



## WHICH WAY MODESTO?

IS IT TIME TO CHANGE THE WAY WE ELECT CITY COUNCILMEMBERS?



A detailed analysis of Measure I and Measure J on Modesto's November 2007 ballot.

In addition to reading this report, you are invited to attend any or all of the City's informational meetings on this issue:

Wed., Sept. 19, 7pm at the Davis High library

Thur., Sept. 20, 7pm at the Johansen High cafeteria

Fri., Sept. 28, 7pm at Enochs High room M103

Sat. Sept. 29, 2pm at the Maddux Youth Center multipurpose room\*

Wed., Oct. 3, 7pm at the Downey High cafeteria

Thur., Oct. 4, 7pm at the Beyer High cafeteria

Fri., Oct. 5, 7pm at the Modesto High cafeteria\*

This issue is also scheduled for discussion at the City Council's regular October 2nd meeting, at 5:30 pm.

*\*: A Spanish translator will be available at these meetings.*

This brochure is paid for by the City of Modesto. This brochure has been prepared by National Demographics Corporation (NDC) to provide Modesto's voters with detailed, balanced and objective information on the advisory vote measures.

# Introduction

On November 6th, 2007, two Advisory measures ask Modesto voters whether they wish to continue with the City's current system of electing City Councilmembers and which of two options they prefer as a potential replacement:

**Measure I:** Modesto Should Modesto change its system of electing City Councilmembers?

**Measure J:** If the City of Modesto were to change its system of electing City Councilmembers, which of the following systems would you prefer? The Mayor would remain elected by all voters in the City under either option. (Choose only one)

a. "By District": Six Districts where candidates must live in the District they wish to represent and the voters who live in the District vote on who will represent that District.

b. "Mixed": Two At-Large Council seats, where candidates may live anywhere in the City and are voted on by all City voters; and Six Districts where candidates must live in the District they wish to represent, and the voters who live in the District vote on who will represent that District.

Today the Modesto City Council is elected "At Large," meaning that candidates are elected Citywide.

This November's election asks voters to express whether Modesto has reached a point in its history where a new system of City Council elections is appropriate, or whether the current system should be retained.

The November vote is advisory, however the City Council has an opportunity to place a binding vote on the February 2008 Presidential Primary ballot, if the results of the advisory measure indicate a desire for change.

## **Sidebar: Why an Advisory Vote?**

California Elections Code Section 9603 defines advisory votes as measures that allow voters to "to voice their opinions on substantive issues." The results of an advisory measure are not binding and do not change any law.

Advisory votes provide considerably more flexibility in wording and answer options than traditional ballot measures, since binding measures are generally limited to "yes" / "no" questions. An advisory measure, in contrast, can provide various options and allow voters to select among them, as is the case with Modesto's Measure J.

While their lack of binding nature does reduce the sense of immediacy in many cases, the fact that a majority of voters registered their opinions in favor of, or in opposition to, a measure clearly and definitively expresses the opinions of the voters on a given issue, in this case what system of City Council elections is preferred for Modesto.

# The Timeline

In California, almost all cities over 240,000 people elect the City Council using some form of district elections. And almost all California cities under 175,000 people elect the City Council using an At-Large, or Citywide, election system. Somewhere between 175,000 and 240,000 people, most California cities, such as Modesto today, find themselves debating whether to keep or change their at-large election systems.

## The City Charter

The City of Modesto is governed by its Charter, which serves as the constitution for the City. The Charter dictates that periodically a Charter Review Committee be formed to suggest amendments. The Charter can only be changed by a vote of the people of Modesto, so the City Council decides which Committee recommendations will go on the ballot for consideration by the voters.

## The Charter Review Committee

The current Charter Review Committee held over 30 meetings to consider a wide range of issues from Mayoral powers to civil service rules. The Committee came to consensus agreements on virtually every issues except the question of the City Council election system.

The Committee unanimously agreed that a change from the current election system is needed, but the Committee Members were unable to agree on what new system should be recommended. So the Committee suggested that the Council place an advisory measure on the ballot this November to allow the people of Modesto to decide on, first, whether any change should be made (Measure I), and, second, what new system of City Council elections is preferred (Measure J).

## What happens after the November vote?

The vote this November is advisory, but it will indicate to the City Council whether there is interest in placing a binding measure on the ballot in 2008.

The choice of election systems will shape the City of Modesto for decades into the future. To assist voters in understanding the choices before them, Modesto has launched an extensive informational outreach program to provide information on all aspects of this issue to the voters. In addition to the traditional ballot pamphlet information, the City has provided both a one-page mailer to the households of every registered voter and prepared this report (which is available online and on request). The City is also hosting a series of informational meetings prior to the vote.

