

**EAST BAY MUNICIPAL UTILITY DISTRICT**

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DATE: May 11, 2021

MEMO TO: Board of Directors

THROUGH: Clifford C. Chan, General Manager *CCC*

FROM: Rischa S. Cole, Secretary of the District *RC*

SUBJECT: 2021-2022 Redistricting Update and Consider Appointing  
Redistricting Ad Hoc Committee

**SUMMARY**

The EBMUD Board of Directors is authorized to adjust District ward boundaries every ten years based on data from the U.S. decennial census. In February 2021, the U.S. Census Bureau announced that due to COVID-19 pandemic related delays, redistricting data would not be released until September 30, 2021. Due to the delay, the District may not receive the data needed to begin its 2021-2022 redistricting efforts until October or November 2021. The District must complete its 2021-2022 redistricting efforts and submit legal ward boundaries and maps to the counties by May 12, 2022 for the November 2022 elections. To prepare for upcoming redistricting efforts, staff will provide an overview of the redistricting efforts and provisions in the Fair and Inclusive Redistricting for Municipalities and Political Subdivisions (FAIR MAPS) Act for Board consideration. The Board will be asked to consider establishing a Redistricting Ad Hoc Committee to determine guidelines and criteria, review census information, and propose redistricting alternatives for the Board's consideration. This item will be presented at the May 11, 2021 Board meeting.

**DISCUSSION**

2011-2012 Redistricting Guidelines

Section 11823 of the Municipal Utility District Act requires the Board by resolution or ordinance to fix the boundaries of the wards for the purpose of electing directors. Election Code sections 22000 and 22001 provide that a special district, such as the District, must adjust boundaries after each decennial census, and use the census data to adjust boundaries of divisions or wards so they are equal in population and comply with federal law. Additionally, sections 22000 and 22001 provide that a governing body may consider (1) topography, (2) geography, (3) cohesiveness, continuity, integrity, and compactness of territory, and (4) community of interests in configuring the division or ward.

These sections also require that the governing body conduct at least one public hearing prior to the public hearing on whether to accept or reject the proposed boundaries. For the 2011-2012 redistricting process, the Board used the following guidelines and criteria:

### *Redistricting Guidelines*

1. To achieve as precise equality of population among wards as possible.
2. Board members residences will be maintained within their current wards.
3. City boundaries will be followed as closely as possible.
4. Ethnic communities will be kept whole as nearly as possible.
5. County precincts will not be split.

### *Redistricting Criteria*

1. Schedule two public meetings in Oakland and one public meeting East of the Hills for public review and comment on alternative redistricting plans.
2. Propose alternative redistricting plans to be made available to the public at least 14 days prior to the first full Board consideration with documentation to include total and eligible voting populations, ethnic composition and maps delineating District, city and county boundaries, when available.
3. Documentation to be made available to the public 14 days prior to the scheduled vote on the final configuration.
4. No substantive amendments to the alternative plans or the final plan during the 14-day review period prior to the final vote on the ultimate redistricting configuration.

### FAIR MAPS Act

In 2019, the California Legislature enacted a series of amendments to the Elections Code known as the FAIR MAPS Act (AB 849 – Bonta). The Act amended Election Code provisions applicable to cities and counties, but did not amend sections 22000 and 22001, which apply to the District.

While these amendments are applicable to cities and counties and do not apply to special districts such as the District<sup>1</sup>, they establish “best practices” regarding what redistricting should achieve and a meaningful public process that should be followed. The FAIR MAPS Act defines what “geographically contiguous” means in establishing boundaries and how “geographic integrity” of any local neighborhood or local community may be respected in a manner that minimizes its division. In this regard, the law defines a “community of interest” as a population that shares common social or economic interests that should be included in the same division or ward for purposes of its effective and fair representation, and encourages geographic integrity of a city or county be respected in a manner that minimizes divisions and boundaries are easily identifiable and understandable to residents.

Attachment 1 compares the redistricting guidelines and criteria used in 2011-2012 with provisions of the FAIR MAPS Act which the Board may consider when determining guidelines for its 2021-2022. In addition to the public outreach items in the 2011-2012, staff plans to use the District’s social media platforms (Facebook, Nextdoor, Twitter), media advisories, and the interactive Ward map on ebud.com for the 2021-2022 process.

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<sup>1</sup> See Cal. Public Utilities Code Section 11823.

