



CITY OF POMONA COUNCIL REPORT

February 1, 2021

To: Honorable Mayor and Members of the City Council

From: James Makshanoff, City Manager

Submitted By: Linda Matthews, Human Resources/Risk Management Director

SUBJECT: ADOPTION OF AN URGENCY ORDINANCE AMENDING CHAPTER 2 OF THE POMONA CITY CODE BY ADDING PROVISIONS TO ESTABLISH AN INDEPENDENT REDISTRICTING COMMISSION IN 2021

RECOMMENDATION:

It is recommended that the City Council adopt the following urgency ordinance:

URGENCY ORDINANCE NO. 4297 – AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, ADDING DIVISION 6 TO ARTICLE V (BOARDS AND COMMISSIONS) OF CHAPTER 2 (ADMINISTRATION) OF THE POMONA CITY CODE TO ESTABLISH AN INDEPENDENT REDISTRICTING COMMISSION TO DRAW CITY COUNCIL ELECTORAL DISTRICT BOUNDARIES BASED UPON THE 2020 DECENNIAL CENSUS

EXECUTIVE SUMMARY: Both the City Charter and State Law require the City to review and potentially realign its Council districts every ten years after the completion of the census. Adoption of the proposed urgency ordinance will create an Independent Redistricting Commission to perform this responsibility in 2021 based upon the 2020 census data in time for the election in November 2022. If Council does not adopt the attached ordinance, the City Council will retain responsibility for this task.

FISCAL IMPACT: The estimated cost of the realignment process is \$150,000 without appointing an Independent Redistricting Commission. It is estimated that an Independent Redistricting Commission will add \$50,000 to \$90,000 of additional costs. These costs include hiring a public relations firm to handle the required outreach, public hearings, and general project management (\$50,000), the cost of the demographer/redistricting consultant (\$50,000), and legal expenses (\$50,000). Each of these costs are expected to increase by \$20,000 to \$30,000 if the public relations firm, demographer, and attorney staff have the additional responsibility for supporting an Independent Redistricting Commission. The costs will be split between FY 2020-21 and 2021-22. It is anticipated that most of the start-up costs for FY 2020-21 will be absorbed within existing

appropriations. If any additional appropriations are needed, they will be brought forward in a mid-year budget report. Most of the costs will be included and incurred in the Fiscal Year 2021/22 Operating Budget. Not included in the cost is the staff time to support this project, and if approved, an Independent Redistricting Commission. Staff costs will include staff time of the Deputy City Manager and the City Clerk. In addition, staff costs are anticipated to include funding a Deputy City Clerk I/II position that was previously frozen for this budget year to assist with redistricting as well a variety of other demands placed upon the City Clerk's Office (\$25,750 for the last three months of Fiscal Year (FY) 2020-21).

PREVIOUS RELATED ACTION: On January 4, 2021, the City Council directed staff to bring back a staff report proposing an Independent Redistricting Commission, as a result of a request made by Charter Review Commission 2020.

DISCUSSION:

Background

On June 5, 1990, a City-initiated Charter Amendment was approved by the voters to increase the number of Council districts from four to six. Utilizing the 1990 Census data, a comprehensive boundary review was conducted by the Rose Institute of State and Local Government, Claremont McKenna College. The Rose Institute Study produced two boundary maps, one of which was adopted by the City Council and remains the Council District boundary map currently in effect.

On August 6, 2001, the Council reviewed the 2000 Census data and directed staff to bring back a report for consideration in changing the Council District Boundaries. A report was brought back on March 19, 2002, which set forth the changes in population since the 1990 Census and the legal requirement for a districting plan. The Council determined that the deviation from the "Ideal District" (average population per district) did not warrant redistricting at that time.

On November 21, 2011, the Council directed staff to conduct a detailed analysis of the 2010 Census data and to present a plan for reconfiguration of the current districts. Subsequently, on January 17, 2012, the Council appointed an Ad Hoc Committee comprised of three Council members. The Ad Hoc Committee's recommendations and other options were presented to the Council on February 26, 2012 and the matter was continued to May 7, 2012. A consensus could not be reached and the matter was tabled until after the November 2012 election. Ultimately no action was taken.

