

RESOLUTION R-11-226

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REDISTRICTING THE COUNTY INTO COMMISSIONER DISTRICTS OF CONTIGUOUS TERRITORY AS NEARLY EQUAL IN POPULATION AS PRACTICABLE.

WHEREAS, the Florida Constitution, Article VIII, Section 1(e), and Florida Statutes Chapter 124 require that the Board of County Commissioners of Manatee County, Florida, after each decennial census, divide the county into districts of contiguous territory as nearly equal in population as practicable and to number the districts to provide a district for each of the five single-member district commissioners; and

WHEREAS, the County Administrator and County staff have developed a district plan, and the Board of County Commissioners has provided an opportunity for public comments; and

WHEREAS, careful consideration has been given to the need for maintaining near equality in population within the boundaries of commissioner districts, identifiable communities of interests, historical, natural and man-made identifiable boundaries for the districts, the integrity of the municipalities, previously established districts, and other important factors permitted by law; and


WHEREAS, the Board of County Commissioners, after careful consideration, determined the need to change the district boundaries and have found a suitable redistricting plan of new boundaries consistent with the requirements of law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA THAT:

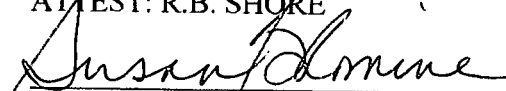
1. The County Commissioners' Districts shall change to the boundaries described in the attached Exhibit A.
2. The Clerk of this Board shall publish a certified copy of this resolution, including Exhibit A, once each week for two (2) consecutive weeks (two publications) in a newspaper published in Manatee County.
3. This Board shall make a part of its minutes the proof of such publication and a copy of the Resolution.
4. The Clerk of the Board shall furnish the Department of State of the State of Florida and the Manatee County Supervisor of Elections with a certified copy of such minutes together with a copy of this Resolution and Exhibit A describing the new district boundaries.
5. This Resolution shall become effective upon adoption.

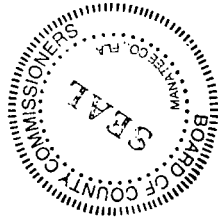
ADOPTED with a quorum present and voting this 21st day of November, 2011.

BOARD OF COUNTY COMMISSIONERS


By: Chairman

ATTEST: R.B. SHORE


By: Clerk of the Circuit Court
DEPUTY



Manatee County Commission District One:

A portion of the political boundary of Manatee County, Florida as established by Florida Statutes § 7.41, and being more specifically described as follows:

BEGIN at the common boundary corner of Manatee, Hillsborough, Polk, and Hardee Counties; thence southerly along the common boundary line of Manatee/Hardee Counties to the centerline of State Road 64 and the northerly limits of Manatee County Commission District Five; thence along the northerly limits of said District Five the following five [5] calls: [1] westerly along the centerline of State Road 64 to the centerline of US Interstate 75; [2] thence northwesterly along the centerline of US Interstate 75 to the centerline of Kay Road NE; [3] thence northerly along the centerline of Kay Road NE to the easterly boundary line of CYPRESS CREEK ESTATES as recorded in Plat Book 22, Page 142 of the Public Records of said County; [4] thence northerly along said easterly boundary line and its northerly projection to the centerline of the Manatee River; [5] thence westerly along the centerline of the Manatee River to the centerline of US Interstate 75 and the easterly limits of County Commission District Two; thence northerly, westerly and southerly along the northerly limits of said Commission District Two the following fourteen [14] calls: [1] northerly along the centerline of US Interstate 75 to the centerline of US 301; [2] thence southwesterly along the centerline of US 301 to the centerline of 51st Avenue E; [3] thence northerly along the centerline of 51st Avenue E to the centerline of Memphis Road (17th Street E); [4] thence westerly along the centerline of Memphis Road to the centerline of Ellenton-Gillette Road (36th Avenue E); [5] thence northerly along Ellenton-Gillette Road to the centerline of McMullen Creek; [6] thence westerly along McMullen Creek to the centerline of Bayshore Road (Old US 41); [7] thence southerly along Bayshore Road to the centerline of Palmview Road (61st Street E); [8] thence westerly and southerly along the centerline of Palmview Road to the centerline of US 19; [9] thence southerly along the centerline of US 19 to the centerline of 33rd Street W; [10] thence westerly along the centerline of 33rd Street W to the centerline of 8th Avenue W; [11] thence southerly along the centerline of 8th Avenue W to the centerline of 23rd Street W; [12] thence southeasterly along the centerline of 23rd Street W to the centerline of Business US 41; [13] thence southerly along the centerline of Business US 41 (8th Avenue W) to the centerline of the Manatee River; [14] thence westerly along the centerline of the Manatee River to the northerly limits of Manatee County Commission District Three; thence westerly and northwesterly along the centerline and northwesterly projection of the centerline of the Manatee River and the northerly limits of said District Three to the common boundary line of Manatee/Hillsborough Counties; thence northeasterly and easterly along the common boundary line of said Counties to the POINT OF BEGINNING.

