

**CITY OF OAKLAND**  
**AGENDA REPORT**

2014 JUN 12 PM 5: 52

TO: **Rules and Legislation Committee**  
ATTN: **Chair Kernighan and Committee Members**  
FROM: **Councilmembers Libby Schaaf and Dan Kalb**  
DATE: **June 12, 2014**

RE: A RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS AT THE NOVEMBER 4, 2014 STATEWIDE GENERAL ELECTION, A PROPOSED AMENDMENT TO THE CITY CHARTER TO CREATE THE CITY OF OAKLAND INDEPENDENT REDISTRICTING COMMISSION; CONSOLIDATING THE ELECTION WITH THE STATEWIDE GENERAL ELECTION; AND DIRECTING THE CITY CLERK TO TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE ELECTION.

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**RECOMMENDATION**

Adopt this resolution to submit a proposed ordinance to the voters at the November 4, 2014 statewide general election to create an Independent Redistricting Commission for the city of Oakland. This proposed ordinance shall ensure that the City's redistricting process is fair, transparent, and prioritizes the voices of Oakland residents.

**SUMMARY**

The resolution requires that a proposal be placed on the November 4, 2014 ballot amending the City Charter to empower a thirteen member Independent Redistricting Commission to draw Oakland's seven geographical council districts for the election of Councilmembers and Oakland Unified School Board of Directors. This resolution also requires the City's redistricting take place in 2021 and thereafter in each year following the year in which the national census is taken.

**OUTCOME**

By passing this Resolution, the City of Oakland continues to show its commitment to good government by ensuring that the city's redistricting process is free from political influence. The proposed ordinance will create a better redistricting process by reforming the current redistricting process:

Redistricting of City Council and School Board Districts:

- The resolution requires that Oakland's district lines be drawn and approved by an independent commission of thirteen individuals who are representative of the geographic, racial, ethnic and economic diversity of the City of Oakland.

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- Specific criteria will serve as guidelines for the Commission to follow that ensures compliance with all applicable laws and to the extent possible maintains communities of interest and geographical compactness.
- The Commission will be mandated to issue a report explaining the basis on which the Commission made its decisions on drawing district maps.

Commission Selection Process (language from the resolution):

(J) Commission Selection Process

(1) No later than July 1, 2019, and in each year ending in the number zero (0) thereafter, the City Attorney shall draft regulations, subject to the City Council's approval, that establish minimum standards for outreach efforts to recruit a robust pool of applicants, and to establish criteria for the selection of a screening panel, composed of one retired judge, one volunteer who shall be a student at a law school accredited by the Committee of Bar Examiners of the State Bar of California, and three representatives of local 501(c)(3) non-profit organizations. Members of the screening panel shall be subject to the same qualifications as the Commissioners.

(2) No later than January 1, 2020, and in each year ending in the number zero (0) thereafter, the City Administrator or his or her designee shall recruit and select members for the selection panel based on criteria approved by the City Council as required by subdivision (J)(1).

(3) The City Administrator or his or her designee shall do all of the following:

(a) No later than January 1, 2020, and in each year ending in the number zero (0) thereafter, initiate and widely publicize an application process, open to all residents of Oakland who meet the requirements of subdivision (D)(1), in a manner that promotes a qualified Commissioner applicant pool that is large and reflective of the geographic, racial, ethnic and economic diversity of the City of Oakland. This process shall remain open until April 1, 2020 and in each year ending in the number zero (0) thereafter.

(b) Create a reader-friendly application available electronically and in hard copies for prospective commissioners, and seek assistance from a broad range of community-based organizations in its outreach efforts.

(c) Ensure that the pool has at least three qualified candidates from each existing City Council district.

(d) Take all reasonable and necessary steps to ensure that the pool has the requisite numbers, diversity, and qualifications.

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(4) If the pool of eligible applicants is not sufficient as outlined in the requirements of subdivision (J)(3) after 6 weeks of recruitment efforts, the City Administrator shall make additional outreach to ensure that the pool meets these requirements.

(5) The City Administrator or his or her designee shall remove from the Commissioner applicant pool any of the following:

(a) A person with a conflict of interest, as defined in the Political Reform Act, commencing at Section 81000 of the Government Code.

(b) A person who is, on the date of application, a paid employee of City of Oakland or serving on a City of Oakland commission.

(c) A person who has been, within the five years immediately preceding the date of application a paid employee of any redistricting contractor or consultants

(d) A person who, or whose spouse, parent, child, or registered domestic partner, has been, within ten years immediately preceding the date of application, any of the following:

(i) Elected to, or a candidate for, local office.

(ii) An employee, or paid consultant or contractor to a campaign for local office.

(iii) Registered or required to be registered as a local lobbyist.

(iv) A paid employee of, a consultant to, or under contract with any elected City of Oakland Official.

(v) A principal officer of an active campaign committee domiciled in Alameda County that has made expenditure on local Oakland candidate elections.

(d) A person who has contributed 50% or more of the allowable amount to candidates for City of Oakland elective office in the last city election.