Redistricting Ad Hoc Committee

For previous redistricting plans, the Board appointed an Ad Hoc Committee comprised of three Board members to assist in reviewing and commenting on possible changes to ward boundaries based on census data. The Ad Hoc Committee would meet, and with input from the full Board, determine the redistricting guidelines and criteria as well as public outreach activities. Agenda materials for all Ad Hoc Committee meetings would be provided to the full Board. Assuming the District receives census data by October or November 2021, if an Ad Hoc Committee is established, a tentative meeting schedule for the Board and the Ad Hoc Committee is as follows:

<b>Meeting Date</b>	<b>Action</b>
Tuesday, June 22, 2021	Redistricting Ad Hoc Committee meeting – update
Tuesday, August 24, 2021	Redistricting Ad Hoc Committee meeting – update
Tuesday, October 26, 2021	Redistricting Ad Hoc Committee meeting – update
November 2021-February 2022 (dates TBD)	Redistricting Ad Hoc Committee meetings – review proposed redistricting planning meetings
Tuesday, February 22, 2022	Board public hearing to review/consider approving proposed redistricting plan
Tuesday, March 8, 2022	Board public hearing to receive public comment on proposed redistricting plan
Tuesday, April 12 or Tuesday, April 26, 2022	Board adopts resolution fixing ward boundaries for 2022 elections

**NEXT STEPS**

If the Board votes to establish an Ad Hoc Committee at its May 11 meeting, the Ad Hoc Committee will hold its first meeting on June 22, 2021. At the June 22 meeting, the Ad Hoc Committee will discuss and develop redistricting guidelines and criteria, and public outreach activities for the 2021-2022 process, which will be presented for Board consideration at the July 13, 2021 meeting. Staff is confident that the Board will be able to complete its redistricting efforts and approve proposed changes to the ward boundaries in time to submit legal ward boundaries and maps to Alameda and Contra Costa counties in advance of the counties' May 12, 2022 deadline.

Attachment

CCC:RC

2011-2012 District Guidelines/Criteria	Provisions of 2019 FAIR MAPS Act*
<p><b><i>Public Meetings</i></b></p> <p>Schedule two public meetings in Oakland and one public meeting East of the Hills for public review and comment on alternative redistricting plans.</p>	<p><u>Before adopting a final map, the board shall hold at least four public hearings at which the public is invited to provide input regarding the composition of one or more supervisorial districts.</u></p> <p>At least one public hearing shall be held before the board draws a draft map or maps of the proposed supervisorial district boundaries.</p> <p><u>At least two public hearings shall be held after the board has drawn a draft map or maps of the proposed supervisorial district boundaries.</u></p> <p><u>At least one public hearing or public workshop shall be held on a Saturday, on a Sunday, or after 6 p.m. on a weekday Monday through Friday.</u></p> <p>Public hearing buildings shall be accessible to persons with disabilities.</p> <p>If a public hearing is consolidated with a regular or special meeting of the board that includes other substantive agenda items, <u>the public hearing shall begin at a fixed time regardless of its order on the agenda, except that the board may first conclude any item being discussed or acted upon, including any associated public comment, when that time occurs.</u> The time of the public hearing shall be noticed to the public.</p>
<p>Configuration of alternative redistrict plans to be made available to the public at least 14 days prior to the first Board consideration with documentation to include total and eligible voting populations, ethnic composition and maps delineating District, city and county boundaries, when available.</p> <p>Documentation to be made available to the public 14 days prior to the scheduled vote on the final configuration.</p>	<p>Each draft map prepared by a member of the board or by employees of the county shall be accompanied by information on the total population, citizen voting age population, and racial and ethnic characteristics of the citizen voting age population of each proposed supervisorial district, to the extent the county has that data.</p>

\*Underlined text indicates provisions in the FAIR Maps Act that are not in the District’s current guidelines and/or criteria

