



Midpeninsula Regional
Open Space District

R-21-107
Meeting 21-23
August 11, 2021

STUDY SESSION AGENDA ITEM 1

AGENDA ITEM

Redistricting Process Overview and Proposed Redistricting Criteria

GENERAL MANAGER'S RECOMMENDATION *den*

Receive a presentation on the redistricting process, including relevant laws and statutes, and provide feedback on the proposed redistricting criteria, which will be refined and brought back for approval at a later date. No Board action required.

SUMMARY

Midpeninsula Regional Open Space District (District) is required by law to redistrict its seven-member Board of Director (Board) ward boundaries following each federal decennial census to ensure voting power and representation is distributed equally, based on population size. The redistricting process for special districts is mandated by California Elections Code section 22000, which incorporates federal statutes and constitutional requirements, including the Voting Rights Act, and outlines criteria that may be considered while adjusting boundaries. Citygate GIS, Inc., a demographic consulting firm, is assisting the District with redistricting and will provide an overview of the redistricting process, clarify relevant laws and statutes, and present a draft set of redistricting criteria.

DISCUSSION

2020 Redistricting Legal Landscape

Redistricting is the process of dividing a jurisdiction into districts for representation. This process ensures voting power and representation is distributed equally, based on population size. In California, redistricting occurs in state, county, and local jurisdictions, as well as many school districts and special districts. The District is required to adjust the boundaries of its seven wards following each federal decennial census using the results of that census as the basis for boundary adjustments while adhering to all federal and state requirements. A glossary of useful terms and definitions are provided in Attachment 1.

California law establishes procedures and criteria to which special districts adjust and adopt ward area boundaries, for the purpose of electing members of the governing body, or board of directors. A table summarizing how these criteria are applied in redistricting process is provided below.

Application of California Elections Code Criteria

Criteria	Usage	Definition and background information
Equal population	Required “as far as practicable”	Populations between wards should be equalized “as far as practicable.” Under California law, local governments are required to draw lines so the difference between the largest population ward and the smallest population ward is within 10% of the size of the ideal ward (defined as the District’s total population divided by the number of ward seats). While there is no absolute rule regarding the permissible amount of deviation from the ideal population of a ward, many local governments adhere to population variation thresholds of $\pm 1\%$ to 5%.
Federal Voting Rights Act	Must comply	Prohibits racial discrimination and vote dilution in redistricting. Detailed information is provided in the next paragraph and in Attachment 1.
Topography/ Geography	Discretionary	The principle that wards should follow natural topographic and geographic features, especially if these features define a community and/or restrict access between communities. Examples are major roads, highways, and streams.
Cohesiveness, contiguity, and compactness of territory	Discretionary	<p><i>Cohesiveness</i>: the principle that all wards should maintain geographically and culturally cohesive neighborhoods.</p> <p><i>Contiguity</i>: the principle that all wards should be physically adjacent and refers to the appearance or shape. A ward is considered contiguous if all parts of the ward are in physical contact with some other part of that ward. Wards consisting of two or more unconnected areas or wards that meet only at adjoining corners are not contiguous.</p> <p><i>Compactness</i>: the principle that the constituents residing within a ward should live as near to one another as possible. In other words, wards should not bypass nearby populated areas in favor of more distant populated areas. Compactness does not refer to geometric shapes, but rather the ability for citizens to relate to each other and their representatives, and vice versa.</p>
Communities of Interest in the Division	Discretionary	<i>Communities of interest</i> is defined as a group of people in a geographical area, such as a specific city, town, region or neighborhood, who have common political, social or economic interests and should be included within a single ward for effective and fair representation. Examples include ethnic and language minorities, as well as downtown/urban communities, rural/agricultural communities, homeowners or renters, senior citizens, and students.

California law incorporates federal statutory and constitutional requirements regarding redistricting, including the federal Voting Rights Act of 1965 (VRA) that among other things prohibits racial discrimination in redistricting. For example, under section 2 of the VRA, the District is prohibited from drawing ward boundaries that will dilute the ability of racial and language minority groups to elect the candidates of their choosing. More specifically, the District should avoid both “packing” (filling a ward with a disproportionate share of residents of a given group) and “cracking” (dividing a group among wards to dilute their political power) of racial

and language minority groups when drawing ward boundaries. At the same time, the District must generally avoid making racial considerations the “predominant” factor in drawing the lines, to comply with the limitations on racial gerrymandering that the U.S. Supreme Court has articulated in a series of cases going back to the early 1990s.