(6) No later than July 1, 2020, and in each year ending in the number zero (0) thereafter, the City of Oakland City Administrator shall review and remove individuals who are disqualified under subdivision (J)(5) from among the Commission applicants. The City Administrator shall then publicize the names of all member of the eligible applicant pool, which must contain at least 40 qualified candidates, including at least 3 applicants from each existing City Council district, by mid-July, 2020, and in each year ending in the number zero (0) thereafter, at the final July City Council meeting.



(7) From the eligible applicant pool, the screening panel shall select through an open and public process the thirty applicants most qualified to perform the duties of the commission and who are reflective of the geographic, racial, ethnic and economic diversity of the City of Oakland, including at least two applicants from each district.

(8) The City Clerk shall randomly draw at a public meeting six names from the remaining pool of applicants. These six individuals shall serve on the Commission.

(9) The six Commissioners shall review the remaining names in the pool of applicants and, from the remaining applicants in that pool, shall appoint seven applicants to the commission and two alternates. The appointed Commissioners and Alternates shall be selected in an open and public process and as the most qualified to perform the duties of the commission and reflective of the geographic, racial, ethnic and economic diversity of the City of Oakland, including at least one Commissioner from each district. The six Commissioners shall approve the additional Commissioners and alternates by at least four affirmative votes.

(10) The City Attorney and City Planning staff shall train the Commissioners prior to beginning their work. The training shall cover the open meeting requirements of the Ralph M. Brown Act.

Public Input and Deliberation:

- Requirements will be established for an open hearing process for public input and deliberation that will include an extensive outreach program to solicit broad public participation.
- The Commission will be expected to display maps for public comment in a manner designed to achieve the widest public access reasonably possible.

**BACKGROUND**

Currently the City of Oakland is required by the Charter to perform a redistricting process every 10 years, resulting in 7 political districts each represented by a council member and a school board member. This redistricting process is done by the City Council requiring districts to be in the following order of priority: "composed of contiguous territory, as equal as possible in population, and as geographically compact as practicable".

The City of Oakland has a fundamental responsibility to ensure a redistricting process that serves the interests of all Oakland residents. The city also has a responsibility to make the process transparent and open to public input and participation.

In 2008 California established its Citizens Redistricting Commission following the passage of Proposition 11 by voters, putting redistricting in the hands of residents. An extensive outreach process resulted in thousands of applicants for the state's Redistricting Commission. The

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commission's efforts in redrawing the state maps in 2010 was widely hailed as successful in its transparency, bipartisanship and public engagement. Other cities such as Austin and San Diego use similar commissions to draw redistricting lines.

These jurisdictions sought to correct the inherent conflict of interest with politicians drawing political district lines. In California for example, cities such as Long Beach, San Jose and Fresno were divided into various oddly shaped districts in order to protect incumbent legislators. Cracking, packing, and gerrymandering are some examples of ways that district lines can be used to politically neutralize certain communities. This resolution promotes democracy by allowing the direct participation of a diverse group of qualified and unbiased residents. It is a safeguard against the disenfranchisement of any specific group of residents therefore promoting fair representation.

This resolution emphasizes resident engagement by providing the opportunity for all Oakland residents to participate and express their viewpoints on how district lines are drawn. Throughout Oakland's 2013 redistricting process 7 town hall meetings were held averaging 20-40 participants with opportunity for public input. The Oakland Votes Redistricting Coalition, a coalition of local organizations and activists also held 3 workshops on redistricting to engage residents with the ongoing redistricting process. These meetings highlighted the need for the city to utilize the wisdom and experiences of residents in drawing district maps. A robust and proactive community engagement process partnered could serve as an exceptional opportunity for Oakland communities to engage with their local government in a constructive manner.

Following the 2013 Redistricting process, Councilmembers Schaaf and Kalb joined with the Oakland Votes Redistricting Coalition to craft this measure. This group has sought input from individuals and other civic organizations in the crafting of the measure before you.

#### **ANALYSIS**

In preparing this resolution, our coalition looked at models from other jurisdictions with independent redistricting commissions, in particular California and Austin. This resolution matches California's redistricting process which takes place in the year following the year in which the national census is taken at the beginning of each decade. Additionally the selection process is informed by both California and Austin's models and is designed to produce a Commission that is independent from political influence and representative of Oakland's diversity. As with this resolution, California uses a review panel to narrow its pool of candidates and relies on a random drawing to determine a fraction of the commissioners followed by those sitting commissioners appointing the remaining members. Similarly the redistricting criteria laid out in the resolution corresponds to the criteria required of Redistricting Commissions in both California and Austin.

Oakland's redistricting is significant in determining which communities are grouped together for Council and School Board representation. The way in which districts are drawn can impact the outcome of elections and local policies. The Voting Rights Act maintains that redistricting should be done to give residents equal voting power and fair representation. This resolution

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proposes a new redistricting process for Oakland that will include the voices of Oakland's residents in a way that ensures the Voting Rights Act's promise of one person, one vote.