Said District One being populated by 64,211 people per the 2010 United State Census.

Manatee County Commission District Two:

A portion of the political boundary of Manatee County, Florida as established by Florida Statutes § 7.41, and being more specifically described as follows:

BEGIN at the intersection of the centerlines of Ellenton-Gillette Road (36th Avenue E) and Memphis Road (17th Street E) being on the southerly limits of Manatee County Commission District One; thence along the southerly limits of said District One the following four [4] calls: [1] easterly along the centerline of Memphis Road to the centerline of 51st Avenue E; [2] thence southerly along the centerline of 51st Avenue E to the centerline of US 301; [3] thence northeasterly along the centerline of US 301 to the centerline of US Interstate 75; [4] thence southerly along the centerline of US Interstate 75 to the centerline of the Manatee River and the westerly limits of Manatee County Commission District Five; thence along the westerly limits of said District Five the following five [5] calls: [1] southwestery along the centerline of the Manatee River to the northerly projection of the centerline of the thalweg of the Braden River; [2] thence southeasterly and southerly along said northerly projection and centerline of thalweg to the easterly projection of the centerline of 44th Avenue E; [3] thence westerly along said easterly projection and the centerline of 44th Avenue E to the centerline of 45th Street E; [4] thence northerly along the centerline of 45th Street E to the centerline of 38th Avenue E (Elwood Park Road); [5] thence westerly along the centerline of 38th Avenue E to the centerline of 39th Street E and the northerly limits of Manatee County Commission District Four; thence along the northerly limits of said District Four the following five [5] calls: [1] westerly along the centerline of 38th Avenue E to the centerline of 15th Street E; [2] thence southerly along the centerline of 15th Street E to the centerline of 44th Avenue E; [3] thence westerly along the centerline of 44th Avenue E to the southerly projection of the centerline of US 41 (1st Street); [4] thence westerly along the centerline of US 41 (44th Avenue W and Cortez Road W) to centerlines of US 41 and Business US 41 (14th Street W); [5] thence westerly along the centerline of Cortez Road W (State Road 684) to the centerline of 26th Street W and the easterly limits of Manatee County Commission District Three; thence along the easterly limits of said District Three the following three [3] calls: [1] northerly along the centerline of 26th Street W to the centerline of Manatee Avenue W (State Road 64); [2] thence westerly along the centerline of Manatee Avenue W to the centerline of 34th Street W; [3] thence northerly along the centerline of 34th Street W and its northerly projection to the centerline of the Manatee River and the southerly limits of Manatee County Commission District One; thence northerly, easterly and southerly along the southerly limits of said District One the following ten [10] calls: [1] easterly along the centerline of the Manatee River to the centerline of Business US 41 (8th Avenue W); [2] thence northerly along the centerline of Business US 41 to the centerline of 23rd Street W; [3] thence northwesterly along the centerline of 23rd Street W to the centerline of 8th Avenue W; [4] thence northerly along the centerline of 8th Avenue W to the centerline of 33rd Street W; [5] thence easterly along the centerline of 33rd Street W to the centerline of US 19; [6] thence northerly along the centerline of US 19 to the centerline of Palmview Road (61st Street E); [7] thence northerly and easterly along the centerline of Palmview Road to the centerline of Bayshore Road (Old US 41); [8] thence northerly along the centerline of Bayshore Road to the centerline of McMullen Creek; [9] thence easterly along the centerline of McMullen Creek to the centerline of Ellenton-Gillette Road (36th Avenue E); [10] thence southerly along the centerline of Ellenton-Gillette Road to the POINT OF BEGINNING.

