

**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** Kevin G. Ennis, City Attorney  
Deborah S. Traffenstedt, Assistant City Manager

**DATE:** 03/06/2019 Regular Meeting

**SUBJECT:** Consider Motion to Request to Reconsider City Council’s Vote to Adopt Sequencing Option 2 as the Sequencing of Districts for Council District Map 401a (Districts 2 and 4 Elected 2020; Districts 1 and 3 Elected 2022)

**BACKGROUND**

The City of Moorpark has been conducting the process set forth in the California Voting Rights Act (CVRA) to consider transitioning from a system of at-large elections to a system of district-based elections. At the fifth public hearing for the district-based election process on 2/21/2019 (an adjourned meeting from the regular 2/6/2019 City Council meeting), the City Council held a series of votes that ultimately led to the introduction of Ordinance No. 467 (Attachment 1) to establish district-based elections using a specified map and district sequencing. The motions and their corresponding approving votes were as follows:

1. Adopt Map No. 401a as the official Council district map for the City of Moorpark. Motion approved on a 3-2 vote (ayes: Enegren, Parvin, Simons; nays: Mikos, Pollock).
2. Adopt Sequencing Option 2 as the sequencing of elections for Map No. 401a, as set forth in Attachment 7 of the 2/21/2019 staff report: Districts 2 and 4 elected in 2020 and Districts 1 and 3 elected in 2022. Motion approved on a 4-1 vote (ayes: Enegren, Parvin, Pollock, Simons; nays: Mikos).
3. Waive first reading, read by title only, and introduce Ordinance No. 467 with Map No. 401a and Sequencing Option 2 for Map No. 401a inserted into the Ordinance. Motion approved on a 4-1 vote (ayes: Enegren, Parvin, Pollock, Simons; nays: Mikos).
4. On February 25, 2019, Councilmember Pollock submitted an email to the City Manager and Assistant City Manager (Attachment 2) explaining his request for a reconsideration agenda item to ask the City Council to reconsider its selection of

Sequencing Option 2 for Map No. 401a (see Attachment 3 for a copy of the sequencing table from the 2/21/2019 agenda report). Councilmember Pollock's email expresses support for a random drawing to determine the second district to be sequenced in the 2020 election. This reconsideration request pertains to the selection of Sequencing Option 2 as the district election sequencing for Map 401a, which was incorporated into Ordinance No. 467 as part of the recitals on page 2 and in the proposed new Municipal Code Section 2.08.050 on page 4.

## **DISCUSSION**

The City Council's Rules of Procedure for Council Meetings (currently Resolution No. 2017-3618) includes the following section pertaining to reconsideration of a vote:

### 7.12 Motion for Reconsideration:

Any Councilmember who voted with the majority may move a reconsideration of any vote at the same meeting or request an agenda item on the next regular meeting or request a special meeting called to be held prior to the next regular meeting to consider reconsideration of any vote. The agenda item shall appear on Presentation/Action/Discussion as a two-part item:

Consider Reconsideration of \_\_\_\_\_.

Reconsideration of vote on \_\_\_\_\_.

After a motion for reconsideration has once been acted upon, no other motion for a reconsideration thereof shall be made without unanimous consent of the Council.

Councilmember Pollock voted in the majority to adopt Sequencing Option 2 as the sequencing of elections for Map No. 401a. That motion passed on a 4-1 vote with Councilmember Pollock voting in the affirmative; therefore, consistent with Section 7.12 of the Rules of Procedure, Councilmember Pollock may seek reconsideration because he voted in the majority.

For reconsideration of sequencing, the Council must consider two motions as follows:

FIRST MOTION: "Consider reconsideration" of Sequencing Option 2 as the sequencing of elections for Map No. 401a with Districts 2 and 4 elected in 2020 and Districts 1 and 3 elected in 2022.