#### **PUBLIC OUTREACH/INTEREST**

For the last six months, Councilmembers Schaaf and Kalb have been working diligently with Oakland Rising, Urban Strategies Council, The League of Women Voters of Oakland and Judy Cox to craft this resolution. This workgroup has been instrumental in the creation of the modified redistricting process. A community survey was conducted early on which guided many of the decision points of this resolution. In addition a community meeting was held with over 40 attendees in April with the goal of engaging Oakland residents and receiving input on specific components of the resolution. The group then discussed and incorporated the recommendations from this meeting into the crafted resolution. Additionally, group members have sought input from other civic organizations.

#### **COORDINATION**

The City Attorney's office has been very helpful in preparing this legislation. The City Administrator's Office, Planning Staff and Clerk's Office were also consulted regarding implementation and fiscal impact.

#### **FISCAL IMPACT**

There is no additional ongoing fiscal impact of this measure. The City Council will be required to appropriate funds at least equal to the amount spent in 2013 on redistricting adjusted for inflation using the Consumer Price Index. The City Council will be required to set aside the pro rata share of the total estimated cost beginning in year 2015 and each year ending in two (2) thereafter, in anticipation of the redistricting year. The City Council may choose to appropriate additional funding, but this measure will only require an appropriation based on the past level of funding.

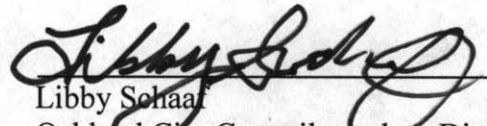
**SUSTAINABLE OPPORTUNITIES**

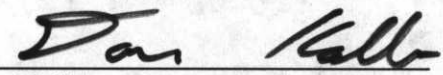
**Economic:** The proposed ordinance is unlikely to lead to any economic impact.

**Environmental:** The proposed ordinance is unlikely to lead to any environmental impact.

**Social Equity:** This resolution may increase social equity by promoting opportunities for participation and greater transparency and accountability to all Oakland residents.

Respectfully submitted,

  
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Libby Schaaf  
Oakland City Councilmember, District 4

  
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Dan Kalb  
Oakland City Councilmember, District 1

Prepared by:  
Shereda Nosakhare, Policy Analyst,  
Councilmember Libby Schaaf

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**DRAFT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCIL MEMBERS LIBBY SCHAAF AND DAN KALB

2014 JUN 12 PM 5:52

CITY ATTORNEY

**OAKLAND CITY COUNCIL**

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION ON THE CITY COUNCIL'S OWN MOTION SUBMITTING TO THE VOTERS AT THE NOVEMBER 4, 2014 STATEWIDE GENERAL ELECTION, A PROPOSED ORDINANCE TO AMEND THE CITY CHARTER TO CREATE THE CITY OF OAKLAND INDEPENDENT REDISTRICTING COMMISSION; CONSOLIDATING THE ELECTION WITH THE STATEWIDE GENERAL ELECTION; AND DIRECTING THE CITY CLERK TO TAKE ANY AND ALL ACTIONS NECESSARY UNDER LAW TO PREPARE FOR AND CONDUCT THE ELECTION**

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**[WHEREAS**, the City of Oakland is divided into seven legally apportioned districts (City of Oakland Charter, Article II, Section 203); and

**WHEREAS**, the City is required by the Charter to perform a redistricting process every 10 years, starting in 1993, which will create districts composed of contiguous territory, as equal as possible in population, and as geographically compact as practicable; and

**WHEREAS**, the City's redistricting process will follow principles of equal protection under the Fourteenth Amendment to the United States Constitution, that districts shall have a population as equal as practicable; and

**WHEREAS**, the City of Oakland is among the most racially and ethnically diverse major cities in the nation with similarly robust economic and geographic diversity; and

**WHEREAS**, it is in the best interest of the City of Oakland to establish an Independent Redistricting Committee to draw the necessary boundaries changes so that members represent substantially equal populations;] now, therefore be it

**RESOLVED:** That the City Council of the City of Oakland does hereby submit to the voters at the November 4, 2014 statewide general election, an Amendment to the City Charter, as set forth below (section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by strike-through type; portions of the City Charter not cited or not shown in underscoring or strike-through type are not changed), which reads as follows:

**Section 1. Title.**

City of Oakland Independent Redistricting Commission

**Section 2. Amendment to Article II of the Charter of the City of Oakland to establish the City of Oakland Independent Redistricting Commission.**

The Independent Redistricting Commission shall be empowered to divide the city into seven geographical council districts for the election of Councilmembers and Oakland Unified School Board of Directors. The Commission shall designate each council district by a number.

**Section 3. Redistricting.** Section 220 is added to Article II of the Charter of the City of Oakland, to read as follows:

**Section 220. Redistricting of City Council and School Board Districts.**

(A) For purposes of this section, the following terms are defined:

(1) COMMISSION means the Independent Redistricting Commission.

(2) CONTROLLING PERSON means an officer, director, manager, principal, or shareholder or member owning at least 10% of a legal entity.

(3) ALTERNATE means a non-voting Commissioner who may be sworn in due to any vacancy.