Said District Two being populated by 62,457 people per the 2010 United State Census.

Manatee County Commission District Three:

A portion of the political boundary of Manatee County, Florida as established by Florida Statutes § 7.41, and being more specifically described as follows:

BEGIN at the intersection of the centerlines of 26th Street W and Manatee Avenue W (State Road 64) being on the westerly limits of Manatee County Commission District Two; thence southerly along the centerline of 26th Street W and the westerly limits of said District Two to the centerline of Cortez Road W (44th Avenue W and State Road 684) and the northerly limits of Manatee County Commission District Four; thence westerly along the centerline of Cortez Road W and the northerly limits of said District Four to the centerline of 34th Street W and the westerly limits of said District Four; thence southerly along the centerline of 34th Street W and the westerly limits of said District Four and their southerly projection to the common boundary line of Manatee/Sarasota Counties; thence westerly along the common boundary line of said Counties to the westerly boundary line of Manatee County; thence northwesterly along the westerly boundary line of Manatee County to the common boundary line of Manatee/Hillsborough Counties; thence northeasterly along the common boundary line of said Counties to the northwesterly projection of the centerline of the Manatee River and the southerly limits of Manatee County Commission District One; thence southeasterly and easterly along the centerline of the Manatee River and the southerly limits of said District One to the northerly projection of 34th Street W and the westerly limits of said District Two; thence along said northerly projection and centerline of 34th Street W and the westerly limits of said District Two the following two [2] calls: [1] southerly to the centerline of Manatee Avenue W; [2] thence easterly along the centerline of Manatee Avenue W to the POINT OF BEGINNING.

Said District Three being populated by 66,904 people per the 2010 United State Census.

Manatee County Commission District Four:

A portion of the political boundary of Manatee County, Florida as established by Florida Statutes § 7.41, and being more specifically described as follows:

BEGIN at the intersection of the centerlines of Cortez Road W (44th Avenue W and State Road 684) and 34th Street W, being on the easterly limits of Manatee County Commission District Three; thence easterly along the centerline of Cortez Road W and the easterly limits of said District Three to the centerline of 26th Street W and the southerly limits of Manatee County Commission District Two; thence along the southerly limits of said District Two the following five [5] calls: [1] easterly along the centerline of Cortez Road West to the intersection of the centerlines of US 41 and Business US 41 (14th Street W); [2] thence easterly along the centerline of US 41 (44th Avenue W and Cortez Avenue W) to the southerly projection of the centerline of US 41 (1st Street); [3] thence easterly along the centerline of 44th Avenue E to the centerline of 15th Street E; [4] thence northerly along the centerline of 15th Street E to the centerline of 38th Avenue E (Elwood Park Road); [5] thence easterly along the centerline of 38th Avenue E to the centerline of 39th Street E and the westerly limits of Manatee County Commission District Five; thence along the westerly limits of said District Five the following seven [7] calls: [1] southerly along the centerline of 39th Street E and its southerly projection to the westerly boundary line of PERIDIA, UNIT TWO as recorded in Plat Book 23, Page 98 of the Public Records of said County and a point 50 feet southerly of the easterly projection of the northerly boundary line of Lot 7, LAZY "B" RANCHES as recorded in Plat Book 15, Page 82 of the Public Records of said County; [2] thence westerly along a line 50 foot southerly and parallel with the northerly boundary line of said Lot 7 to the centerline of 37th Street E; [3] thence southerly along the centerline of 37th Street E to the centerline of State Road 70 (53rd Avenue E); [4] thence easterly along the centerline of State Road 70 to the centerline of Lockwood Ridge Road (45th Street E); [5] thence southerly along the centerline of Lockwood Ridge Road to the centerline of Tallevast Road (77th Avenue E); [6] thence westerly along the centerline of Tallevast Road to the centerline of Tuttle Avenue (39th Street E); [7] thence southerly along the centerline of Tuttle Avenue to the common boundary line of Manatee/Sarasota Counties; thence westerly along the common boundary line of said Counties to the southerly projection of the centerline of 34th Street W and the easterly limits of said District Three; thence northerly along said southerly projection and the centerline of 34th Street W and the easterly limits of said Districts Three to the POINT OF BEGINNING.