The purpose of this first motion is to determine whether the City Council wishes to even reconsider the selection of Sequencing Option 2 as the sequencing plan for Map No. 401a. If this motion fails, then Sequencing Option 2 remains as the sequencing plan and no

further consideration of the sequencing plan would be permitted without unanimous consent of the City Council.

If an affirmative majority of the City Council adopts this first motion, then the effect is to place before the City Council a motion to reconsider Sequencing Option 2 as the sequencing plan for Map No. 401a. Thus, the second motion would be as follows:

SECOND MOTION: "Reconsideration of Vote" to adopt Sequencing Option 2 as the sequence of elections for Map No. 401a with Districts 2 and 4 elected in 2020 and Districts 1 and 3 elected in 2022.

If this motion fails, then Sequencing Option 2 remains the sequencing plan and no further consideration of the sequencing plan would be permitted without unanimous consent of the City Council. If this second motion is adopted by an affirmative majority of the City Council, then the City Council, after debate, may choose a randomization for sequencing.

Depending on the outcome of the motions to reconsider, a change from Sequencing Option 2 that is now included in Ordinance No. 467 could affect the procedure by which the City Council adopts the Ordinance to convert to district-based elections. If the City Council ultimately retains the previously adopted sequencing option for Map No. 401a, then no change to Ordinance No. 467 would be necessary. The City Council could hold the required public hearing and vote to adopt Ordinance No. 467, as introduced on February 21st, and the Ordinance would take effect 30 days later. If the City Council adopts a different sequencing plan, then the City Council would have to reintroduce Ordinance No. 467, with the modified sequencing of elections, for first reading. The City Council could not adopt the Ordinance until its next regular meeting on 3/20/2019. The City has entered into a tolling agreement with Kevin Shenkman (an attorney of the law firm of Shenkman and Hughes) who challenged the City's at-large election system. The tolling agreement precludes Mr. Shenkman from filing a lawsuit under the CVRA until 4/9/2019.

### **FISCAL IMPACT**

There are no fiscal impacts associated with this request for reconsideration.

### **STAFF RECOMMENDATION**

- 1) Consider Councilmember Pollock's request to reconsider the City Council's selection of Sequencing Option 2 as the sequencing of elections for Map No. 401a, with Districts 2 and 4 elected in 2020 and Districts 1 and 3 elected in 2022.
- 2) If Councilmember Pollock's Motion made under item 1 above receives a second and is approved by a majority vote of the Council, then permit Councilmember Pollock to make a second motion to reconsider the 2/21/2019 vote to adopt Sequencing Option 2 as the sequence of elections for Map No. 401a with District 4 elected in 2020 and remaining districts determined by a randomized method. If either Motion

1 or Motion 2 fails, proceed to the public hearing on Ordinance 467 under Item 8.B for consideration of adoption.

- 3) If the City Council adopts a revised sequencing plan for Map No. 401a, then proceed to the public hearing on Ordinance No. 467 under Item 8.B to consider ordinance revisions, which would require introduction and first reading of the revised ordinance, and adoption would then be advertised and a public hearing scheduled for the regular meeting on 3/20/2019.

Attachments:

1. Ordinance No. 467 (introduced for first reading on 2/21/2019)
2. 2/25/2019 Email from Councilmember Pollock requesting reconsideration
3. Sequencing Options Table from 2/21/2019 agenda report

## ORDINANCE NO. 467

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, PROVIDING FOR THE ELECTION OF CITY COUNCILMEMBERS BY DISTRICTS WITH AN AT-LARGE ELECTED MAYOR, ESTABLISHING THE BOUNDARIES AND IDENTIFICATION NUMBER OF EACH DISTRICT, ESTABLISHING THE ELECTION ORDER OF EACH DISTRICT, AMENDING CHAPTER 2.08 ("MUNICIPAL ELECTIONS") OF THE MOORPARK MUNICIPAL CODE, AND MAKING A DETERMINATION OF EXEMPTION PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Moorpark currently elects its four (4) City Councilmembers and Mayor using an at-large election system, where candidates may reside in any part of the City and each City Councilmember and the Mayor are elected by the voters of the entire City; and

