

Santa Cruz Sentinel

Are voting districts the cure for too much democracy?

Ross Eric Gibson

June 8, 2020

There is no return to a pre-COVID-19 normalcy when it comes to voting. Our November national election could be mostly mail-in with social-distanced polling stations, while future city council elections will eliminate your ability to vote for most candidates. Santa Cruz appears to suffer from too much democracy, and the cure is district elections. No, you won't get to vote on this issue. Santa Cruz voters already rejected district elections in 2000, so this time the decision was made for you by a Santa Barbara law firm.

Voting districts were promoted in 2000 as good for neighbors and ethnic groups, isolating the university vote so it didn't push town politics to the left, and maybe creating a couple conservative districts. But if districts for county supervisors and San Francisco were the example, such large areas didn't scale, as Santa Cruz's 60,000 residents are the population of San Francisco's Richmond District, and Santa Cruz's 15 square miles don't compare to San Francisco's 47 square miles.

Santa Cruz prides itself on its diversity and inclusiveness for various races, ethnicities, genders, orientations, faiths, disabilities, ages, etc. ("protected classes" under state law). The population of Santa Cruz is 63% Non-Hispanic Whites (40,796 people), 20.6% Latinos (13,171), 9.6% Asians (6,170), 1.4% Blacks (898), 0.7% Native Americans (438), and multi-racial or other at 3.9% (2,520). Representatives from each population group have been elected to the city council, with the possible exception of Native Americans, who at one time were 100% of the Santa Cruz population.

The first voters

When the Santa Cruz Mission was established in 1791, it had only two-padre teams and a small number of Spanish soldiers and workmen, making the local Spanish population at 1.4% in the 1790s. San Jose and Los Angeles were the state's only settler towns, and Spanish authorities regarded them as lawless and unruly, so they proposed to establish Branciforte (East Santa Cruz) as a settlement for skilled retired soldiers, who could serve as an unpaid militia when needed. But no soldiers were willing to settle here at first, due to remoteness, so the government chose "convicts" from Guadalajara prisons, who were mostly debtors or migrant workers imprisoned as vagrants.

Eight convict families came to Santa Cruz in 1797, only to find no buildings, no tools or cash payments, and padres who resented the settlement encroaching on Mission lands. With the help of mission guards, the settlers built grass huts for homes. But the Spanish government never honored its promises, town military laws were strict, and the mission authorities exaggerated Branciforte's faults hoping to get rid of them. So in 1803, the settlers decided to elect their own representatives, making Branciforte the birthplace of democracy in Spanish California. In 1805,

these hardy souls were among the first to call for independence from Spain, and request the missions be closed. During this time the Spanish population hovered around 200, so the combined population of the Mission and Branciforte was around 40% Spanish and 60% Mission Indian. Yet the Branciforte Spanish would also include Russians, Irish, Portuguese, Blacks, and Americans. In 1822, Branciforte lost its township status for several years when its population dropped below 120. During the Spanish era, there were never more than 3,000 Latinos in Alta California.

Descendants of Native Americans and Spanish settlers are still part of our community. Some, identifying as “white,” have been surprised to rediscover their ancestry. The city’s Latino population is 20.6%, even as Latinos are now the majority in California, surpassing in 2014 the 14.92 million non-Hispanic whites with 14.99 million Latinos. While Americans often imagine Latinos only as migrant newcomers, many are long-established Americans in every profession, or popular celebrities, fully assimilated into the California lifestyle which they, in part, helped invent.

The lawsuit

Starting in 2015, scores of statewide lawsuits have been launched alleging discriminatory voting practices, first against school boards, then small towns. These lawsuits are primarily coming from Micah Fargey’s Santa Barbara legal team of Lanny Ebenstein, president of the California Voting Rights Project, and attorney Robert Goodman. Ebenstein is a UC Santa Barbara economics professor, a 1992 Republican nominee for state assembly and the 2010 founder of the California Center for Public Policy — launched to eliminate public sector collective bargaining because he felt “unions have too much influence.” He’s written 10 books on economics, and was described in the New York Times as “sympathetic to many of the ideas of conservatism, but harshly critical of how it is now practiced.” He’s also an adjunct scholar at the Cato Institute, the Libertarian think-tank founded by Charles Koch.