(B) In 2021 and thereafter in each year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, or whenever any substantial territory is annexed to or consolidated with the City, the Commission shall adjust the boundary lines of the seven (7) City Council and Oakland Unified School Board of Directors districts in conformance with the standards and process set forth in this article. The Commission shall be fully established no later than September 1, 2020, and thereafter no later than September 1 in each year ending in the number (0). The Commission shall not draw district lines at any other time, except if the districts must be redrawn because of a judicial decision invalidating the then existing district plan, in whole or in part.

(C) The Commission shall:

(1) Conduct an open and transparent process enabling full public consideration of and comment on the drawing of district lines;

(2) Draw district lines according to the redistricting criteria specified in this section.

(3) Conduct itself with integrity and fairness. The Commissioner selection process is designed to produce a Commission that is independent and is reasonably representative of the geographic, racial, ethnic and economic diversity of the City of Oakland.

(D) The Commission shall consist of thirteen sitting members and two alternates.

(1) Each Commissioner and alternate shall be a resident of the City of Oakland for at least the three years preceding the date of application.

(2) The term of office of each Commissioner and alternate shall expire after the final district lines are adopted and no longer subject to legal challenge. In the event of a legal challenge, terms of office will terminate when appeals of such challenge have been exhausted and a final decision entered.

(3) Nine members of the Commission shall constitute a quorum. Approval of the final map requires the affirmative votes of nine Commissioners.

(4) Each Commissioner and alternate shall apply this section in a manner that is impartial and that reinforces public confidence in the integrity of the redistricting process. A Commissioner shall be ineligible, for a period of ten years beginning from the date of appointment, to hold elective public office for the City of Oakland. A member of the Commission shall be ineligible, for a period of four years beginning from the date of appointment, to hold appointive public office for the City of Oakland or Oakland Unified School Board, to serve as paid staff for or as a paid consultant to Oakland City Council, or any member of the City Council or Oakland School Board, to receive a non-competitively bid contract with the City of Oakland, or to register as a lobbyist. This four year ban on having a paid consultancy or entering non-competitively bid contracts applies to the member individually and all entities for which the member is a controlling person.

(E) The Commission shall establish the boundaries of the council and school districts for the City of Oakland in a plan using the following criteria as set forth in the following order of priority:

(1) Districts shall comply with the United States Constitution. Each council and school district shall have reasonably equal population with other districts, except where deviation is required to comply with the federal Voting Rights Act or permitted by law.

(2) Districts shall comply with the federal Voting Rights Act, commencing at 42 U.S.C. Section 1971, the California Voting Rights Act, commencing at Section 14025 of the Elections Code, and any other requirement of federal or state law.

(3) Districts shall be geographically contiguous.

(4) The geographic integrity of any local neighborhood or local community of interest shall be respected in a manner that minimizes their division to the extent possible without violating the requirements of any of the preceding



subsections. A community of interest is a contiguous population that shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.

(5) To the extent practicable, district boundaries shall be drawn to encourage geographical compactness such that nearby areas of population are not bypassed for more distant populations.

(6) Districts may not be drawn for the purpose of favoring or discriminating against an incumbent or political candidate.

(7) The Commission may establish and consider additional criteria that comply with the above listed criteria and the requirements of federal and state law.

(F) Prior to the appointment of the first Commission, the City Attorney shall draft, and the City Council shall approve, interim regulations necessary for appointment of the first commission. The commission shall adopt permanent regulations governing its operations in consultation with the City Attorney.

(G) By December 31, 2021, and in each year ending in the number one (1) thereafter, the Commission shall adopt a final plan for the City of Oakland specifically describing the district boundaries for each of the council and school districts prescribed above. Upon adoption, the commission shall certify the plan to the City Council. The City Council may not change the plan. The plan shall have the force and effect of law.

(1) The Commission shall issue a report that explains the basis on which the Commission made its decisions in achieving compliance with the criteria listed above and shall include definitions of the terms and standards used in drawing the final plan.

(2) If the Commission does not adopt a final plan by the dates in this section, the City Attorney for the City of Oakland shall immediately petition state court for an order prescribing the boundary lines of the districts in accordance with the redistricting criteria and requirements set forth in this Section. The plan prescribed by the court shall be used for all subsequent City Council elections until a final plan is adopted by the commission to replace it.

(H) The City Attorney shall serve as legal counsel to the Commission in the manner provided for in Section 401(6) of Article IV of the City Charter.

(I) Commissioners shall disclose all contact regarding the Commission's subject matter jurisdiction that occurs outside of a publicly noticed meeting. Commissioners shall disclose these contacts no later than the commission's next regular or special meeting. The Commission shall establish procedures for disclosure. These procedures

shall, at minimum, require disclosure of contacts with incumbent members of the City Council and School Board regarding matters before the commission.

