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October 21, 2021

Board of Supervisors
44 N. San Joaquin Street, Suite 627
Stockton, CA 95202

Dear Board Members:

**Adopt Ordinance Rescinding San Joaquin County Code of Ordinance Title 2, Division 1,
Chapter 1 Supervisorial Districts Conditioned Upon Adoption of a Resolution Adopting
Boundaries for Supervisorial Districts Pursuant to Elections Code § 21500 *et seq.*
(Said Ordinance Introduced and Reading Waived on October 26, 2021)**

Recommendation:

It is recommended that the Board of Supervisors:

1. Adopt an ordinance repealing and rescinding Ord. 1649; 1841; 2667; 3625; Ord. 4112 § 3, 2001; Ord. No. 4410, § 3, 8-2-2011; Ord. No. 4414, § 2, 9-13-2011, codified as San Joaquin County Code of Ordinance Title 2, Division 1, Chapter 1 Supervisorial Districts conditioned upon this Board's adoption of a Resolution adopting boundaries for Supervisorial Districts pursuant to Elections Code § 21500 *et seq.*; and
2. Authorize the Clerk of the Board to publish the summary of the ordinance including the final vote pursuant to Government Code § 25124.

Discussion:

Background

The United States government conducts a general census every ten years. Under federal law, state-specific census data was to be delivered to each state as "expeditiously as possible" but no later than March 31 in the year following the census to allow for State and local redistricting

pursuant to the states' elections codes. Unfortunately, the 2020 census data was not delivered to the states until August 2021.

Pursuant to Elections Code Section 21500(a) ...“following each federal decennial census for a county whose board is already elected using district-based elections, the board shall, by ordinance *or* resolution, adopt boundaries for all of the supervisorial districts of the county so that the supervisorial districts shall be substantially equal in population as required by the United States Constitution.” (Emphasis added.)

Historically, following receipt of the state census, the County has adopted an ordinance describing the five Supervisorial District boundaries and codifying the ordinance in San Joaquin County Code of Ordinance Title 2, Division 1, Chapter 1 titled Supervisorial Districts.

To adopt an ordinance, pursuant to Government Code 25210 *et seq.*, the County must first introduce the ordinance at a regular meeting and then can adopt the ordinance at a regular meeting no less than five days after the introduction. The ordinance then becomes effective 30 days after the adoption date. Accordingly, the adoption of an ordinance requires at least 2 regular Board meetings, a minimum of 5 days apart, and an additional 30 days before the ordinance becomes effective. The County has traditionally had time for this lengthy ordinance process due to its receipt of the census data in March.

Unfortunately, due to the delay in the delivery of the 2020 federal census data to the states, it is difficult for counties to adopt the new Supervisorial District boundaries by ordinance in time to meet the December 15, 2021 deadline and public engagement requirements under the Elections Code. Accordingly, this year many counties are adopting the new Supervisorial District boundaries by resolution, as allowed by the Elections Code.

While a resolution is effective to meet the County's redistricting obligations under the Elections Code, a resolution is not equivalent to an ordinance. A Board resolution is a declaration or policy statement while an ordinance is a local law adopted with the legal formality of a statute. Accordingly, if the Board adopts the new Supervisorial District boundaries by resolution while the Chapter 1 ordinance remains in effect, then there is a risk that the ordinance will be interpreted as superseding the resolution. To avoid that risk, staff recommends rescinding the existing Chapter 1 conditioned upon the approval of a resolution adopting the new boundaries.

By conditioning the rescission of Chapter 1 upon the approval of the redistricting resolution, the County is ensuring that in the unlikely event a resolution is not approved that Chapter 1 will remain in effect. At no time during this process will the County not have operative District Boundaries.

Proposed Ordinance

Adopt an ordinance repealing and rescinding Ord. 1649; 1841; 2667; 3625; Ord. 4112 § 3, 2001; Ord. No. 4410, § 3, 8-2-2011; Ord. No. 4414, § 2, 9-13-2011 and amending the San Joaquin

County Ordinance Code to rescind Title 2, Division 1, Chapter 1 Supervisorial Districts effective 30 days from the date of adoption pursuant to Government Code Section 25123 conditioned upon the Board of Supervisors approval of a Resolution adopting new Supervisorial District boundaries pursuant to Elections Code Section 21500 *et seq.*

Reason for Recommendations:

The proposed ordinance allows for passage of new Supervisorial District boundaries as required by Elections Code Section 21500 with one Board of Supervisor meeting without any risk that the existing Title 2, Division 1, Chapter 1 Supervisorial Districts supersedes this Board's redistricting resolution.

Fiscal Impact:

The County will save the expense of amending Title 2, Division 1, Chapter 1 Supervisorial Districts every 10 years following the census to revise the Supervisorial District boundaries. Instead, the Resolution adopting the new boundaries will be available to the public at the Clerk of the Board of Supervisor's office.

Action to be Taken Following Approval:

Thirty (30) days after the date of adoption, the ordinance will become effective pursuant to Government Code Section 25123. Within fifteen (15) days after the date of adoption, the Clerk will cause to be published a summary of the ordinance, shall make available to the public upon request a certified copy of the ordinance, and post the ordinance pursuant to Government Code Section 25124. Thereafter, the San Joaquin County Ordinance Code will be modified to reflect the ordinance.

Very truly yours,



J. Mark Myles
County Counsel

JMM:zpm:kr

c: Board Clerk for Agenda November 2, 2021
Registrar of Voters
Community Development Department

Reviewed by County Administrator's Office:

Reviewed by County Counsel's Office:


Sandra Regalo 10/21/2021


J. Mark Myles, County Counsel 10/21/2021