

MEMORANDUM ON REDISTRICTING MILLBRAE'S CURRENT 5-DISTRICT ELECTION SYSTEM

To: City Residents
From: Millbrae City Council
Date: July 10, 2024
Subject: Answering Question: How to Change City's Current 5-District Model for Council Elections?

The City Council understands that some residents in the City of Millbrae do not favor the electoral system that the City selected by ordinance in 2021 in response to a letter demanding that the City change its then "at-large" electoral system, which was alleged to be in violation of the California Voting Rights Act. ("CVRA") The City embarked on a conversion process at that time and transitioned under the CVRA to a system in which there are five separate districts in the City – each of which elects a member of the City Council. Two of these districts elected a council representative in 2022, and the other three districts are scheduled to do so this November, 2024. In the prior at-large model, registered voters in the City could vote for candidates for all the council seats on the ballot, not just one.

During the conversion process, the City Council considered and heard testimony both in favor of the five-district model and also in favor of a four-district model with an at-large mayor. The City Council by ordinance ultimately adopted the five-district model, which is the model that is favored under the California Voting Rights Act as the most likely to allow minority residents to elect city council candidates of their choice.

Some have asked whether the City can change the current five-district electoral system to the model with four-districts and an at-large mayor. The answer is that it is highly unlikely that any change in the City's electoral system could be achieved in the near future. This is because amendments to California Elections Code section 21605 that went into effect on January 1, 2024, prohibit the City from doing any redistricting until after the next Decennial Census in 2030, except in very limited circumstances. Under this new statute, the only exception relevant here is that the City could cause the creation of an independent redistricting commission ("IRC") to undertake redistricting. That IRC must be comprised of unaffiliated individuals who do not report to the City Council. Rather, these unaffiliated individuals must meet the very strict dictates of Elections Code section 23003, which is designed to make the IRC itself and its decision-making process wholly independent from the City Council.

In sum, while the City Council could cause an IRC to be constituted, it could neither select the members of the IRC nor set the agenda, control the process or dictate the precise outcome of the IRC regarding redistricting. In other words, there would be no way to know at the outset whether the IRC would conclude that the City retain its five-district model, or change to a four-district/at-large mayor model or to some other allowable form under California law for a general law city like Millbrae.