CLAIM FILED AGAINST CITY OF DAVIS DEMANDING SHIFT TO
DISTRICT-BASED ELECTION SYSTEM

FOR IMMEDIATE RELEASE

DAVIS, Calif. – July 22, 2019 – The City of Davis is facing a formal legal threat that it shifts to a
“district-based” election system for City Council races after receiving a letter from an attorney
warning that it could face millions of dollars in legal costs if it does not comply.

Due to statutory and County elections deadlines, any transition to district-based elections would
not impact the March 3, 2020 election, but could take effect in March 2022.

The claim filed by Matt Rexroad, a political consultant and attorney who formerly served as a
Yolo County Supervisor, asserts that the city is experiencing “the insidious effects of racially
polarized voting and vote dilution.”

Rexroad’s letter demands that the city act by August 15, 2019, to “take certain actions that
demonstrate Davis’ intention and specific plan to transition to district-based elections. If we do
not receive a response by that date,” Rexroad’s letter further states, “we will be forced to seek
judicial relief on behalf of the residents of Davis.” The letter does not identify who the specific
plaintiffs are nor does it identify the actions that must be taken to fulfill the demand.

The City Council has not made a decision regarding whether to shift to a “district-based” system,
commonly referred to as district elections, but will consider in upcoming meetings how to
respond to the demand letter. Currently, all five City Council members are elected “at-large” by
the entire city electorate and do not represent districts. In a “district-based” election system, the
City would be physically divided into separate districts, and a candidate would have to live in the
district he or she intends to represent and be elected only by the voters residing within that
election district.

The city received the letter (see attached) from Rexroad’s Sacramento law firm on July 1, 2019,
asserting that City of Davis’s at-large elections violate the California Voting Rights Act of 2001
(CVRA) and alleging that there is evidence of racially polarized voting in the City’s elections,
resulting in minority vote dilution. The City’s legal counsel immediately began reviewing the
demand letter and mapping out the next steps for the City. (Background information on this legal
issue is attached.)
State law gives a city 45 days following receipt of a CVRA demand letter to decide whether to adopt a resolution declaring its intention to transition to district-based elections. State law then provides an additional 90-day period for a city to hold a series of public hearings and adopt an ordinance implementing such a change in its election process. If a city does so within 90 days, it is required to pay up to $30,000 in legal fees to the plaintiff making the demand for district-based elections, but does not incur any additional liability, which has amounted to millions of dollars from litigation in other jurisdictions.

The City contacted the Yolo County Elections Office to determine the applicable deadlines for the March 3, 2020 election. The County has stated that it would have to receive the district boundaries before September 12. This would not provide adequate time for the City to conduct the required public hearings and vote on an ordinance establishing districts. Therefore, the March 3, 2020 election will not be impacted by any decision to transition to districts. The first Davis municipal election that could potentially be district-based would be in March 2022.

The Davis City Council has scheduled a special City Council meeting on Tuesday, August 13, 2019, to consider this matter. The meeting begins at 6:30 p.m. at City Hall in the Community Chambers, located at 23 Russell Boulevard in Davis.

City Manager Mike Webb states, “Irrespective of one’s views on the merits of a district-based system, the statute requires prompt action by the City. The timing is challenging, as it is a weighty and complex policy matter that falls during the summer break in a university community when many are out of town. However, the City must take up consideration of this to comply with the process set forth in State law pursuant to such demand letters, and to avoid incurring potentially significant legal fees. Ensuring adequate time to gather community input and allowing the City to incorporate updated population statistics from the 2020 US Census would be beneficial to any consideration of a district-based system. Understandably, there will be strong community interest in this topic, and we will work diligently to keep the community apprised of the process, next steps, and opportunities for input.”

While the CVRA requires a plaintiff to show evidence of racially polarized voting, the threshold for establishing a CVRA violation is low and the statute gives courts broad discretion in implementing remedies if it finds that a violation exists. Accordingly, since the adoption of the CVRA in 2001, numerous jurisdictions throughout the state have faced challenges to their at-large election systems. The majority of those jurisdictions have voluntarily switched to district-based elections to avoid litigation and exposure to attorneys’ fees.

A few cities have decided to defend against these actions, but none have prevailed on the merits. In addition to the low threshold for establishing a valid claim under the CVRA, the law also requires the city to pay a plaintiff’s attorney’s fees and costs if the plaintiff prevails. Plaintiffs’ attorneys’ fees and costs in CVRA cases often amount to millions of dollars.

The process of making a switch is set forth in state law and is elaborate. The Davis City Council would need to conduct a minimum of five public hearings to determine the number and composition of the districts. The Davis community would have an opportunity to provide input and opinions regarding the composition of the districts during the first two public hearings. Then, district maps would be drafted, and two additional public hearings held for the public to provide input on the draft maps and proposed sequence of elections. At the final public hearing, the City Council would vote to consider an ordinance establishing district-based elections.
Staff and legal counsel continue to review the City’s options. A move to district elections requires compliance with various statutes as well as deadlines implemented by the County Registrar for consolidated elections. At the direction of the City Council, the City’s lawyers are in contact with Rexroad Law to discuss timeframes and various options with respect to the City Council consideration of district-based elections.

For those wishing to submit comments or feedback to the City on this matter, please email districts@cityofdavis.org.

Attachments

- Rexroad Demand Letter
- Legal Background

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