2011-2012 District Guidelines/Criteria	Provisions of 2019 FAIR MAPS Act*
<p>No substantive amendments to the alternative plans or the final plan during the 14-day review period prior to the final vote on the ultimate redistricting configuration.</p>	<p>A draft map shall be published on the internet for at least seven days before being adopted as a final map by the board provided that, if there are fewer than 179 days until the county’s next regular election, the draft map may instead be published on the internet for at least three days.</p>
<b><i>Public Outreach/Website Postings</i></b>	
<p>Publish and post notices and agendas for meetings discussing redistricting according to the Brown Act and other applicable regulations</p> <p>Post redistricting information on the District’s website (usually 72 hours before regularly noticed meeting; at least 24 hours before special meeting)</p> <ul style="list-style-type: none"> <li>• Regular updates to website with map recommendations and alternatives</li> <li>• Committee recommended map along with seven (7) alternatives</li> </ul> <p>Provide redistricting information in the Customer Pipeline</p> <p>Send notice of public hearing to consider final map to local officials (letter refer readers to District website)</p> <p>Publish notice of public hearing to consider final map in newspapers of general circulation</p> <p>Encouraged individuals to attend public meetings and the public hearing to consider Committee recommended map or to send letters or emails with comments on redistricting plan</p>	<p>Notwithstanding Section 54954.2 of the Government Code, the board shall publish the date, time, and location for any public hearing or workshop on the internet at least five days before the hearing or workshop. However, if there are fewer than 179 days until the county’s next regular election, the board may publish the agenda on the internet for at least three days before the hearing or workshop.</p> <p>A draft map shall be published on the internet for at least seven days before being adopted as a final map by the board provided that, if there are fewer than 179 days until the county’s next regular election, the draft map may instead be published on the internet for at least three days.</p> <p>Each draft map prepared by a member of the board or by employees of the county shall be accompanied by information on the total population, citizen voting age population, and racial and ethnic characteristics of the citizen voting age population of each proposed supervisorial district, to the extent the county has that data.</p> <p>The board shall take steps to encourage residents, including those in underrepresented communities and non-English speaking communities, to participate in the redistricting public review process. A good faith effort satisfies the requirements of this subdivision. These steps shall include the following:</p>

2011-2012 District Guidelines/Criteria	Provisions of 2019 FAIR MAPS Act*
	<p><u>Providing information to media organizations that provide county news coverage, including media organizations that serve language minority communities.</u></p> <p><u>Providing information through good government, civil rights, civic engagement, or community groups or organizations that are active in the county, including those active in language minority communities, or that have requested to be notified concerning county redistricting.</u></p> <p><u>The board shall arrange for the live translation in an applicable language of a public hearing or workshop held pursuant to this chapter if a request for translation is made at least 72 hours before the hearing or workshop, unless less than five days' notice are provided for the hearing or workshop, in which case the request shall be made at least 48 hours before the hearing or workshop.</u></p> <p>The board shall allow the public to submit testimony or draft maps in writing and electronically.</p> <p>The county shall either record or prepare a written summary of each public comment and board deliberation made at every public hearing or workshop held pursuant to this article. The county shall make the recording or written summary available to the public within two weeks after the public hearing or workshop.</p> <p><u>The board shall establish and maintain for at least 10 years after the adoption of new supervisorial district boundaries, an internet web page dedicated to redistricting. The web page may be hosted on the county's existing internet website or another internet website maintained by the county. The web page shall include, or link to, all of the following information:</u></p>

2011-2012 District Guidelines/Criteria	Provisions of 2019 FAIR MAPS Act*
	<p><u>A general explanation of the redistricting process for the county, in English and applicable languages.</u></p> <p>The procedures for a member of the public to testify during a public hearing or to submit written testimony directly to the board, <u>in English and applicable languages.</u></p> <p><u>A calendar of all public hearing and workshop dates. A calendar listing that includes the time and location of the public hearing or workshop meets the notice required by subdivision (c) of Elections Code section 21508.</u></p> <p><u>The notice and agenda for each public hearing and workshop.</u>  <u>The audio or audiovisual recording and adopted minutes of each public hearing.</u></p> <p><u>Each draft map considered by the board at a public hearing.</u></p> <p><u>The adopted final map of supervisorial district boundaries.</u></p> <p><u>For purposes of this section [governing counties], “applicable language” means any language in which ballots are required to be provided in the county pursuant to Section 203 of the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10503). [The Voting Rights Act provides: “the term “language minority group” means persons who are American Indian, Asian American, Alaskan Natives or of Spanish heritage.”</u></p> <p><u>[For cities, “applicable language” means any language spoken by a group of city residents with limited English proficiency who constitute 3% or more of the City’s total population over 4 years of age for whom language can be determined.]</u></p>

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