The table below illustrates the changes in population and the ideal District deviation percentage from 1990 (when the current District boundaries were adopted) to 2010, as was presented in a January 17, 2012 staff report to the City Council:

	2010	Deviation from Ideal	2000	Deviation From Ideal	1990	Deviation From Ideal
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District 1	25,668	3.32%	25,636	2.91%	21,112	-3.83%
District 2	25,461	2.49%	24,297	-2.47%	21,444	-2.32%
District 3	23,998	-3.40%	23,952	-3.85%	23,992	9.29%
District 4	26,462	6.52%	26,470	6.25%	22,110	.72%
District 5	20,354	-18.07%	22,218	-10.81%	21,258	-3.17%
District 6	27,115	9.15%	26,900	7.98%	21,695	-1.18%
Citywide Total	149,058		149,473		131,723	
Ideal District	24,843		24,912		21,953	
Total Deviation		27.22		18.79		13.12

(Source: United States Census 2010 American Fact Finder, Census P.I. 94-171, Summary File at Block Level Geography)

Redistricting Process

Every 10 years after each census, the City is required to review its Council districts and, if the population data indicates it, to realign them in accordance with the Pomona City Charter Section 203. The specific Charter language is as follows:

The boundaries of said Council districts, but not the number thereof, may be changed by ordinance adopted by the Council by a five-sevenths (5/7) vote of all its members; provided that districts established by the Council shall be as nearly equal in population and as compact as practical. Boundaries shall be evaluated within at least one (1) year subsequent to the availability of the information from each decennial United States census or on another basis adopted by five-sevenths (5/7) vote of the total membership of the Council; however, the Council shall not change the boundaries of districts more than once in any two-year period and no such change shall be made within the period of one hundred twenty (120) days preceding the general municipal election. The preceding limitations shall not apply to changes made necessary by changes to the City boundaries. After the Council has once exercised its power to change the boundaries of the districts, these changes shall immediately be reflected in the district boundaries specified by ordinance adopted by the Council.

In addition, in 2019 the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions (FAIR MAPS) Act implemented new requirements for district realignment. The FAIR MAPS Act (Calif. Elec. Code 21620 *et. seq.*) provides for a specific process and timelines, some of which are required for charter cities and some of which may be superseded by the existing City Charter. The FAIR MAPS Act authorizes cities to form alternative bodies to decide district boundaries in lieu of the City Council, such as an independent redistricting commission.

Independent Redistricting Commission as an Alternative to Council Deciding District Boundaries

It is specifically noted that while Section 203 of the City Charter provides that district boundaries “may be changed by ordinance adopted by the Council”, it does not state that this is the exclusive means by which district boundaries may be adjusted. Rather, the City Attorney’s Office reads Section 203 to allow the Council, by ordinance, to form an alternative body to consider and decide final district boundaries based upon the 2020 census data, effectively delegating this responsibility to that body.

The Charter Review Commission 2020 (CRC) is proposing a charter amendment to create an Independent Redistricting Commission for submission to the voters in November 2022. This concept involves an independent neutral body making the final decision on any district map realignment. The goal of an independent commission is to remove elected officials, who may be directly impacted from any realignment, from being put in the difficult position of making the final decision. The draft charter amendment language being considered by the CRC incorporates the requirements and concepts of Federal law, the FAIR MAPS Act, best practices put forth by California Common Cause (who were sponsors of the FAIR MAPS Act) along with some additional recommendations by the CRC. The CRC presented the concept and its draft charter amendment language to the City Council on January 4, 2021. Because the CRC's proposed charter amendment requires voter approval and cannot be submitted to the voters until November, 2022, and because redistricting must be complete prior to that time, the CRC also requested the City Council to voluntarily create an Independent Redistricting Commission by ordinance for the realignment process that begins in 2021. Based upon the presentation by the Charter Review Commission, the City Council directed City staff to bring back an ordinance creating such a commission.

The proposed urgency ordinance is included in Attachment 1. The proposed ordinance retains the general concept of an Independent Redistricting Commission but the language and process have been modified from the version presented by the CRC in order to conform to the current City Charter as well as to accommodate the altered timeframes unique to 2021 due to COVID-19. Most ordinances require an introduction, a waiver of a first reading, and a second reading, and then take effect 30 days after adoption. However, as an urgency ordinance, it will take effect immediately upon adoption. An urgency ordinance is recommended to ensure the lengthy process required by law is completed in time for the November 2022 election. The proposed timeline requires that the recruitment for commissioners begin on or about March 1, 2021.