(J) Commission Selection Process

(1) No later than July 1, 2019, and in each year ending in the number zero (0) thereafter, the City Attorney shall draft regulations, subject to the City Council's approval, that establish minimum standards for outreach efforts to recruit a robust pool of applicants, and to establish criteria for the selection of a screening panel, composed of one retired judge, one volunteer who shall be a student at a law school accredited by the Committee of Bar Examiners of the State Bar of California, and three representatives of local 501(c)(3) nonprofit organizations. Members of the screening panel shall be subject to the same qualifications as the Commissioners.

(2) No later than January 1, 2020, and in each year ending in the number zero (0) thereafter, the City Administrator or his or her designee shall recruit and select members for the selection panel based on criteria approved by the City Council as required by subdivision (J)(1).

(3) The City Administrator or his or her designee shall do all of the following:

(a) No later than January 1, 2020, and in each year ending in the number zero (0) thereafter, initiate and widely publicize an application process, open to all residents of Oakland who meet the requirements of subdivision (D)(1), in a manner that promotes a qualified Commissioner applicant pool that is large and reflective of the geographic, racial, ethnic and economic diversity of the City of Oakland. This process shall remain open until April 1, 2020 and in each year ending in the number zero (0) thereafter.

(b) Create a reader-friendly application available electronically and in hard copies for prospective commissioners, and seek assistance from a broad range of community-based organizations in its outreach efforts.

(c) Ensure that the pool of 40 qualified applicants has at least two applicants from each existing City Council district.

(d) Take all reasonable and necessary steps to ensure that the pool has the requisite numbers, diversity, and qualifications.

(4) If the pool of eligible applicants is not sufficient as outlined in the requirements of subdivision (J)(3) after 6 weeks of recruitment efforts, the City Administrator shall make additional outreach to ensure that the pool meets these requirements.

(5) The City Administrator or his or her designee shall remove from the Commissioner applicant pool any of the following:

(a) A person with a conflict of interest, as defined in the Political Reform Act, commencing at Section 81000 of the Government Code.

(b) A person who is, on the date of application, a paid employee of City of Oakland or serving on a City of Oakland commission.

(c) A person who has been, within the five years immediately preceding the date of application a paid employee of any redistricting contractor or consultants

(d) A person who, or whose spouse, parent, child, or registered domestic partner, has been, within ten years immediately preceding the date of application, any of the following:

(i) Elected to, or a candidate for, local office.

(ii) An employee, or paid consultant or contractor to a campaign for local office.

(iii) Registered or required to be registered as a local lobbyist.

(iv) A paid employee of, a consultant to, or under contract with any elected City of Oakland Official.

(v) A principal officer of an active campaign committee domiciled in Alameda County that has made expenditure on local Oakland candidate elections.

(d) A person who has contributed 50% or more of the allowable amount to candidates for City of Oakland elective office in the last city election.

(6) No later than July 1, 2020, and in each year ending in the number zero (0) thereafter, the City of Oakland City Administrator shall review and remove individuals who are disqualified under subdivision (J)(5) from among the Commission applicants. The City Administrator shall then publicize the names of all member of the eligible applicant pool, which must contain at least 40 qualified candidates, including at least 3 applicants from each existing City Council district, by mid-July, 2020, and in each year ending in the number zero (0) thereafter, at the final July City Council meeting.

(7) From the eligible applicant pool, the screening panel shall select through an open and public process the thirty applicants most qualified to



perform the duties of the commission and who are reflective of the geographic, racial, ethnic and economic diversity of the City of Oakland, including at least two from each district.

(8) The City Clerk shall randomly draw at a public meeting six names from the remaining pool of applicants. These six individuals shall serve on the Commission.

(9) The six Commissioners shall review the remaining names in the pool of applicants and, from the remaining applicants in that pool, shall appoint seven applicants to the commission and two alternates. The appointed Commissioners and Alternates shall be selected in an open and public process and as the most qualified to perform the duties of the commission and reflective of the geographic, racial, ethnic and economic diversity of the City of Oakland, including at least one Commissioner from each district. The six Commissioners shall approve the additional Commissioners and alternates by at least four affirmative votes.

(10) The City Attorney and City Planning staff shall train the Commissioners prior to beginning their work. The training shall cover the open meeting requirements of the Ralph M. Brown Act and Oakland's Sunshine Ordinance.

(K) Citizens Redistricting Commission Vacancy, Removal, Resignation, or Absence.

(1) In the event of substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of office, a member of the Commission, having been served written notice and provided with an opportunity for a response, is subject to removal by the Commission. Removal of a Commissioner requires approval by two-thirds vote.

(2) Any vacancy, whether created by removal, resignation, or absence, in the thirteen commission positions shall be filled by the Commission within 15 days after the vacancy occurs, from the two available alternates.

(L) The activities of the Citizens Redistricting Commission are subject to all of the following:

(1) The commission shall comply with all applicable state and city requirements for open meetings, including the Ralph M. Brown Act, commencing at Section 54950 of the Government Code, and the City's Sunshine Ordinance at Chapter 2.20 of the Oakland Municipal Code.

(2) The City of Oakland Administrator shall designate staff to support the Commission. The Commission shall approve consultants as needed following a competitive bidding process. Compensation of such persons shall be limited to the period in which the Commission is active.