The legal landscape surrounding redistricting is complex, and in 2019 state law changed the drawing and public outreach requirements for city and county governments. The FAIR MAPS Act (AB 849) prioritizes the geographic preservation of communities of interest, cities, and census designated places to minimize division as far as practicable. While the FAIR MAPS Act only applies to county and city jurisdictions, the District plans to conduct a transparent redistricting process that invites public input and proposes a set of redistricting criteria while continuing to meet the unique needs of the District.

Proposed criteria to guide the redistricting process

Staff recommends that the Board consider adopting criteria to guide the redistricting process. There is no priority or ranking implied by the order in which the criteria are listed. The proposed criteria integrates the state law requirements listed above, are based on principles adopted by the Board during the District’s last restricting process in 2011, adhere to all applicable laws, and align with current redistricting best practices. The proposed criteria are:

- i. Comply with all applicable laws, including the avoidance of gerrymandering.
- ii. Ward boundaries should be substantially equal in population.
- iii. Ensure that minority voting strength is not diluted and avoid the fragmentation or over-compaction of minority groups as provided in the Voting Rights Act.
- iv. Maintain cohesive neighborhoods and communities of interest and, where possible, keep city representation intact within a single ward.
- v. To the extent possible, ward boundaries shall be created to contain compact, cohesive, and contiguous territory.
- vi. To the extent possible, minimize resident reassignment to avoid voter confusion.
- vii. To the extent possible, avoid altering ward configuration in the Coastside Protection Area.
- viii. Unless otherwise required by law, ward boundaries shall be created using 2020 Census geography and population data.

Overview of the redistricting schedule and approach

Project Consultant

After a competitive consultant selection process in the fall of 2020, Citygate GIS, Inc. (Citygate) was selected and awarded a contract as the most qualified firm to complete the District’s redistricting project. Citygate was chosen based on their redistricting expertise and competency, technological approach, familiarity with the region, and overall cost. Citygate also provides mapping software to view redistricting plans and receive and track public comments. Additionally, the District retained outside legal counsel with Nielsen Merksamer, LLP., a firm specializing in political law and redistricting to further guide the process.

COVID-19 Impact

Under current law, data to be used for redistricting is due to the states no later than April 1, 2021 (13 U.S.C. 141). The Census Bureau announced significant operational changes in the wake of the COVID-19 pandemic and ultimately missed this statutory deadline. The Census Bureau announced in May 2021 that redistricting data would be released in mid-late August 2021. While this will significantly compress the overall project timeline, there will still be ample time to meet the May 6, 2022 deadline and conduct a thorough analysis, receive public input, and develop a thoughtful redistricting plan that satisfies all legal requirements.

Meeting Schedule

Before the Board takes action to adjust the boundaries of the ward districts, California Elections Code section 22001 requires the District to hold at least one public hearing at which the public is invited to provide input regarding the current ward boundary configuration or adjustment proposal. The District is scheduled to hold at least three public meetings prior to adopting the final ward boundary map. All meetings will occur after 6:00 PM on Wednesdays to provide broad public participation and input. The Board is required to adopt the final map on or before May 6, 2022, or 180 days preceding the election of any board member. A tentative meeting timeline (subject to change) is provided below.

Meeting Type	Meeting date and time	Board action to be taken
Study Session	August 11, 2021 @ 6:00 PM	None; receive informational presentation and receive public input
Regular Meeting	August 25, 2021 @ 7:00 PM	Approve redistricting criteria
Regular Meeting	October 27, 2021 @ 7:00 PM	Consider redistricting scenario maps; provide feedback and receive public input
Regular Meeting	Winter 2022	If needed, consider additional scenario maps; provide feedback and receive public input.
Regular Meeting	Spring 2022	Adopt a resolution on the final map

Public Communication Approach

The District will hold public hearings and mapping sessions, collect community input, and recommend to the Board updated ward boundary alignments. The District will ensure that the redistricting process encourages residents, including those from underrepresented communities and non-English speaking communities, to participate in the redistricting process. Staff are undertaking a robust outreach campaign to ensure communities throughout the District are aware and engaged throughout the redistricting process, utilizing the District's quarterly Newsletter, monthly eNews, social media platforms, and local newspapers to notify the public about meetings and promote feedback opportunities.

Information about the District's redistricting process, the schedule of meetings, and additional avenues for members of the public to provide input is available at <https://www.openspace.org/our-work/projects/ward-redistricting>.

FISCAL IMPACT

There is no fiscal impact associated with the recommendation.