Redistricting Timelines and Process

There are several key deadlines upon which the proposed ordinance is based:

1. The final district maps must be submitted to the Los Angeles County Registrar/Recorder's Office no later than 180 days prior to the election (Section 2-822 of the proposed ordinance). As such, the deadline for the November 8, 2022 election is May 12, 2022.
2. The census data is expected to be released no later than July 31, 2021, although it may be released sooner. The data is usually released by March 31, but has been delayed due to COVID-19.
3. The City Charter allows one year from the receipt of the census data for City Council to adopt a new district map (incorporated as the commission's deadline in Section 2-822 of the proposed ordinance). If the census data is received July 31, 2021, the deadline would technically be July 31, 2022. However, this goes beyond the Los Angeles County deadline for the November 2022 election, so the proposed timelines plan for completion of the process by May 12, 2022. The deadlines, along with the urgency ordinance, presume that it is a priority to get the redistricting completed in time for the November 2022 election.

4. The Charter prohibits any changes being made 120 days prior to the election, but that date is superseded by the Los Angeles County deadline of completing redistricting 180 days prior to the election.

The proposed timelines assume the census data is received on July 31, 2021, and that all work is completed in time to submit the maps by May 12, 2022. These timelines may be modified if the census data is received prior to July 31, 2021 and/or if the work is not able to be completed by May 12, 2022.

Proposed Timelines for District Realignment

Approximate Date(s)	Action
3/1/2021	Application period for Commissioners begins. There shall be seven (7) commissioners in accordance with the current City Charter.
6/1/2021	Deadline to appoint commissioners. The term for each commissioner begins.
7/1/2021	The City Manager shall retain the services of a duly certified demographer/redistricting consultant for the Commission. It is also anticipated that the services of a public relations firm will be retained to assist with all of the outreach, public hearings, and general project management.
7/31/2021	Latest date the Census data expected to be released.
7/1/2021 – 5/10/2022	<p>The demographer/consultant reviews and analyzes the City's population data prepare draft maps for the Commission's consideration. The maps must comply with applicable Federal and State law.</p> <p>The Commission must hold at least four noticed public hearings. At least one public hearing must be before the draft map is drawn. At least two public hearings will be held after draft map is drawn. At least one hearing shall be on a Saturday, Sunday, or after 6 p.m. on a weekday. The City must publish notice of the hearings at least 5 days prior.</p> <p>The proposed final map must be adopted at least 7 days prior to the final adoption of the map. The proposed final map must be published on the City's website and made available to the public at least 7 days prior to final adoption.</p>
5/11/2022	Last day for the Commission to adopt a final map in time for the November 2022 election.
5/12/2022	Last day for the City Clerk to submit the maps to Los Angeles County for November 2022 election.
11/8/2022	First election that new districts apply assuming submission to County by May 12, 2022.

All of these processes will apply if the City Council does not appoint an Independent Redistricting Commission except the appointment of the Commissioners. The public hearings and approval of maps will be completed by the City Council instead of an Independent Redistricting Commission.

Eligibility Criteria for Independent Redistricting Commissioners

There shall be seven (7) commissioners, one appointed by the Mayor at-large and one by each Council Member. To the extent practicable, there shall be one commissioner from each district.

Applicants must be a resident of the City. To the extent practicable, the following persons should not serve as a commissioner:

1. A person who, or whose spouse, parent, sibling, child or in-law, within the eight (8) years immediately preceding the date of application to be on the commission, has been elected to or appointed to, or been a candidate for, City elective office;
2. A person who, or whose spouse, within the eight (8) years immediately preceding the date of application to be on the commission; or whose parent, sibling, child or in-law, within the four (4) years immediately preceding the date of application to be on the commission, has:
 - (A) served as an officer of, employee of, or paid consultant or contractor to a campaign committee or a candidate for City elective office;
 - (B) served as an officer of, employee of, or paid consultant or contractor to a political party or as an elected or appointed member of a political party central committee;
 - (C) served as a staff member, paid employee of, a consultant to, or who has contracted with, any currently serving City elected official;
 - (D) been a registered City lobbyist, or someone who was required to be a registered City lobbyist;
 - (E) contributed to any candidate for City elective office, in a single year, Five Hundred Dollars (\$500) or more; or
 - (F) served as a principal officer of an active campaign committee that has made expenditures on candidate elections for a City elective office.