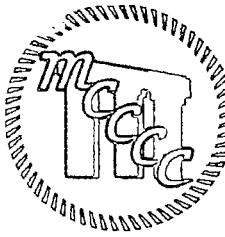
Said District Four being populated by 64,537 people per the 2010 United State Census.

Manatee County Commission District Five:

A portion of the political boundary of Manatee County, Florida as established by Florida Statutes § 7.41, and being more specifically described as follows:

Begin at the intersection of the centerline of State Road 64 and the common boundary line of Manatee/Hardee Counties; thence southerly along the common boundary line of said Counties to the common boundary line of Manatee/Desoto Counties; thence southerly along the common boundary line of said Counties to the common boundary line of Manatee/Sarasota Counties; thence westerly along the common boundary line of said Counties to the centerline of Tuttle Avenue (39th Street E) and the easterly limits of Manatee County Commission District Four; thence along the easterly limits of said District Four the following seven [7] calls: [1] northerly along the centerline of Tuttle Avenue to the centerline of Tallevast Road (77th Avenue E); [2] thence easterly along the centerline of Tallevast Road to the centerline of Lockwood Ridge Road (45th Street E); [3] thence northerly along the centerline of Lockwood Ridge Road to the centerline of State Road 70 (53rd Avenue E); [4] thence westerly along the centerline of State Road 70 to the centerline of 37th Street E; [5] thence northerly along the centerline of 37th Street E to a point 50 feet southerly of the westerly projection of the northerly boundary line of Lot 7, LAZY "B" RANCHES as recorded in Plat Book 15, Page 82 of the Public Records of said County; [6] thence easterly along a line 50 foot southerly and parallel with the northerly boundary line of said Lot 7 to the westerly boundary line of PERIDIA, UNIT TWO as recorded in Plat Book 23, Page 98 of the Public Records of said County; [7] thence northerly along the southerly projection of the centerline of 39th Street E and the centerline of 39th Street E to the centerline of 38th Avenue E (Elwood Park Road) and the southerly limits of Manatee County Commission District Two; thence along the southerly limits of said District Two the following three [3] calls: [1] easterly along the centerline of 38th Avenue E to the centerline of 45th Street E; [2] thence southerly along the centerline of 45th Street E to the centerline of 44th Avenue E; [3] thence easterly along the centerline of 44th Avenue E and its easterly projection to the thalweg of the Braden River and the easterly limits of said District Two; thence along the easterly limits of said District Two the following two [2] calls: [1] northerly and northwesterly along said thalweg and its northwesterly projection to the centerline of the Manatee River; [2] thence northeasterly along the centerline of the Manatee River to the centerline of US Interstate 75 and the southerly limits of Manatee County Commission District One; thence along the southerly limits of said District One the following five [5] calls: [1] easterly along the centerline of the Manatee River to the northerly projection of the easterly boundary line of CYPRESS CREEK ESTATES as recorded in Plat Book 22, Page 142 of the Public Records of said County; [2] thence southerly along said northerly projection and easterly boundary line to the centerline of Kay Road NE; [3] thence southerly along the centerline of Kay Road NE to the centerline of US Interstate 75; [4] thence southeasterly along the centerline of US Interstate 75 to the centerline of State Road 64; [5] thence easterly along the centerline of State Road 64 to the POINT OF BEGINNING.