WHEREAS, pursuant to Elections Code Section 10010, a city that changes from an at-large method of electing City Councilmembers to a district-based method of electing City Councilmembers requires a total of five public hearings, which include: (1) at least two public hearings regarding the composition of the districts before any draft maps are drawn; (2) at least two public hearings following the release of draft district maps; and (3) a final public hearing before an ordinance establishing the district-based method of electing City Councilmembers is adopted; and

WHEREAS, at a regular meeting of the Moorpark City Council held on October 11, 2018, the City Council adopted Resolution No. 2018-3755, declaring the City Council's intent to transition from at-large to district-based City Councilmember elections, with a separately elected at-large Mayor; and

WHEREAS, pursuant to Elections Code Section 10010(e)(3)(B), a prospective plaintiff could not commence an action against the City to enforce the requirements of the California Voting Rights Act of 2001 within ninety (90) days of the City Council's adoption of Resolution No. 2018-3755. In addition, pursuant to Elections Code Section 10010(e)(3)(C), on October 11, 2018, the City Council entered into a tolling agreement with the law firm of Shenkman & Hughes to extend by an additional ninety (90) days the period of time by which the City could conduct public outreach, encourage public participation, and receive public input in connection with district-based elections; and

WHEREAS, pursuant to Elections Code Section 10010(a)(1), on November 13, 2018 and December 12, 2018, the City held public hearings where the public was invited to provide input regarding the composition of the districts before any draft maps were drawn; and

WHEREAS, on January 16, 2019, January 18, 2019, and January 30, 2019, the City published and made available for release approximately twenty-one (21), three (3), and eleven (11) draft maps, respectively, and the potential sequencing of the district elections for such maps, which were prepared by the public and the City's professional demographer. Pursuant to Elections Code Section 10010(a)(2), these thirty-five (35) maps were published at least seven (7) days before consideration at a public hearing; and

WHEREAS, at a special meeting of the Moorpark City Council held on January 23, 2019, a regular meeting of the Moorpark City Council held on February 6, 2019 and adjourned to February 21, 2019, pursuant to Elections Code Section 10010(a)(2), the City Council held public hearings where the public was invited to provide input regarding the content of the draft maps that had been released at least seven (7) days before each meeting, and the proposed sequence of elections, and the City Council considered and discussed the same; and

WHEREAS, at the conclusion of the public hearing held on February 21, 2019, the City Council considered this Ordinance adopting the district map known as Map 401a with Districts 2 and 4 holding elections in 2020 and every four years thereafter, and Districts 1 and 3 holding elections in 2022 and every four years thereafter. Thereafter, the City Council introduced this Ordinance for first reading; and

WHEREAS, at a regular meeting of the Moorpark City Council held on March 6, 2019, pursuant to Elections Code Section 10010(a), the City Council held a final public hearing on the proposal to establish the district boundaries and sequencing for the election of City Councilmembers, read this Ordinance for the second time, and approved this Ordinance adopting Map 401a, with Districts 2 and 4 holding elections in 2020 and every four years thereafter, and Districts 1 and 3 holding elections in 2022 and every four years thereafter, and retaining the directly elected at-large office of Mayor; and

WHEREAS, throughout the foregoing process, the City engaged a significant amount of public outreach and engagement above and beyond the minimum requirements of the California Voting Rights Act of 2001, including substantial participation by the public in drafting proposed district maps.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. This Ordinance is adopted with respect to the following purposes and findings:

(a) Pursuant to California Government Code Sections 34871, 34886 and Elections Code Section 10010, the City Council votes to approve the change to a district-based election system for the four City Councilmembers whereby all four of

those City Councilmembers shall be elected by the voters of four City Council districts rather than at-large. The office of Mayor shall remain a separately elected at-large office.