(3) An employer may not threaten, intimidate or coerce an employee by reason of the employee's membership on the Commission.

(4) The Commission shall establish and implement an open hearing process for public input and deliberation that shall be subject to public notice and promoted through an extensive outreach program to solicit broad public participation in the redistricting public review process. The hearing process shall include hearings to receive public input before the Commission draws any maps and hearings following the drawing and display of any Commission maps. In addition, hearings shall be supplemented with other activities as appropriate to further increase opportunities for the public to observe and participate in the review process. The Commission shall display the maps for public comment in a manner designed to achieve the widest public access reasonably possible. Public comment and Commission meetings should include a variety of hours. Public comment shall be taken for at least 14 days from the date of public display of any map.

(5) The City Council shall appropriate funds to meet the operational needs of the Commission and any outreach program to solicit broad public participation in the redistricting process of at least the amount spent in 2013 on redistricting adjusted for inflation using the Consumer Price Index. The City Council shall allocate the pro rata share of the total estimated cost beginning in year 2015 and each year ending in two (2) thereafter, in anticipation of the redistricting year.

**Section 4. Conforming Amendment.** Section 203 of Article II of the Charter of the City of Oakland is amended to read as follows:

**Section 203. Nomination and Election of Councilmembers.**

Seven Councilmembers shall be nominated from districts and one shall be nominated at large. The Councilmember-at-large shall be nominated and elected by the qualified electors of the City at large. The District Councilmembers shall be nominated and elected by the qualified electors of their respective districts. The districts shall be as they exist upon the taking effect of this section, until revised by ordinance. ~~In the year 1993, and every ten years thereafter, and whenever any substantial territory is annexed to or consolidated with the City, the Council shall form new districts not exceeding seven. Districts shall be composed of contiguous territory, as equal as possible in population, and as geographically compact as practicable. The Independent Redistricting Commission shall establish district boundaries in accordance with the provisions of this Article and applicable federal and state constitutional and statutory requirements.~~ No change in the boundary of a district shall operate to exclude an

incumbent from office before the expiration of the term for which he or she was elected or appointed.

and be it

**FURTHER RESOLVED:** That the City Council of the City of Oakland does hereby request that the Board of Supervisors of Alameda County order the consolidation of the Oakland Municipal election with the statewide general election of November 4, 2014, consistent with provisions of State Law; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes and directs the City Clerk of the City of Oakland (the "City Clerk") at least 88 days prior to November 4, 2014, to file with the Alameda County Clerk certified copies of this resolution; and be it

**FURTHER RESOLVED:** That the City Council does hereby request that the Board of Supervisors of Alameda County include on the ballots and sample ballots recitals and measure language to be voted on by the voters of the qualified electors of the City of Oakland; and be it

**FURTHER RESOLVED:** That the City Clerk is hereby directed to cause the posting, publication and printing of notices, pursuant to the requirements of the Charter of the City of Oakland, Chapter 3 of the Oakland Municipal Code, the Government Code and the Election Code of the State of California; and be it

**FURTHER RESOLVED:** That the City Council does hereby request that the Registrar of Voters of the County of Alameda perform necessary services in connection with said election; and be it

**FURTHER RESOLVED:** That the City Clerk is hereby directed to obtain printing, supplies and services as required; and be it

**FURTHER RESOLVED:** That the City Clerk is hereby authorized to provide such other services and supplies in connection with said election as may be required by the Statutes of the State of California and the Charter of the City of Oakland; and be it

**FURTHER RESOLVED:** That in accordance with the Elections Code and Chapter 11 of the Oakland Municipal Code, the City Clerk shall fix and determine a date for submission of arguments for or against said proposed Ordinance and rebuttals, and said date shall be posted in the Office of the City Clerk; and be it

**FURTHER RESOLVED:** That the City Clerk and City Administrator are hereby authorized and directed to take any and all actions necessary under law to prepare for and conduct the 2014 statewide general election and appropriate all monies necessary for the City Administrator and City Clerk to prepare and conduct the November 4, 2014, statewide general election, consistent with law and be it



**FURTHER RESOLVED:** That certain sections of this Ordinance may be codified into the City of Oakland Municipal Code at the direction of the City Clerk:

IN COUNCIL, OAKLAND, CALIFORNIA \_\_\_\_\_, 2014

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and  
PRESIDENT KERNIGHAN

NOES  
ABSENT  
ABSTENTION

ATTEST:

\_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
Of the City of Oakland, California

Date:

## Attachment A

# A Report on Redistricting Options

This document is a summary of the options and challenges regarding our quest to create and maintain a fair and balanced redistricting process. The current system of redistricting is unsatisfactory and is prone to gerrymandering and other forms of manipulation<sup>1</sup>. An analysis of compactness of our current council districts is in Appendix 1. Therefore, this summary is not going to explain the obvious reasons for why we should change the system but will rather explore the alternatives that cities in other parts of the country have embraced. This report will also provide recommendations on how to proceed, which are tentative in nature and should be construed as subject to change based on superior suggestions from the group.