BOARD AND COMMITTEE REVIEW

On October 10, 2020, District staff provided a [memo](#) updating the Board on the consultant selection process, delays on receiving 2020 Census data, and background on the 2010 redistricting process.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act. Additional notification was also provided to the District Agenda interested party subscribers, individuals who expressed interest in the District redistricting process, Good Neighbor Policy and Basic Policy, and community organizations.

CEQA COMPLIANCE

This item is not a project subject to the California Environmental Quality Act.

NEXT STEPS

Following the Board's feedback on the redistricting criteria recommendations in this report, staff will return to the Board on August 25, 2021 for Board consideration of the proposed criteria to guide the redistricting process.

Attachment

1. Redistricting Glossary (Fairvote.org)

Responsible Department Head:

Casey Hiatt, Information Systems & Technology

Prepared by:

Jamie Hawk, GIS Program Administrator, Information Systems & Technology

Resources (/resources) / Election Information (/election_information)

/ Redistricting (/redistricting) / Redistricting Glossary

FairVote (/)

Redistricting Glossary

Glossary

Redistricting has an impact on every American voter, but is often an opaque process with an insiders' vocabulary that can be a source of confusion for people who are unfamiliar with redistricting language. Using pre-existing sources like the Texas Legislative Council, NCSL, Redistricting the Nation and Louisiana's Redistricting, along with our own analysis, here is a guide to key terms frequently used within the redistricting community.

Alternative Population Base: Population count other than the official census data that is used for redistricting. One example of an alternative population base is "voting age population."

Alternative voting system: See "proportional voting"

American Community Survey (ACS): Ongoing census survey sent to a sample of three million housing units annually. The ACS collects detailed demographic and socioeconomic population and housing characteristics, similar to the information collected on the former long form census questionnaire. The data is collected continuously rather than once a decade, so the ACS provides more current data.

Area dispersion: Measurement comparing the relative degree to which a district's area is compact with the area of a similar compact figure. It is the ratio of the area of the district to the area of the smallest convex polygon that can enclose the district. [See "compactness".]

Assignment unit: Unit of geography that may be used as a building block to draw a redistricting plan.

Bailout: The power jurisdictions covered by Section Five of the Voting Rights Act have to seek their permanent removal from preclearance requirements.

Candidate of choice: The candidate favored by a like-minded group of racial minority voters in a district. The Voting Rights Act requires that certain minority groups be given enough numbers in a district so that the minority group has the ability to elect their own candidate of choice without being continually outvoted by racial/ethnic majorities.

Census: Process of surveying and counting the U.S. population, using mailed surveys and in-person visits to homes, mandated by the U.S. Constitution and done every ten years by the federal government. Its results are used for reapportioning House seats among the states and redistricting districts within states. The last Census took place in 2010.

Census block: Smallest unit of census geography for which population data are counted and reported. Census blocks are delineated by the Census Bureau and are generally bounded by physical features such as roads, creeks, or shorelines, but also may be bounded by invisible features such as city, county, school district, or voting precinct boundaries. Census blocks are generally between 30,000ft² and 40,000ft².

Census block group: Subdivision of a census tract composed of a group of contiguous census blocks.

Census Bureau: Government agency that is responsible for the United States Census. It also gathers other national demographic and economic data. As part of the United States Department of Commerce, the Census Bureau serves as a leading source of data about America's people and economy.

Census Designated Place (CDP): Densely settled, unincorporated area locally identified by a name, such as an unincorporated town, for which the Census Bureau reports population. The boundaries of a census designated place are established by the Census Bureau in cooperation with state and local government officials.

Census tract: Set of block groups combined to create a unit of census geography delineated by local committees in accordance with census bureau guidelines for the purpose of collecting and presenting decennial census data.

Choice voting: A form of proportional representation (PR) that is used in some American elections and is widely used for local and some national elections in democracies such as Australia, Ireland, Malta and United Kingdom. Under choice voting, like-minded representatives win seats in multi-seat districts in proportion to their share of voting support. Choice voting also assures that political parties or candidates will gain the percentage of legislative seats that reflects their public support. Choice voting is also called "single transferable vote" and "preference voting."

Citizen Voting Age Population CVAP: Number of persons in a geographic unit who are citizens and at least 18 years of age.

Community of interest (COI): Group of people in a geographical area, such as a specific region or neighborhood, who have common political, social, or economic interests. Examples of COI's are groups who are committed to preserving a local park, creating a new subway line in a city or achieving increased funding for a community college.

Compactness: Minimizing the distance between all parts of a district. There are many types of compactness measures including: area dispersion and perimeter.