Every voter is encouraged to listen, learn, and share your thoughts and questions. The City's future is in your hands.

### Charter Review Committee Members:

Solange Altman

Marie Bairey

Carolina Bernal

Dave Cogdill Jr.

Chris Harrigfeld

Sandra Lucas

George Petrulakis

John Shores

Jeremiah Williams

Thomas Wright

# The Big Picture

## How were the By District and Mixed options chosen?

The Charter Review Committee looked at a wide variety of common and not-so-common Council election systems before narrowing their recommendations down to the two before the voters this November. In its deliberations, the Charter Review Committee focused primarily on three goals: ensuring local/neighborhood representation on the Council; reducing the cost of running for Council; and creating the best mix of local and citywide accountability on the Council

Here are two examples of the Committee's deliberations: the "From District" approach, where Councilmembers must live in a district but are voted on citywide, was not recommended because each district does not actually elect a Councilmember (the winning candidate has to live in the District, but will not necessarily get the most votes there in the citywide election). Also, because a From District election is citywide, campaigns remain expensive. The At Large "Group" approach, which would keep the City's current At Large election but eliminate the "seat" head-to-head match-ups, was also considered but not recommended by the Committee because it would not generate the geographic dispersal of district election system and, because the election is still citywide, campaigns remain expensive. The Committee also felt the At Large "Group" system diluted accountability of individual Councilmembers when they run grouped on the ballot rather than as individuals.

## How many people would live in each district?

If the city were to go to district elections, in both the By District and the Mixed election system options, Modesto would be divided into six election districts. There is often debate over whether the districts should be drawn based on voting age adults, registered voters, citizens, or total population, however since the late 1960s the U.S. Supreme Court has been clear that districts, including City Council districts, should

be drawn based on total population figures. While not everyone in each district will be eligible to vote in an election, the Councilmember represents everyone in his or her district, regardless of whether or not they vote. As a result the Courts have ruled that each Councilmember should represent an equal total number of people.

In 2000, the United States Bureau of the Census set the population of Modesto at 188,856 people. More recent estimates put the City's population just over 209,000. Dividing those figures among six districts generates a population-per-district of between 31,000 and 35,000 people.

### Sidebar: How District Populations would be calculated:

The 2007 population of Modesto, according to the California Department of Finance: 209,174

That population divided among 6 districts:

$$209,174 / 6 = 34,862$$

Result: Each proposed district would include as close to 34,862 people as possible.

# The Big Picture

## **Who would draw the districts (for the By District or Mixed systems)?**

If the city were to go to district elections, if voters recommend a change through the advisory vote and approve the change through a later binding vote, the proposed final Charter language would, if adopted, establish a nine-member Commission charged with drawing election districts (and updating them periodically). The nine members likely would include:

- A retired County Judge to serve as Chairman
- At least one member of a local taxpayers' association
- At least one member of a local nonpartisan voter group dedicated to encouraging active and informed participation in government
- At least one member of a local civil rights organization
- At least one member who served on a civil grand jury within the previous five years
- Four additional members with "demonstrated civic involvement and a capacity to serve in an independent and impartial fashion"

Districts, under the proposed language, must be compact; follow natural and man-made features; and not divide neighborhoods and communities within the City. The Commission is required to draw districts without regard for the interests of incumbent Councilmembers, challengers, or any political party.

Conflict of interest provisions block lobbyists and relatives of elected officials from serving on the Commission. The Commission is required to hold public hearings at each stage of the district-drawing process. The Commission's map is sent to the City Council for review, but the Council may only accept the map or suggest changes: the Council may not make any changes itself. If the Council suggests changes, the Commission then reviews those suggestions and either incorporates or rejects them, at which point the Commission's map then becomes final.

## **How would the transition to a new system occur?**

If the city were to go to district elections, if voters recommend a change through the advisory vote and approve the change through a later binding vote, the new system will be implemented gradually. There would be no change in the terms or service of the Councilmembers elected in either 2005 or this November (2007). Under both the By District and the Mixed systems, the first change would occur in 2009. At that time, under either system, elections would be held in three of the districts. The other three districts would hold elections in 2011. If the Mixed system is chosen by the voters, 2009 would also see an election for the two At Large Councilmembers, one for an initial two-year term (followed by an election to a full four-year term in 2011), and one for a full four-year term. In all cases, there is no change in how Modesto elects the Mayor, who will continue to be elected citywide (At Large).

## The Current System: At Large

*In brief:* All candidates can come from any part of the City. All voters cast votes for each Council positions. Separate elections are held for each Council "seat," and the winner of each "seat" election joins the Council.

### *Election Rules:*

- Candidates can come from anywhere in the City.
- All voters cast as many votes as there are Council positions up for election that year.
- Each candidate indicates which Council "seat" he or she seeks, and each seat is listed in a separate section of the ballot.
- Three seats are up for election every odd-numbered year (2007, 2009, etc.).
- The Mayor is also elected At Large.

