votes and vote for any candidate in the country, not just the bare candidates in the voter’s district, and the 435 candidates receiving the most nationwide votes would be elected. At-large elections thus allow a majority of voters to control *every* seat, not just the seats in a particular district or a proportional majority of seats.

Voting rights advocates have targeted “at-large” election schemes for decades, because they often result in “vote dilution,” or the impairment of minority groups’ ability to elect their preferred candidates or influence the outcome of elections, which occurs when the electorate votes in a racially polarized manner. *See Thornburg v. Gingles*, 478 U.S. 30, 46 (1986) (“*Gingles*”). The U.S. Supreme Court “has long recognized that multi-member districts and at-large voting schemes may operate to minimize or cancel out the voting strength” of minorities. *Id.* at 47; *see also id.* at 48, fn. 14 (at-large elections may also cause elected officials to “ignore [minority] interests without fear of political consequences”), citing

*Rogers v. Lodge*, 458 U.S. 613, 623 (1982); *White v. Register*, 412 U.S. 755, 769 (1973). “[T]he majority, by virtue of its numerical superiority, will regularly defeat the choices of minority voters.” *Gingles*, at 47. When racially polarized voting occurs, dividing the political unit into single-member districts, or some other appropriate remedy, may facilitate a minority group's ability to elect its preferred representatives. *Rogers*, at 616.

Section 2 of the federal Voting Rights Act (“FVRA”), 42 U.S.C. § 1973, which Congress enacted in 1965 and amended in 1982, targets, among other things, at-large election schemes. *Gingles* at 37; see also Boyd & Markman, *The 1982 Amendments to the Voting Rights Act: A Legislative History* (1983) 40 Wash. & Lee L. Rev. 1347, 1402. Although enforcement of the FVRA was successful in many states, California was an exception. By enacting the CVRA, “[t]he Legislature intended to expand protections against vote dilution over those provided by the federal Voting Rights Act of 1965.” *Jauregui v. City of Palmdale* (2014) 226 Cal. App. 4<sup>th</sup> 781, 808. Thus, while the CVRA is similar to the FVRA in several respects, it is also different in several key respects, as the Legislature sought to remedy what it considered “restrictive interpretations given to the federal act.” Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001-2002 Reg. Sess.) as amended Apr. 9, 2002, p. 2.

The California Legislature dispensed with the requirement in *Gingles* that a minority group demonstrate that it is sufficiently large and geographically compact to constitute a “majority-minority district.” *Sanchez*, at 669. Rather, the CVRA requires only that a plaintiff show the existence of racially polarized voting to establish that an at-large method of election violates the CVRA, not the desirability of any particular remedy. See Cal. Elec. Code § 14028 (“A violation of Section 14027 *is established* if it is shown that racially polarized voting occurs ...”) (emphasis added); also see Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001–2002 Reg. Sess.) as amended Apr. 9, 2002, p. 3 (“Thus, this bill puts the voting rights horse (the discrimination issue) back where it sensibly belongs in front of the cart (what type of remedy is appropriate once racially polarized voting has been shown).”)

To establish a violation of the CVRA, a plaintiff must generally show that “racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision.” Elec. Code § 14028(a). The CVRA specifies the elections that are most probative: “elections in which at least one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class.” Elec. Code § 14028(a). The CVRA also makes clear that “[e]lections conducted prior to the filing of an action ... are more probative to establish the existence of racially polarized voting than elections conducted after the filing of the action.” *Id.*

Factors other than “racially polarized voting” that are required to make out a claim under the FVRA – under the “totality of the circumstances” test – “are probative, but not necessary factors to establish a violation of” the CVRA. Elec. Code § 14028(e). These “other factors” include “the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at-large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns.” *Id.*

Based on recent data of the United States Census Department’s American Community Survey, Latinos comprise approximately 20% CARD’s approximately 105,000 residents. The contrast between the Latino proportion of the electorate and the complete absence of Latinos to be elected to the CARD Board is outwardly disturbing and fundamentally hostile towards Latino participation.

CARD’s at-large system dilutes the ability of Latinos (a “protected class”) – to elect candidates of their choice or otherwise influence the outcome of the District’s elections. The District’s election history is illustrative. During the District’s recent history, there has never been a Latino to emerge as a candidate for the CARD Board, and while opponents of voting rights may claim that indicates an apathy among the Latino community, the courts have held that is an indicator of vote dilution. (See *Westwego Citizens for Better Government v. City of Westwego*, 872 F.2d 1201, 1208-1209, n. 9 (5th Cir. 1989).)

Where there are no “endogenous” elections involving candidates who are members of the protected class, the analysis under the CVRA necessarily turns to “elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class.” See Elec. Code § 14028. Typically, Propositions 187, 209 and 227 are analyzed for this purpose in California voting rights cases. Each of these propositions, though strongly opposed by the Latino community, were supported by the majority non-Hispanic white electorate in CARD, resulting in their victory within CARD.

As you may be aware, in 2012, we sued the City of Palmdale for violating the CVRA. After an eight-day trial, we prevailed. After spending millions of dollars, a district-based remedy was ultimately imposed upon the Palmdale city council, with districts that combine all incumbents into one of the four districts.

Given the racially polarized elections for CARD’s board and exogenous elections, we urge the District to voluntarily change its at-large system of electing its members. Otherwise, on behalf of residents within the jurisdiction, we will be forced to seek judicial relief. Please



advise us no later than November 7, 2021 as to whether you would like to discuss a voluntary change to your current at-large system.

We look forward to your response.

Very truly yours,



Kevin I. Shenkman