Contiguity: A district that is within one continuous boundary and whose parts all touch one another at more than a point. All districts in the United States must be contiguous, however, some districts stretch the limits of this requirement by connecting different landmasses through water or having two districts intersect at a single point that takes up no area.

County lines: The boundary between counties within a state. Splitting counties between districts is prohibited in certain states when it is possible to keep them intact.

Cracking: Splitting a like-minded voting group's electoral strength by dividing its population into multiple districts.

Cumulative voting: A semi-proportional voting system used in about seventy American jurisdictions in which voters cast as many votes as there are seats. But unlike winner-take-all systems, voters are not limited to giving only one vote to a candidate. Instead, they can put multiple votes on one or more candidates. For instance, in an election for a five-seat body, voters could choose to give one vote each to five candidates, two votes to one candidate and three to another, or all five votes to a single candidate. If members of a minority group work together and get behind a single candidate, "plumping" all of their votes on him or her, they can hope to elect that candidate, even if they only make up a minority share of the population.

Department of Justice (DOJ): Department within the federal government's executive branch which ensures that federal law is followed and prosecutes offenders when it is not. The DOJ has a Voting Section that monitors state election law and enforces the Voting Rights Act.

Deviation: Amount or percentage by which a district's population varies from that district's ideal population.

Dilution: Reduction in the voting strength of a particular group resulting from redistricting and use of winner-take-all elections. The phrase "minority vote dilution" describes racial minorities being in a position of not being able to elect candidates of choice.

District: Boundaries that define the constituency of an elected official. A district can include one or more elected legislators.

Fourteenth Amendment to the U.S. Constitution: Provision of the U.S. Constitution that includes the Equal Protection Clause, which prohibits the states from denying persons equal protection of the law. The Equal Protection Clause is the primary basis of the one-person, one-vote principle, which courts in redistricting cases have defined to mean equality of population (including non-eligible voters) in districts.

Fifteenth Amendment to the U.S. Constitution: Provision of the U.S. Constitution that prohibits the right to vote from being denied or abridged on account of race.

Gerrymander: Drawing a district with boundaries that favor one or more groups of voters and/or some candidates over others.

- **Partisan gerrymandering:** Drawing a district to favor one political party over others.
- **Racial gerrymandering:** Drawing a district to favor one racial group over others.

Ideal district population: Number of people that should be in each of a jurisdiction's districts. This number is calculated by dividing the total population of the jurisdiction by the number of districts being created. The number can vary if other measures are used such as voting age population, citizens voting age population and registered voters.

Incumbent protection: Drawing a district to aid the incumbent with reelection. [See "gerrymandering."]

Influence district: A district in which a racial minority does not have the ability to elect a candidate of choice, but makes up a substantial number of voters with the theoretical power to influence who wins the election.

Like-minded voters: Voters who by nature of their race, ethnicity, partisan affiliation, political philosophy or some other characteristic tend to vote for the same candidate.

Limited voting: A semi-proportional voting method used in several dozen U.S. jurisdictions in which voters cast fewer votes than there are seats to be elected, thereby allowing a majority group to control the majority of seats, but not *all* seats. The greater the difference between the number of seats and the number of votes, the greater the opportunities for fair representation.

Majority-minority district: District where a minority group composes a majority of the population. Also can be called "minority opportunity districts."

Method of equal proportions: Mathematical formula prescribed by federal statute that is used to reapportion congressional seats among the states after each decennial census.

Multi-member district: A district that elects more than one member to a legislature. Used for legislative elections in several states and thousands of local elections, although the number of legislators elected from multi-member districts has declined sharply over the past century.

Nesting: Redistricting method of creating two or more state lower legislative chamber districts that are completely contained within the boundaries of a state upper legislative chamber district.

One person, one vote: Constitutional principle based on Article I, Section 2 and the 14th Amendment which holds that each person's vote should count the same as every other person's vote. Under this principle each district within a jurisdiction should have the same or substantially the same population. This definition in fact suggests a right to districts with equal number of constituents rather than a right to districts with an equal number of voters. The standard for exact population equality is very strict for congressional districts, but less so for state and local government, with 10% population deviations permitted in state legislative districting.

P.L. (Public Law) 94-171: 1975 federal law that requires the U.S. Census Bureau to provide, each state with Census data that the states will need for redistricting. This data is typically provided by April 1st of each year following the completion of a census.

P.L. (Public Law) 105-119: 1997 federal law that requires the U.S. Census Bureau to make census data available to the public. This data is typically provided early in the year after the census is completed.