### *Commonly perceived advantages\*:*

- Citywide focus in campaigns and Council deliberations

### *Commonly perceived disadvantages\*:*

- One or more neighborhoods may be overrepresented on the Council
- Campaigns tend to be more expensive than By District elections

### *Examples of California Cities using At-Large elections:*

The majority of California's cities elect their City Council at large. Of the 441 cities reviewed, 405 use at-large election systems. Twenty-six use by-district systems, eight use from-district, and the other two use their own unique systems.

At-large cities in California range from Vernon (91 people) to Anaheim (328,014).

\* Perceived advantages and disadvantages are based upon research in other cities using this election system. Modesto may or may not experience similar results from the adoption of this type of election system.

## Option A: By District Elections

*In brief:* Candidates must live in the district they wish to represent. Only voters in that district select the Councilmember to represent them.

### *Election Rules:*

- Candidates must live in the district they wish to represent.
- Only the voters who live in a given district vote on who will represent that district.
- Voters only vote for one Councilmember.
- Three Districts will hold elections in 2009, the other three in 2011. Each will have a four-year term. The districts up for election will then continue to alternate every two years.
- The Mayor will continue to be elected At Large.

### *Commonly perceived advantages\*:*

- Neighborhoods have more of a voice on the Council
- Candidates' campaign costs tend to be lower than in From District and At Large elections

### *Commonly perceived disadvantages\*:*

- Citywide planning and concerns sometimes are supplanted in favor of neighborhood issues
- Focus on district service may necessitate additional City staff to provide support for City Councilmembers

### *Examples of California Cities using By-District elections:*

Larger cities are the most likely to use by-district elections. In fact, 9 of the 15 largest cities in California use by-district elections.

**Pasadena**, with 133,936 people, elects 7 Councilmembers by district. Pasadena also elects a mayor in a separate at-large election.

**Colton**, with 47,662 people, elects 6 Councilmembers by district and an at-large mayor serves as the seventh Councilmember.

**Hanford**, with 41,686 people, elects 5 Councilmembers by district.

\* Perceived advantages and disadvantages are based upon research in other cities using this election system. Modesto may or may not experience similar results from the adoption of this type of election system.

## Option B: "Mixed" Elections

*In brief:* Six districts are created and candidates running in those districts must live in the district they wish to represent. Two other City Councilmembers run, and are elected, by voters citywide.

### *Election Rules:*

- Candidates for district seats must live in the district they wish to represent. Candidates for at-large seats may reside anywhere in the City.
- Voters in a given district choose which candidate will represent their district.
- Voters citywide select which candidate will hold each at-large seat.
- Three Districts will hold elections in 2009, the other three in 2011. Each will have a four-year term. The districts up for election will then continue to alternate every two years.
- Both at-large seats will be on the ballot in 2009. One seat will have a two-year term and stand for re-election in 2011. The other seat will have a four-year term. The at-large seat up for election will then alternate every two years and winning candidates in 2011 and beyond will all serve four year terms.
- The Mayor will continue to be elected At Large.

### *Commonly perceived advantages and disadvantages\*:*

A mixed system combines six Councilmembers facing similar electoral influences (and resulting advantages and disadvantages) as Councilmembers in a purely "By District" system with two Councilmembers facing similar electoral influences (and resulting advantages and disadvantages) as Councilmembers in a purely "At Large" system. See the previous two pages for details on those respective advantages and disadvantages.

### *Examples of California Cities using Mixed election systems:*

**Oakland**, with 399,484 people, elects 8 Councilmembers By District and one Councilmember at-large. The Mayor is elected At Large.

**Downey**, with 107,323 people, elects 4 Councilmembers By District and one Councilmember at-large. The position of Mayor rotates among the five Councilmembers.

\* Perceived advantages and disadvantages are based upon research in other cities using this election system. Modesto may or may not experience similar results from the adoption of this type of election system.

# QUESTIONS and ANSWERS

## **What is the right system for Modesto?**

Every city has different history, people, neighborhoods and issues. There is no one “right” answer that any can provide. Experts can provide context and information, but ultimately it is the community that must decide what is right for Modesto.

## **For how many Councilmembers do I get to vote?**

The answer varies depending on the system:

*The Current, **At Large**, System:* Six: each voter casts a ballot for each Council seat (plus the Mayor) and the top vote-getters take office.

*Measure J Option A: **By District**:* One: each voter casts a ballot for the Council seat representing the voter’s home district (plus the Mayor).

*Measure J Option B: **Mixed**:* Three: each voters casts a ballot for each of the two At Large Council seats plus a vote for the Council seat representing the voter’s home district (plus the Mayor).