(b) Pursuant to California Government Code Section 34886, it is declared the change in the method of electing members of the City Council of the City of Moorpark made by this Ordinance is in furtherance of the purposes of the California Voting Rights Act of 2001.

(c) Providing for the election of City Councilmembers by districts and establishing the district boundaries is exempt from review under the California Environmental Quality Act (CEQA) pursuant to Section 15061(B)(3) of the State CEQA Guidelines, because it can be seen with certainty that the change will not have any potentially significant adverse impact on the environment.

SECTION 2. Chapter 2.08 (“Municipal Elections”) of Title 2 (“Administration and Personnel”) of the Moorpark Municipal Code is hereby amended to read as follows:

### **“Chapter 2.08**

### **MUNICIPAL ELECTIONS**

**Sections:**

- 2.08.010 Procedure for Holding Elections.**
- 2.08.020 At-Large Election of Mayor.**
- 2.08.030 City Council Districts Established.**
- 2.08.040 Election of City Councilmembers by District.**
- 2.08.050 Election Sequence.**
- 2.08.060 Adjustment of City Council District Boundaries.**

**2.08.010 Procedure for Holding Elections.**

All city municipal elections shall be held in accordance with the election laws of the state of California, as the same now exists or hereafter may be amended, for the holding of municipal elections.

**2.08.020 At-Large Election of Mayor.**

The Mayor shall be a separately elected at-large office, as required by Measure D, approved by the voters of Moorpark on November 8, 1988.

**2.08.030 City Council Districts Established.**

Four City Council districts are hereby established in the City of Moorpark. The boundaries and identifying number of each district shall be as described on the official “Council District Map” on file in the Office of the City Clerk.

**2.08.040 Election of City Councilmembers by District.**

A. Commencing with the November 2020 general municipal election, City Councilmembers shall be elected “by districts” as defined in California Government Code Section 34871. Except for the Mayor, a person shall not be eligible to be elected as a City Councilmember unless he or she is otherwise qualified as required by law, resides in the geographical area making up the district from which he or she is nominated to be elected and is a registered voter of the City of Moorpark at the time nomination papers are issued to the candidate as provided in California Elections Code Section 10227. No term of any City Councilmember that commenced on or prior to the effective date of this Chapter, as amended, shall be affected by the requirements of this Section prior to the expiration date of the City Councilmember’s current term.

B. Registered voters signing nomination papers or voting for a City Councilmember shall be residents of the geographical area making up the district from which the Member is to be elected.

C. The terms of the office of the Mayor and each City Councilmember are set forth in Section 2.04.045.

**2.08.050 Election Sequence.**

Commencing with the General Municipal Election in November of 2020 and thereafter, the voters in Council Districts 2 and 4 shall elect City Councilmembers by district for full four (4) year terms and the Mayor shall be elected at large for a two (2) year term. At the general municipal election in 2022 and thereafter, the voters in Council Districts 1 and 3 shall elect City Councilmembers by district for full four (4) year terms and the Mayor shall be elected at large for a two (2) year term.

**2.08.060 Adjustment of City Council District Boundaries.**

A. Pursuant to Elections Code Section 21601, following each decennial federal census, and using that census as a basis, the City Council shall adjust the boundaries of any or all of the council districts of the City so that the council districts shall be nearly equal in population and shall comply with all applicable provisions of law. Any adjustment of district boundaries shall be made by ordinance adopted by the City Council before the first day of November of the year following the year in which each decennial federal census is taken commencing with the 2020 federal census. The City Council shall hold a public hearing on the proposed district boundaries as required by Elections Code Section 21607 prior to the introduction of an ordinance adjusting the district boundaries.

B. At the time of any annexation of territory to the City, the City Council shall designate, by resolution adopted by a vote of at least a majority of the

City Council, the contiguous district to which the annexed territory shall be a part and shall amend the district boundaries if necessary in accordance with Elections Code Section 21603.

C. Pursuant to Elections Code Section 21606 the term of office of any City Councilmember who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which he or she was elected.