Packing: Consolidating a minority group's population into one district to give it more representation than is needed to create a majority in that district while reducing its presence, and electoral influence, in surrounding districts.

Perimeter: Ratio of the area of the district to the area of a circle with the same perimeter as the district. [See "compactness."]

Plurality: A percentage of votes that, although not being the majority, is the winning total because it is higher than all than any other candidate in an election received. (Sometimes inaccurately called "first past the post," but there is no "post" or minimum level of support necessary to win.)

Polarization: Elections in which substantial grouping of voters in a district have overwhelmingly distinct preferences. Used when applied to racial group preferences as a condition for winning Section Two cases under the Voting Rights and often discussed in the context of distinct political preferences and concerns about excessive partisanship in legislatures.

Population: The total number of people, including noncitizens and children, who reside in a jurisdiction.

Preclearance: Review of a jurisdiction's redistricting plan by the U.S. Department of Justice or the U.S. District Court for the District of Columbia, clearing it as passing the standards set by Section 5 of the Voting Rights Act of 1965, as amended in 1982 and 2006. The preclearance process takes up to 60 days and if the DOJ objects to the change the state has three options: 1) accept the objection and modify its proposal; 2) as for a reconsideration; and 3) file suit in the U.S. District Court for the District of Columbia seeking a declaratory judgment that their proposal is valid under the VRA. The Department over time has precleared more than 99% of all preclearance requests.

Proportional voting: A non-winner-take-all voting method used to elect legislators in a district with more than one seat. "Proportionality" describes the ability of like-minded voters to elect candidates in proportion to their share of the vote, not any guaranteed outcomes for any particular group of voters.

Racially polarized voting/racial bloc voting: Circumstances where the voting preferences of a particular group consistently vary from the preferences of other groups. When a white majority consistently defeats the preferences of a racial minority that is protected under the Voting Rights Act, a jurisdiction may need to change its district plan and/or electoral structure under Section 2 of the Voting Rights Act.

Reapportionment: Process of redistributing the number of seats in a jurisdiction's legislative body to the districts of that jurisdiction based on the results of the latest Census. For example, due to particularly large population increases, Texas' congressional delegation will increase by four seats in 2012 while other states like New York and Michigan will lose seats following the 2010 reapportionment.

Redistricting: Process of redrawing the districts within a jurisdiction to reflect the results of the reapportioning process as well as the results of the Census; for example, congressional district boundaries may be changed to account for population shifts within a state.

Sampling: Method of measuring a part of a population and extrapolating out to determine the full population. This technique is not allowed for conducting the federal census.

Sections 2 and 5 of VRA: See "Voting Rights Act"

Single-member district: A district that only elects one representative. Required for U.S. House district by a 1967 statute, not by the Constitution.

Submissions (VRA): Process that jurisdictions, which are covered by the VRA take in order to change their voting laws and district lines. The process requires the jurisdiction to submit any to the Department of Justice and gives the DOJ 60 days to object to the new plan. The DOJ can object to the plan and the jurisdiction at that point has the option to accept the objection and modify the plan, ask for reconsideration or ask the District Court for the District of Columbia to overrule the DOJ.

Traditional districting principles: Term often used to refer to criteria, such as compactness and contiguity, which have historically been considered in drawing legislative or other districts.

Undercount: Error in Census data due to counting mistakes or inability to count some persons.

Voting age population (VAP): Number of persons in a geographic unit who are at least 18 years of age.

Voting Rights Act (VRA): Federal law prohibiting discrimination in voting practices on the basis of race or language group. [See also "Department of Justice"]

- **Section 2:** Prohibits states and other jurisdictions from maintain voting laws, standards or practices that abridge the right to vote on the basis of race or language group. Covers all parts of the United States.
- **Section 5:** Requires that jurisdictions that have been determined to violate Section 2 and placed on a watchlist receive preclearance from the U.S. Department of Justice or the District Court for the District of Columbia for any changes to districts or other voting laws. Section 5 covers nine states and portions of seven others.

For more redistricting definitions, see:

NCSL: http://www.ncsl.org/documents/legismgt/Watson_Glossary_Lexicon.pdf
(http://www.ncsl.org/documents/legismgt/Watson_Glossary_Lexicon.pdf)

Redistricting the Nation: <http://www.redistrictingthenation.com/glossary.aspx>
(<http://www.redistrictingthenation.com/glossary.aspx>)

The Louisiana House: http://house.louisiana.gov/h_redistricting2011/2011_GLOSSARYOFTERMS.pdf
(http://house.louisiana.gov/h_redistricting2011/2011_GLOSSARYOFTERMS.pdf)

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