The final selection shall take into consideration the applicant's ability to meet the qualifications listed above, relevant analytical skills, familiarity with the city's neighborhoods and communities, ability to be impartial, and apparent ability to work cooperatively with other potential commissioners. The Commission members should reasonably reflect the City's diversity, provided that no quotas, formulas, or ratios may be applied for this purpose.

The Commissioner's terms shall last for four years, in accordance with the City Charter. The following are restrictions regarding a Commissioner's activities during and after service on the Independent Redistricting Commission, as described below:

A commissioner shall not do any of the following:

1. Endorse, work for, volunteer for, or make a campaign contribution to, a candidate for City elective office while serving on the commission. A commissioner choosing to engage in such activity may resign at any time, including after the approval of a final map to ensure that the commissioner no longer serves if the commission is reconvened to redraw districts.
2. Be a candidate for City elective office or be appointed by the City Council to such office in lieu of an election if either of the following is true:

- (A) less than five (5) years has elapsed since the date of the commissioner's appointment to the commission; or
 - (B) the election for that City office will be conducted using district boundaries that were adopted by the commission on which the commissioner served, and those district boundaries have not been subsequently readopted by a commission after the end of the commissioner's term.
3. For four (4) years commencing with the date of the commissioner's appointment to the commission:
- (A) accept employment as a staff member of, or consultant to, a City elected official or candidate for City elective office; or
 - (B) receive a noncompetitively bid contract with the City.

Other Provisions

The attached ordinance also describes the requirements and criteria for the drafting of district maps, which mirror Federal and State requirements (Section 2—826), and procedures for public hearings/meetings, and requirements to maintain a redistricting web page for 10 years.

Differences from Charter Review Commission Proposal

Staff worked closely with the City Attorney's Office to determine how to convert the Charter Review Commission's proposal to an ordinance, which, unlike a charter amendment, must follow the requirements of the current City Charter. There are a few key concepts included in the Charter Review Commission's proposal that could not be included in this ordinance that need to be noted. First, the proposed ordinance provides for seven (7) commission members in lieu of six (6) commission members and six (6) alternates as originally proposed. This is due to the fact that Section 801 of the Charter currently calls for seven commission members on any City commission and does not include a provision for alternates. On a related note, under this ordinance the Council would appoint the Commissioners instead of delegating the appointment to a three member neutral "screening panel" as proposed by the CRC. This is also necessary to remain consistent with Section 801 of the current City Charter which states that the Council shall appoint all City commissioners. In addition, this is more practical given the short timeframe and the limitations of the pandemic. The qualifications were changed slightly and qualified by "to the extent practical". Since this is the first time using such extensive qualifications, it is recommended the Council have flexibility to appoint to ensure a sufficient number of qualified candidates are available for consideration. Other less significant changes in wording and provisions were made for clarity, efficiency, or simplicity.

Summary

Adoption of the proposed urgency ordinance (Attachment 1) will result in the creation of an Independent Redistricting Commission as described herein to complete the Council District Map realignment process. If the urgency ordinance is not adopted by City Council, then the City Council will retain responsibility for conducting public hearings and approving changes to the Council District Map consistent with applicable Federal and State law and the City Charter. The City Clerk will work with the City Manager's office to implement the direction of the City Council.

ALTERNATIVE(S):

The City Council has the following alternatives:

- 1) Adopt the Urgency Ordinance creating an Independent Redistricting Commission; or
- 2) Reject the Urgency Ordinance and retain responsibility for realignment of District Maps with the assistance of a demographer/redistricting consultant.

Prepared by: Linda Matthews, Human Resources/Risk Management Director and William Priest, Deputy City Attorney, Best, Best & Krieger

ATTACHMENT(S):

Attachment No. 1 – Proposed Ordinance No. 4297 to Create Independent Redistricting Commission