According to available research<sup>2</sup> most of the nation's largest cities have their council districts or equivalent drawn by the council in a manner similar to Oakland's process. As for the other source of inspiration for reform, state redistricting, a similarly large proportion of states remain stuck with their legislatures drawing the legislative districts. On the whole, there appears to be six main options for us to consider as alternatives to the current system. For purposes of thoroughness, all of them are included below.

## Executive Summary

1. **An advisory commission.** Some municipalities, such as Dallas, have commissions that advise the city on what districts to create. The benefit of this is that, in theory, an advisory commission will create a fair redistricting plan that can be adopted by the city council without much modification. The downsides are that an advisory commission is not binding and therefore can be easily ignored. Also, unless a fair and unbiased method is chosen for determining commission members, the commission will be susceptible to political pressure. The web page for the Dallas commission appears to be here:

[http://www.dallascityhall.com/meetings/redistricting\\_commission.html](http://www.dallascityhall.com/meetings/redistricting_commission.html).

2. **Bipartisan independent redistricting commission.** A commission with a binding power to re-draw the districts is created, with half of the commission being from the largest party and the other half being drawn from the second largest party (in effect half Democrat and half Republican). At least two cities, New York and Tulsa, use this process. The benefit is that this

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makes it unlikely that the districts will be drawn to purposefully harm either party. On the other hand, this system can be used to help incumbents and, as commissioners may be expected to uphold the interests of their party, is unlikely to foster compromise. Another downside is that this style of commission implicitly endorses the good of political parties as a redistricting basis over the good of the public. The web page for New York's commission is here:

<http://www.nyc.gov/html/dc/html/home/home.shtml>.

**3. Independent redistricting commission partially appointed by elected officials.** This variation, as found in San Francisco, invests the commission with the authority to draw the districts, but gives the mayor and legislative body a say in appointing the commissioners. In San Francisco, a third of the commissioners are appointed by the mayor and a third is appointed by the Board of Supervisors. This approach bypasses the difficulties of the second proposal, and edges away from giving the elected officials too much power. However, the redistricting commission is still vulnerable to being politicized due to the high proportion of members selected by politicians. The webpage for San Francisco's commission is located here:

<http://www.sfgov2.org/index.aspx?page=2622>.

**4. Independent redistricting commission appointed by the courts.** This system is used in Minneapolis and in San Diego. In this system, a municipal judge appoints the members of the commission. In theory, by having a member of one theoretically nonpolitical/nonpartisan institution appoint the members of another theoretically nonpolitical/nonpartisan institution, this should create a system that is both fair and efficient. The downside of this is that judges are not always as fair and balanced as we may wish them to be, and that the situation can become dicey if judges decline to make appointments. Additionally, judges may not have the expertise or background to make these decisions. The Minneapolis' commission's website is located here:

<http://www.minneapolismn.gov/charter/index.htm>.

**5. Independent redistricting commission selected by independent auditors (California style).** In this system, a pool of independent auditors are selected, who in turn help appoint the members of the commission that actually conducts the redistricting. This system is used for California state redistricting and is also used by the City of Austin. In this system, politicians have little or no power to directly or indirectly affect the composition of the independent redistricting commission. The downside is that the independent auditors constitute an extra group that need to be found, and this can take up extra time and money. Also, there may be concerns about finding enough Oakland residents who qualify as auditors. The Austin redistricting commission website is located here: <http://www.austintexas.gov/department/10-one>.

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**6. Independent redistricting commission selected by the Public Ethics Commission.** The big strength of this option is that by using one group deliberately designed to be immune from political pressures to appoint another, we can create an independent commission relatively immune from political pressures at minimal cost (because we use an existing organization). Also, in terms of passing a ballot measure, it would be hard for measure opponents to object to the use of so neutral a body for selecting the commissioners. The only downside to this would be if for some reason the Public Ethics Commission were to not want to take on this role.

*There are a few other factors we need to consider in the creation of a redistricting commission:*

**1. The size of the commission.** Some groups seem to be as small as 3, California's is 14, and Austin's is too. Fair Vote recommends a body of 9 commissioners in its ideal state measure wording, and San Francisco's also has 9 members. County redistricting commissions in New York State appear to vary in size, with at least one having 9 members and another one containing 7. The size of a commission boils down to "how many people do we need to be there to represent Oakland's diversity" vs. increasing costs, difficulty in finding qualified members, and difficulty of conducting meetings when the size of commissions increase.

**2. Compensation of commissioners.** Compensation of commissioners seems to be considered prudent by some current users of independent redistricting commissions (such as California's). Compensation could help encourage qualified applicants to step forward, especially those from disadvantaged backgrounds who would otherwise be less likely to join. Compensation seems to be done on a per diem rate. Some commissions (like Austin's) do not compensate their commissioners for attending meetings, but compensate for expenses.