D. At the first election for City Council following adjustment of the district boundaries pursuant to this section, a person meeting the requirements of Government Code Section 34882 shall be elected to the City Council for each district under the readjusted district plan. The election of a City Councilmember by a district shall occur in the year in which the term of an incumbent City Councilmember elected by the district, if any, is due to expire.”

SECTION 3. The official “Council District Map” referenced in Section 2.08.030 of the Moorpark Municipal Code is hereby approved and is attached hereto as Exhibit “A” to this Ordinance and incorporated herein by this reference. The official “Council District Map” shall be kept on file in the Office of the City Clerk.

SECTION 4. If necessary to facilitate the implementation of this Ordinance, the City Clerk is authorized to make technical adjustments to the district boundaries that do not affect the populations of the districts, the eligibility of candidates, or the residence of elected City Councilmembers within any district. The City Clerk shall consult with the City Manager and City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts.

SECTION 5. To the extent the terms and provisions of this Ordinance may be inconsistent or conflict with the terms of conditions of any prior City ordinance, motion, resolution, rule, or regulation governing the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof.

SECTION 6. This Ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 7. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 8. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a written record of the passage and adoption thereof in the minutes of the proceedings of the City Council at which the same is passed and adopted; and shall publish notice of adoption in the manner required by law.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2019.

