

**From:** [Christina Turner](#)  
**To:** [Michelle Bigelow](#)  
**Cc:** [Donald Larkin](#)  
**Subject:** FW: [EXTERNAL] 1. CITY COUNCIL REDISTRICTING WORKSHOP PUBLIC COMMENT  
**Date:** Wednesday, February 16, 2022 9:34:49 AM

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Please supplement.

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**From:** Armando Be <[REDACTED]>  
**Sent:** Wednesday, February 16, 2022 12:27 AM  
**To:** Rich Constantine <Rich.Constantine@morganhill.ca.gov>; Yvonne Martinez Beltran <yvonne.martinezbeltran@morganhill.ca.gov>; Rene Spring <Rene.Spring@morganhill.ca.gov>; John McKay <john.mckay@morganhill.ca.gov>; Christina Turner <Christina.Turner@morganhill.ca.gov>; Gino Borgioli <Gino.Borgioli@morganhill.ca.gov>; Donald Larkin <Donald.Larkin@morganhill.ca.gov>  
**Subject:** [EXTERNAL] 1. CITY COUNCIL REDISTRICTING WORKSHOP PUBLIC COMMENT

Mayor Constantine, City Council Members, and City Staff,

Public Map 103 should be fairly considered along with the other maps. The city's 10-year population growth was equally distributed across all four districts in Map 103, the current districts, so there is no need to make any changes to the district boundaries. The 2017 council selected the current district map, now represented by Map 103, as the best district map to address concerns of inequitable representation and to ensure there was diversity, equity, and inclusion in the Council. That a Latina was elected to the council by District B voters in 2018 serves as an example of its importance. She is highly regarded within large segments of District B residents who feel she is truly representing their many interests.

The CA legislature granted the Council sufficient discretion to declare Map 103 district D boundaries "contiguous to the extent practicable" to enable the city to put into effect the other equally important priorities in the redistricting statute (protection of community of interests and minority communities, easily identifiable boundaries understandable by its residents, etc.)

I strongly believe that our CA Legislature is completely committed to protecting communities of interest and minority groups and made it possible for Morgan Hill to draw fair and equitable maps. It would be wrong to send the message to *Morgan Hill and Santa Clara County voters* that our *Morgan Hill elected leaders* came to believe that our CA legislature turned its back on communities of interest and minority communities and gave priority to contiguity, for the sake of contiguity, regardless that it impairs the ability to put into effect other important priorities.

Morgan Hill has two large, populated areas separated by county land over which it has no control. You all know the issue for redistricting- what discretion did the CA legislature grant the People of Morgan Hill with the words "To the extent practicable, Districts shall be contiguous"? The City Attorney wants you to believe the CA legislature wanted it to mean, "If something is possible and can be done, then it must be done" and at its extreme "Only if it is impossible and cannot be done, then it cannot be done".

I believe our CA Legislature was smart and careful in using the clause "To the extent practicable". You must interpret the plain words in the context of the intent of the legislature. It is more logical to conclude that our CA legislature intended to protect minority communities and granted discretion to the People of Morgan Hill to decide if a district is contiguous, even if it is not, to put into effect other

equally important priorities.

The Elections Code section 21534 is the key to understanding the discretionary power the CA Legislature granted the People of Morgan Hill. That election statute establishes a ranking in order of priority which one can use to gauge the City Attorney's meaning of the words "To the extent practicable".

In Section 21534, the CA legislature chose words in the statute in order of priority that establishes a ranking order. First- "Districts *shall be* contiguous". With those words the Legislature demands complete compliance regardless of the consequences. Second- "To the *extent possible*". This expression is less demanding, but it still requires robust compliance and a search for possibilities. Third- "To the *extent practicable*". Well, this expression is less demanding and would not require a search for possibilities. If read properly the third ranking grants sufficient discretion for the City Council to make policy decisions on any matter that are beneficial to the People of Morgan Hill, if those decisions are not arbitrary, capricious, or lacking in evidence.

See discretion where there is. Be objective and impartial and you will see it. The CA legislature did not take away your discretion. It is there in the words of the statute. "To the extent practicable" does not require one to chase for possibilities, even if they exist.

There is another way for the council to find discretion. The City Attorney says the CA legislature exemption, "areas separated by water connected by a bridge are contiguous", is limited to circumstances where it is impossible to draw contiguous boundaries like an island. He mentions Coronado Island as an example but because Coronado Island is an independent city with an elected mayor and council members, the exemption would not apply (<https://www.coronado.ca.us/>).

The CA legislature included a second exemption to the contiguous element - "Areas that meet only at the points of adjoining corners are not contiguous". I have not heard how the city attorney explains this second exemption, which treats Districts that are contiguous as being non-contiguous.

I read both principles/exceptions together as being parts of continuum between the most egregious gerrymandering on one side and the most extreme example of impossible to close borders. It is fair to interpret this continuum as a legislative grant of discretion to the cities to declare exceptions where it sees gerrymandering and to declare exceptions in areas with non-closable borders, where it is desirable to give effect to other important priorities like protecting communities of interest and minority communities. Under this interpretation, the council has discretion to declare Map 103 District D "contiguous to the extent practicable" because it is a non-closable border, and it wishes to put into effect other important priorities. I have previously stated the nexus being a connection of the two District D areas to a large network of county lands that allows the easy movement of people between the areas.

I do hope that our Morgan Hill Council sends a message to Morgan Hill and Santa Clara County residents that it is going to stand up for the protection of communities of interest and minority communities. That it will stand in solidarity with our CA legislators to protect minority communities. As I said before, to defeat a lawsuit brought by anyone to challenge your decision to declare District D contiguous to the extent practicable all the City Attorney has to prove is that your decision was not arbitrary, capricious, or without any evidence. With all the written evidence in the record, including from Attorney Baller, the Asian Law Alliance, and me, Attorney Benavides, the City Attorney would have the easiest case to win in court. I am 100% confident about that.

Regards,

Armando Benavides

cc: Wide distribution

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