The Santa Barbara lawfirm presented a document: “Abridgment of Latino Voting Rights & Racially Polarized Voting in the City of Santa Cruz,” (ALVR, July 2019). It notes the California Voting Rights Act requires a finding of racially polarized voting, based on how frequently a minority sought office, or had minority votes “diluted” when the majority chose something different. No prejudicial intent nor history of discrimination is required, nor is lack of minority concentration a barrier to prescribing voting districts.

The Santa Barbara firm claimed from 2000-2018, Santa Cruz had 9 Latino campaigns, but only 2 won, and they were both the same person. Except, Michael Hernandez was a councilman from 1996 to 2000, so choosing his lost re-election bid made it seem he was never elected. And not identifying David Terrazas as Latino hid the fact he and Tony Madrigal were both successfully re-elected to office. Having no Santa Cruz Latino run for a state legislative office was cited as damning evidence, while 12 state ballot measures (“Election Day Voter Registration,” “Kidney Dialysis Regulation,” etc.) and 3 local measures (“District Elections,” “Transient Occupancy Tax,” “Public Safety Tax”) were cited evidence of bias against Latino interests, without explanation (ALVR p.15-16).

This shows the “extremely light burden ... to establish a violation” the California Voting Rights Act requires (ALVR p.14). Placing the weight of costs on the accused city, denying any form of defense or recompense, and even voters selecting at-large voting, or rejecting voting districts,

does not count. As the Santa Barbara law firm made clear, no city can prevail once accused. If the city cooperates, it will only pay a \$30,000 fine to the law firm, while fighting the claim would cost hundreds of thousands of dollars plus paying the law firm's cost of prosecuting the city.

At a Sept. 2019 voting districts forum, John Hall asked if district elections were "a solution in search of a problem," noting the city council was already composed of three African Americans, and three women. (Sentinel, 9/8/19). Yet it didn't even seem to be a solution. Pedro Hernandez' San Francisco-based organization Fair Vote studied Santa Cruz Census demographics and concluded the Latino population was so spread out it would be impossible to formulate a Latino district (Good Times, 8/12/19). Former Santa Cruz city councilman David Terrazas, a Latino attorney, observed, "I don't know whether or not there's an actual California Voting Rights Act violation in terms of how our election system is set up here" (SC Local, 9/5/19). Ebenstein said, "... If you're against diversity on the City Council, you're against district elections." (Moddelmog, City on a Hill, Oct. 2019). But that depends how you define diversity, because representing a diverse constituency is different than representing a narrow interest group.

Red flags

District elections may indeed be just what Santa Cruz needs, where neighborhoods feel represented by their own activist on the city council. And the intent is noble. But for some, there are significant red flags. People have worried that it revives the old Ward System, dumped by Santa Barbara voters in the 1960s, but infamous in Chicago, Detroit, and New York's Tammany Hall, for graft, vote trading, and buying elections. It is similar to the Rotten Boroughs of Dickensian England, where renters could be coerced into supporting the landlord's interests. Can a council member be tossed out of office by being evicted from a rental? Some work long hours, and don't have time for an extra job, so a working class candidate may run unopposed. And dividing 60,000 into 8,500-person districts, then discounting children, unregistered voters, and apathetic voters, one is left dividing a few hundred votes among two or three candidates.

There is no accountability, nor measure of success. For despite its name, the California Voting Rights Act is an advocacy tool for eliminating at-large elections, and replacing them with district elections, no matter how small the population, or ineffective the solution. The act's undemocratic process and coercive nature seems far afield of the civil rights battles for equal access and desegregation, where the gerrymander was used to segregate black voters into districts to prevent the dilution of white votes. Full integration seems a drawback to voting districts, and our city council resides mostly in the center of town, meaning only one or two could be on a future city council.

It is for legislators to rule whether at-large elections should be outlawed, and if "extremely light burden ... to establish a violation" lawsuits should continue. What can you do? Both those for and against district elections have the same answer: get involved in your government. Contact your state representatives about your feelings. And most importantly, fill out the 2020 Census, which will define our lives for the next ten years.

Ross Eric Gibson is a former history columnist for the San Jose Mercury News and Santa Cruz Sentinel.