Said District Five being populated by 64,724 people per the 2010 United State Census.



Manatee County

R.B. "Chips" Shore

Clerk of the Circuit Court and Comptroller

P.O. Box 25400 • Bradenton, Florida 34206 • (941) 749-1800 • FAX (941) 741-4082 • www.manateeclerk.com

November 23, 2011

Florida Department of State
Attn: Liz Cloud, Chief
Administrative Code Unit
R.A. Gray Building, Room 101
500 S. Bronough Street
Tallahassee, Florida 32399-0250

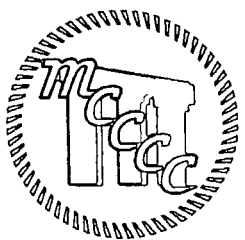
Dear Ms. Cloud:

Enclosed are two certified copies of Resolution R-11-226 adopted by the Board of County Commissioners, Manatee County, Florida, in open session on November 21, 2011. Please stamp both copies with the date filed by the Office of the Secretary of State, retain one copy for your file and return one copy to my office.

Sincerely,

R. B. Shore
By: Susan G. Romine

RBS: sgr
Enclosures



Manatee County

R.B. "Chips" Shore

Clerk of the Circuit Court and Comptroller

P.O. Box 25400 • Bradenton, Florida 34206 • (941) 749-1800 • FAX (941) 741-4082 • www.manateeclerk.com

November 23, 2011

Robert Sweat
Supervisor of Elections
600 301 Boulevard West
Suite 108
Bradenton, FL 34205

Honorable Mr. Sweat:

Enclosed please find a certified copy of Resolution R-11-226 regarding Commission redistricting, adopted by the Board of County Commissioner, Manatee County, Florida in open session on November 21, 2011.

Sincerely,

R. B. Shore, Clerk
By: Susan G. Romine

RBS:sg
Encl
cc: Board Records

"Pride in Service with a Vision to the Future"

Clerk of Circuit and County Court - Clerk of Board of County Commissioners - County Comptroller, Auditor and Recorder

Susan Romine

From: Susan Romine
Sent: Wednesday, November 23, 2011 9:12 AM
To: 'FKonesko@bradenton.com'
Cc: 'karen.windon@mymanatee.org'
Subject: Resolution R-11-226
Attachments: BC20111121DOC226.PDF; Commissioner Districts 2011 _teb.doc; Redistricting Commissioner Boundaries.doc

Flo,

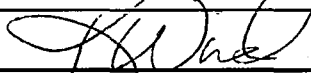
Attached is a certified copy of a Resolution and attachment (with certification) that must be advertised two consecutive weeks (two publications). For your convenience, I have also attached the MSWord documents without the certification.

Please let me know if you have any questions.

Thank you,
Susan Romine
Board Records Director
For R.B. "Chips" Shore
Manatee County Clerk of the Circuit Court & Comptroller
www.ManateeClerk.com
susan_romine@manateeclerk.com
941.741.4018
"Pride in Service with a Vision to the Future"

MANATEE COUNTY GOVERNMENT

AGENDA MEMORANDUM

SUBJECT	Commission Redistricting	TYPE AGENDA ITEM	Consent
DATE REQUESTED	November 21, 2011	DATE SUBMITTED/REVISED	November 10, 2011
BRIEFINGS? Who?	Offered to all Commissioners	CONSEQUENCES IF DEFERRED	Potential delay in redistricting
DEPARTMENT/DIVISION	County Administrator's Office	AUTHORIZED BY TITLE	Karen Windon, Deputy County Administrator
CONTACT PERSON TELEPHONE/EXTENSION	Karen Windon, Deputy County Administrator	PRESENTER/TITLE TELEPHONE/EXTENSION	Karen Windon, Deputy County Administrator
ADMINISTRATIVE APPROVAL			

ACTION DESIRED
INDICATE WHETHER 1) REPORT; 2) DISCUSSION; 3) FORM OF MOTION; OR 4) OTHER ACTION REQUIRED

Adopt Resolution R 11- 226 relating to redistricting the County into commission districts of contiguous territory of nearly equal proportion.

