

LETTER BY RALPH DENNIS

TO THE BENICIA CITY COUNCIL ON AT-LARGE v. DISTRICT VOTING IN BENICIA

January 21, 2020

The Council should vote NO to proceed with changing the election of council members from at-large to district-based elections. Benicia's demographics, and the results of BUSD's recent change to district elections for its Board members, demonstrate that (1) the conditions under the CA Voting Rights Act requiring such a change do not apply in Benicia, and (2) even if they did moving to district elections would not resolve the problem as the revised BUSD districts show.

I have struggled with this issue in trying to decide what made sense for Benicia. I am uncomfortable arguing against the voting rights act, CA's or the federal version – for all the history associated with obstruction of voting rights and the reasons we need these laws today to ensure voting access to all. I also don't personally believe that political implications of making the change – either on sitting council members who may wish to run again, or for prospective new candidates. Even though the CA Voting Rights Act seems to have a provision addressing the impact on sitting elected officials. I believe the decision to change should be based solely on what's best for the community and its voters. That's not to say there are political implications involved in whether to make the change.

And, I still believe it's about what's best for the community. And, now, there is ample legal analysis showing there is no evidence of "racially polarized voting" in Benicia, which the CA Voting Rights Act establishes as the reason for making the change from at-large to district-based elections. I won't reiterate the analysis and findings in Terry Mollica's recent letter to Council laying out his opposition to the change. Simply put, you the Council now have a bona fide, alternative legal basis to keep at-large elections, if you choose to accept it. To borrow a description I heard at a recent meeting on this issue, it really is a solution in search of problem in Benicia.

Which brings me to the other reason why the move to district-based elections should not be made. I have now realized how much easier it would be for large amounts of outside money to influence the results of Council elections, if Council seats for elected by district. Under Benicia's current campaign ordinances, candidates running for Benicia Council seats may choose to limit their spending to \$28,000, which candidates almost always voluntarily accept. However, unlimited independent expenditures by other parties and organizations are permitted under existing federal law and court decisions. And, in 2018, during Benicia's Council elections \$250,000 was spend by outside parties in that election. During that election and since, each of you in some form or fashion has expressed concern about that. With district-based elections, outside money can be targeted by district, not community wide, making it virtually impossible for individuals and community-based organizations to compete – with financial support for a competing candidate, or even finding a candidate to run. This, of course, is not the intent of the voting rights law but in Benicia that will be a consequence, intended or otherwise.

I know we can't stop the outside money, but Council shouldn't just give outside influences the keys to the City and make it easier to choose their candidates and get them elected. We should try and maintain a level playing field for candidates, to the extent allowed by law. Moving from at-large to district-based elections tilts that playing field unfairly toward those with lots of money. Without question.

I assume the reason this issue is on the agenda for discussion is because of what's been happening across CA, including at several cities in the Bay Area, regarding threats made by law firms to sue cities and school boards that don't change. Trying to be proactive, perhaps. The timing, though, for this issue to be an Agenda Item is another matter. Benicia has not yet received such a threat, as far as I know. 2020 is also a census year, which means if district-based elections are implemented then Benicia would likely have to go back to the drawing board again in 2021 to redraw its districts. Plus, 2020 is an election

year with two Council seats up for election, and if district-based elections are implemented then some prospective candidates would likely be unable to run in 2020.

You have a legal basis on which to base a decision to keep at-large elections. To avoid the need to redraw the boundaries again in 2021, and to avoid the perception that the move to district elections is politically motivated, I urge the Council to vote NO on the resolution to change from at-large to district-based elections.

Ralph Dennis
Benicia