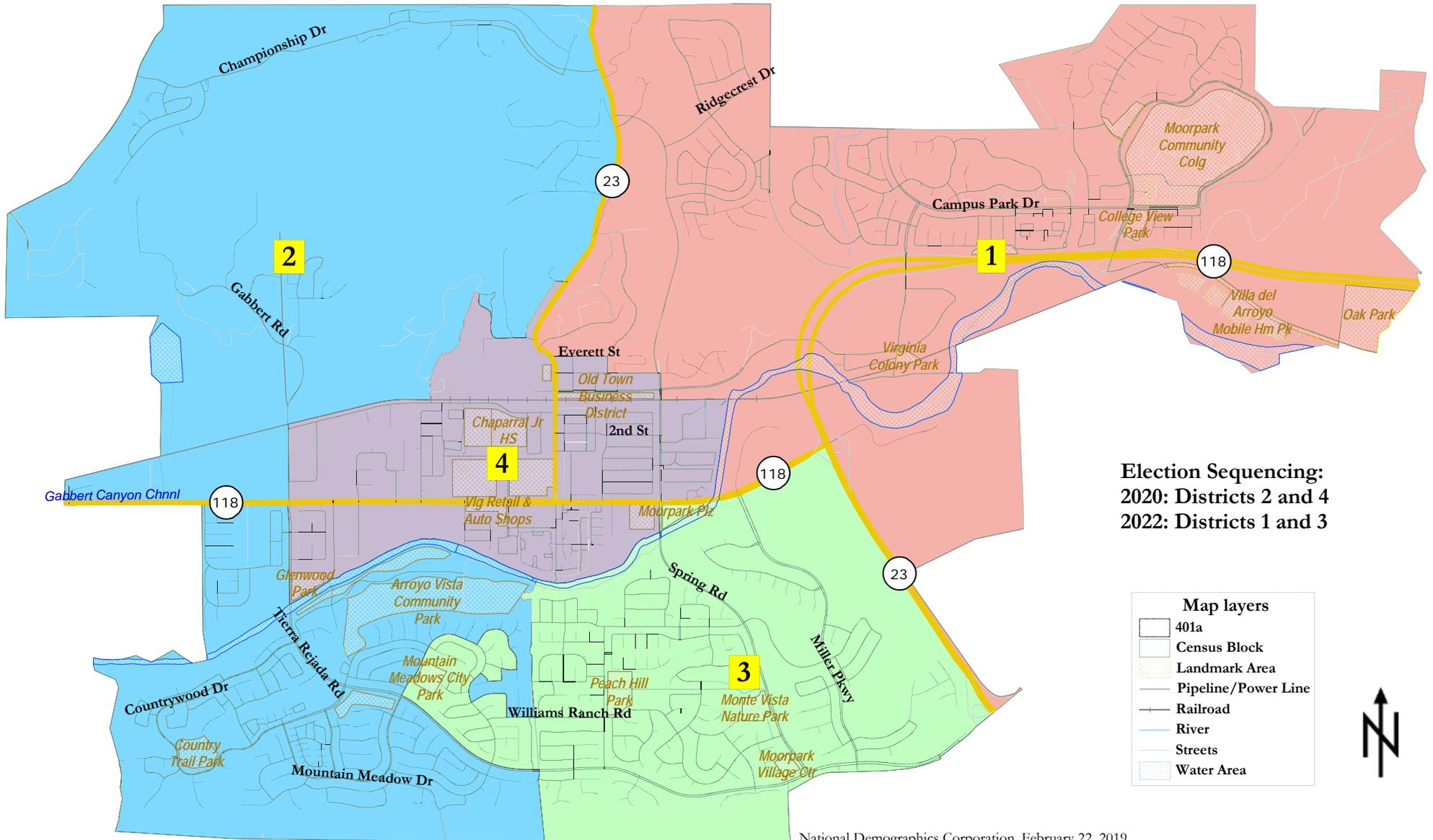
\_\_\_\_\_  
Janice S. Parvin, Mayor

ATTEST:

\_\_\_\_\_  
Maureen Benson, City Clerk

# City of Moorpark 2019 Districting

## Map 401a



**Election Sequencing:**  
 2020: Districts 2 and 4  
 2022: Districts 1 and 3

- Map layers**
- 401a
  - Census Block
  - Landmark Area
  - Pipeline/Power Line
  - Railroad
  - River
  - Streets
  - Water Area



**Deborah Traffenstedt**

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**From:** David Pollock  
**Sent:** Monday, February 25, 2019 11:48 AM  
**To:** Troy Brown; Deborah Traffenstedt  
**Subject:** Language for Reconsideration

During the sequencing of council districts at the February 21 meeting, we scheduled District 4 for 2020 and then had to choose one more district from the remaining three. Since the incumbent councilmembers have a personal interest in the outcome of this decision, and since there was no compelling reason to choose one over the other, the decision should have been left to a random drawing. I'm asking that the council reconsider this decision using a random drawing for the second district to be sequenced in the 2020 election.

David

## Sequencing Options for Final Draft Maps at 2/21/19 Meeting With Central Downtown District Sequenced for 2020 Election

	<u>Option 1</u>		<u>Option 2</u>		<u>Option 3</u>	
	2020	2022	2020	2022	2020	2022
<b>401a</b>	District 4 (vacant)  District 1 (Enegren/Mikos)	District 2 (Pollock/Simons)  District 3 (vacant)	District 4 (vacant)  District 2 (Pollock/Simons)	District 1 (Enegren/Mikos)  District 3 (vacant)	District 4 (vacant)  District 3 (vacant)	District 1 (Enegren/Mikos)  District 2 (Pollock/Simons)
<b>418a</b>	District 4 (vacant)  District 1 (Pollock/Simons)	District 2 (Enegren/Mikos)  District 3 (vacant)	District 4 (vacant)  District 2 (Enegren/Mikos)	District 1 (Pollock/Simons)  District 3 (vacant)	District 4 (vacant)  District 3 (vacant)	District 1 (Pollock/Simons)  District 2 (Enegren/Mikos)
<b>422a</b>	District 3 (vacant)  District 1 (Enegren/Pollock/ Simons)	District 2 (Mikos)  District 4 (vacant)	District 3 (vacant)  District 2 (Mikos)	District 1 (Enegren/Pollock/ Simons)  District 4 (vacant)	District 3 (vacant)  District 4 (vacant)	District 1 (Enegren/Pollock/ Simons)  District 2 (Mikos)