ENABLING/REGULATING AUTHORITY

Federal/State law(s), administrative ruling(s), Manatee County Comp Plan/Land Development Code, ordinances, resolutions, policy

Florida Statute 124

BACKGROUND/DISCUSSION

Following the release of the decennial census, Florida law requires that the Board of County Commissioners undertake to modify the boundaries of existing Commission districts, based upon documented population changes.

Boundaries were last adjusted in 2005 to account for population changes and projected growth based upon development patterns.

With the release of the 2010 census data and impacts on growth due to economic conditions, significant imbalances exist within the district.

When Manatee County re-districted following the release of the 2000 census results, the population of the County was approximately 264,000. With the 2005 redistricting, the estimated population was 313,588. The 2010 census results delineated a population base of 322,833.

The population of the current Commission Districts is as follows:

District 1 (Bustle)	69,140
District 2 (Gallen)	67,601
District 3 (Chappie)	62,713
District 4 (DiSabatino)	67,602
District 5 (Hayes)	55,777

APPROVED IN OPEN SESSION

NOV 21 2011

**BOARD OF COUNTY COMMISSIONERS
MANATEE COUNTY, FLORIDA**

The aggregate Manatee County population figure used in the proposed redistricting is 322,833. Several iterations of districts were developed and public comment solicited. The goal for the configuration of the proposed districts was to consider natural boundaries inasmuch as possible, avoided the splitting of existing precincts, and providing for population equivalency within each proposed district. That is, as 1/5 of 322,833 is 64,566, the population of each proposed district would be within a few thousand of 64,566 people.

On October 25, 2011 the BCC adopted in concept Plan D and the School Board concurred with that determination. A joint work session was held between the two Boards on November 15, 2011 and all parties indicated that they felt Plan D met the intent of the redistricting process and complied with Florida Statutes.

As evidenced above, the current population of the districts ranges from 55,777 to 69,140 a range of 13,363 people. The efforts to more equitably balance the populations provides the proposed districts with a range of 62,457 to 66,904; providing a difference of 4447 people between the highest and lowest populated districts and meets the requirement of nearly equal proportions.

The populations of the proposed Commission Districts (based on 2010 census data) is as follows:

District 1 (Bustle)	64,211
District 2 (Gallen)	62,457

District 3 (Chappie) 66,904
 District 4 (DiSabatino) 64,537
 District 5 (Hayes) 64,724

The proposed district maps were hosted on the www.MyManatee.org web site for public comment and public open houses were held on September 27th and November 7th to facilitate discussion and accept comments.

These maps and the narrative are recommended for adoption by both County staff as well as School District staff.

COUNTY ATTORNEY REVIEW

Check appropriate box	
<input checked="" type="checkbox"/>	REVIEWED Written Comments: X Attached <input type="checkbox"/> Available from Attorney (Attorney's initials: _____)
<input type="checkbox"/>	NOT REVIEWED (No apparent legal issues.)
<input type="checkbox"/>	NOT REVIEWED (Utilizes exact form or procedure previously approved by CAO.)
<input type="checkbox"/>	OTHER

ATTACHMENTS: (List in order as attached)	INSTRUCTIONS TO BOARD RECORDS:	
Resolution 11- 226 Proposed Redistricting Graphics for Districts 1 - 5 Narrative Boundary Descriptions for Districts 1 - 5		
COST:	N/A	SOURCE (ACCT # & NAME):
COMMENTS:		AMT./FREQ. OF RECURRING COSTS: (ATTACH FISCAL IMPACT STATEMENT)