## **Why an advisory vote?**

California Elections Code Section 9603 defines advisory votes as measures that allow voters to “to voice their opinions on substantive issues.” An advisory vote allows everyone in Modesto to learn about and debate this question in a relatively open and flexible environment. An advisory vote allows multiple options, without the limits of a single Yes/No question.

## **How can I find out more about this issue?**

Learn more – and share your own thoughts – at one of the many public forums scheduled (see dates and locations on the cover of this report). Reports, presentations, meeting dates, more frequently-asked questions and answers, along with additional information are all available on the Charter Review Committee website: <http://www.modestogov.com/charterreview>.

If you don’t see the answer to your question on the Charter Review Committee website (<http://www.modestogov.com/charterreview>), send it in to ([charterreview@modestogov.com](mailto:charterreview@modestogov.com)) and we will add it to the list of questions and answers.

# **City Attorney's Official Impartial Analysis: Measure I**

The City Council of the City of Modesto has directed that an advisory measure concerning councilmember elections be submitted to City of Modesto voters.

California Elections Code Section 9603 authorizes cities to hold advisory elections for the purpose of allowing voters to voice their opinions on substantive issues and provides an opportunity for voters to indicate their approval or disapproval of a proposal to the City Council.

This advisory measure asks whether the City of Modesto should change its system of electing City Councilmembers. It asks the voter to voice their opinion on this question by indicating either "Yes" they agree the City should change its system of electing City Councilmembers, or "No" the City should not change its system of electing City Councilmembers. These votes are advisory only.

The measure also asks the voter to proceed to vote on the next measure on the ballot, Measure J, whether or not they voted "Yes" or "No".

According to Section 9603(c), advisory votes express general voter opinion but do not bind the sponsoring legislative body to act. Therefore, an advisory measure such as Measure I does not change existing law or bind the City Council to act.

s/Susana Alcala Wood  
City Attorney

The above statement is an impartial analysis of Measure I. If you desire a copy of the measure, please call the Modesto City Clerk's Office at (209) 577-5396, and a copy will be mailed at no cost to you.

# City Attorney's Official Impartial Analysis: Measure J

The City Council of the City of Modesto has directed that an advisory measure seeking opinions from City of Modesto voters on two proposed options for electing Councilmembers.

California Elections Code Section 9603 authorizes cities to hold advisory elections for the purpose of allowing voters to voice their opinions on substantive issues and provides an opportunity for voters to indicate their approval or disapproval of a proposal to the City Council.

The City of Modesto's current system of electing City Councilmembers is an at-large system, where the candidates for City Council run for a particular "Chair," can live anywhere in the City, and are voted upon by all voters in the City. There are six (6) Councilmembers and a Mayor for a total of seven (7) Council seats.

This advisory measure asks voters to indicate their preference for one of two proposed new election systems.

Under the first ("a") option, entitled "By District," the City would be divided into six (6) election districts and City Council candidates would have to live in the district they wish to represent, and would be elected by voters who also live in that district. The Mayor would still be elected at large. The total number of Council seats thus would be seven (7.)

Under the second ("b") option, entitled "Mixed," the City would be divided into six (6) election districts and City Council candidates for these districts would have to live in the district they wish to represent, and would be elected by voters who also live in that district. In addition, two (2) other City Council candidates would run at-large in the same manner as the current system. The Mayor would still be elected at large. The total number of Council seats would thus be nine (9.)

According to Section 9603(c), advisory votes express general voter opinion but do not bind the sponsoring legislative body to act. Therefore, an advisory measure such as Measure J does not change existing law or bind the City Council to act.

s/Susana Alcalá Wood  
City Attorney

The above statement is an impartial analysis of Measure I. If you desire a copy of the measure, please call the Modesto City Clerk's Office at (209) 577-5396, and a copy will be mailed at no cost to you.

The November 6th, 2007, ballot presents a clear choice among electoral systems. Sharing your views with the City Council through the advisory ballot is important for the future of Modesto. Be sure to understand the choices before you.



**Election Day is  
November 6th, 2007.  
Modesto's future is in your hands.**

**Measure I:**

Should Modesto change its system of electing City Councilmembers?

**Measure J:**

If the City of Modesto were to change its system of electing City Councilmembers, which of the following systems would you prefer? The Mayor would remain elected by all voters in the City under either option.

- a. "By District": Six Districts where candidates must live in the District they wish to represent and the voters who live in the District vote on who will represent that District.
- b. "Mixed": Two At-Large Council seats, where candidates may live anywhere in the City and are voted on by all City voters; and Six Districts where candidates must live in the District they wish to represent, and the voters who live in the District vote on who will represent that District.

This brochure was developed by National Demographics Corporation.  
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