**3. Qualifications of commissioners/ selection of commissioners.** Most commissions (except politically appointed or bi-partisan commissions) seem to seek impartiality, analytical skills, and knowledge of the area that they are redistricting. In some cases (California), an effort is made to create a mix of majority, minority, and neither majority nor minority party members on the commission. The criteria used to select commissioners sometimes include diversity and/or geographic diversity. Whether or not to include geographic diversity in the selection of commissioners is a very tricky issue. While some advocate in favor of it as necessary to promote a fair composition of the commission, others have claimed it risks perpetuating existing districts

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if done incorrectly. There are two apparent ways to encourage geographic diversity: one, instruct the body that selects the commissioners to take geographic diversity into account when making its selections (without setting specific quotas or methodology for them to do so), or two, mandate that all existing districts be represented on the redistricting commission. It is this second option that appears to receive the negative reaction from critics. At the same time, there is certainly concern that independent redistricting could continue unfair redistricting practices<sup>3</sup>. There are also different ways to encourage minority representation and fair gender representation on the commission: quotas, general instructions to the selecting body to take ethnic and racial diversity into account in choosing commissioners, and/or increased outreach in minority areas. Finally, many commissions have requirements for potential members to be registered voters and/or to have voted a certain number of times over a past number of years.

**4. Disqualifications from political activity for commissioners.** In order to avoid political interference and conflicts of interest generally, some commissions prohibit potential members from being paid lobbyists, elected (and/or appointed) officials, recipients of no-bid contracts, holders of significant political party positions, and/or major campaign donors for a set period of time before and/or after the independent redistricting commission does its work. The benefit is that it makes the commission more immune from tampering by political parties or elected officials, and helps the commission appear impartial and fair. The downside is that this can narrow down the pool of applicants for the independent redistricting commission, and can limit otherwise qualified candidates who sat on the commission from running for office after the commission is done. In some cases these prohibitions also apply to spouses.

**5. Criteria for drawing the districts themselves.** Pre-eminence must be given to federal rules, such as the Voting Rights Act. Continuity and compactness is often a major consideration in drawing the lines. There are a variety of ways that commissions can address concerns over minority representation. Commissions can act color-blind, or they can attempt to establish districts that feature strong minority proportions (to the extent that it is legal). In addition, the ballot measure will need to establish what, if any, role the location of incumbents will feature in redistricting.

**6. Odds and ends.** Most laws creating independent redistricting commissions include a severability clause, which makes sure the commission is not completely invalidated if one part of the measure is struck down by a court. Another matter that the measures authorizing independent commissions need to address is the source of funding for the activities of the commission. At least some measures (such as California's) authorize the independent

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redistricting commission to hire its own staff (legal counsels and such), and these measures seem to often fund their commissions by allowing the commissions to draw funds to pay for their expenses from the governmental unit they serve. Also, most measures specify the terms of the commissioners. One way to define the terms is to set the terms as the time from the appointment of the member in question until the appointment of the first member of the successor board. Of course, the commission should only have to work once per decade, but it is useful to have a commission on hand in case a court invalidates the commission's maps or some other unexpected contingency were to arise.

Respectfully Submitted,

Caleb Smith

*This report should not necessarily be construed to represent the opinion of any Councilmember*

Notes:

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[http://cdn.azavea.com/com.redistrictingthenation/pdfs/Gerrymandering\\_Index\\_Whitepaper.pdf](http://cdn.azavea.com/com.redistrictingthenation/pdfs/Gerrymandering_Index_Whitepaper.pdf)

This white paper provides an interesting way at looking at districts to see, quantitatively, if they are relatively compact. If they fail to meet a certain standard, the authors of the report seem to think that it would be a good indication of gerrymandering. Please see Appendix 1 for Oakland's scores.

A more detailed explanation of different ways to measure the compactness of a district can be found here:

[http://cdn.azavea.com/com.redistrictingthenation/pdfs/Redistricting\\_The\\_Nation\\_White\\_Paper\\_2010.pdf](http://cdn.azavea.com/com.redistrictingthenation/pdfs/Redistricting_The_Nation_White_Paper_2010.pdf)

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[http://www.theaustinbulldog.org/index.php?option=com\\_content&view=article&id=224%3Aredistricting-need-not-be-a-quintessentially-political-process&catid=3%3Amain-articles&Itemid=1](http://www.theaustinbulldog.org/index.php?option=com_content&view=article&id=224%3Aredistricting-need-not-be-a-quintessentially-political-process&catid=3%3Amain-articles&Itemid=1)

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This is the best comprehensive analysis of municipal redistricting I have come across in my research. The author considers the 50 largest cities in the United States (Oakland is # 45) and discusses the few cities that have so far created independent redistricting commissions or other redistricting reforms. A lot of the information found in this report was derived from his article.

3- [http://www.naacpldf.org/files/publications/IRC\\_Report.pdf](http://www.naacpldf.org/files/publications/IRC_Report.pdf)

This is a NAACP report urging caution about the use of independent redistricting commissions. They make several interesting points (including the counting of prisoners and disqualification of ex-felons) but a well-constructed independent redistricting commission can address their reasonable concerns and the report seems slightly geared towards factors that only states need to consider.

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