Office of
**MANATEE COUNTY
ATTORNEY**

Tedd N. Williams, Jr., County Attorney

James A. Minix, Chief Deputy County Attorney
Maureen S. Sikora, Deputy County Attorney*
Robert M. Eschenfelder, Deputy County Attorney
Rodney C. Wade, Deputy County Attorney*
William E. Clague, Deputy County Attorney
James R. Cooney, Deputy County Attorney
Sarah A. Schenk, Deputy County Attorney*

MEMORANDUM

DATE: OCTOBER 31, 2011
TO: KAREN WINDON, Deputy County Administrator
THRU: TEDD N. WILLIAMS, Jr., County Attorney *TNW 11/11*
FROM: JAMES A. MINIX, Chief Deputy County Attorney *JAMINIX*
RE: REDISTRICTING OF COMMISSIONERS' BOUNDARIES
RLS 11-047 & 11-368; CAO File No. 1010-373

I. QUESTION PRESENTED

Staff has submitted proposed commission district plans for the five proposed commission districts represented by the respective district commissioners. Staff requests that the County Attorney's Office review the process and the data to ensure that we are in compliance with the requirements of the Florida Statutes. Staff also requests that we opine whether projected future growth populations based on building permit activity may be used in achieving the statutory directives.

II. BRIEF ANSWER

The proposed District Plan prepared by staff meets the requirements of Florida and Federal law. Projected growth data may be used so long as it does not result in a population deviation greater than the law allows.

III. FACTUAL BACKGROUND

Staff has been working on proposed district maps for County Commission Districts to equalize the populations due to unequal growth in the county and reports as follows:

Initial iterations of the maps were produced by GIS staff who were asked to try to align the populations of the districts while maintaining as closely as possible the current

* Board Certified City, County & Local Government Law

demographics. The population data is from the latest census figures and from Building Department activity. Staff also worked within the constraints of precinct boundaries with the Supervisor of Elections. During a Board of County Commissioners' work session, Board members reviewed the proposal and offered input to include requests for "cleaner" boundary lines, as well as a request to factor in anticipated growth in districts with rising building activity. Plan "D" was developed in response to those requests. An open house was held on September 27, 2011, to encourage public input in the process. Additionally, proposals were placed on the County's website and noticed through media releases to multiple forums to provide comments.

After careful review of the proposals and consideration of the public input, staff has recommended the adoption of Plan "D." This plan provides cleaner lines for easier understanding by the public of district boundaries. Staff says current demographic changes from prior plans are less than 1% in all cases, and primarily in the tenth of a percent range. District demographics are detailed on the submitted map as follows:

- District 1 – 64,211
- District 2 – 62,457
- District 3 – 66,904
- District 4 – 64,537
- District 5 – 64,724

There is a population difference of 4,447 between the least populated district and the most populated district. This is a 6.647% difference between the least and most populated district. The Board approved Plan "D" in concept on October 25, 2011, with a public hearing to be scheduled before the end of the year.

IV. DISCUSSION

1. Recent History of Manatee County Redistricting.

This is not the first time that the redistricting issue has been reviewed by the County Attorney's Office. A memo was issued December 7, 2001 approving the 2001 redistricting plan, and opining about population disparities. We concluded then that "the variation in population within your proposed districts could be upheld as within the reasonable discretion of the Board if the deviation is unavoidable or based on permitted policies."¹ Again, in 2005, this office reviewed and advised on adjusting the county commission districts at the request of the County Administrator. This adjustment was made by the administrator due to extensive changes of population within the districts. This office reviewed the proposed request, submitted a resolution, and found that it complied with the requirements of state law relating to fixing the boundaries of

¹ 2001 Administrator's Redistricting Proposal; CAO File No. 1010-152, dated December 7, 2001; Opinion by attorney Pay McVoy.

commission districts.²

2. Law relating to Commissioner District Boundaries is found in the Florida Constitution, State Statutes and Florida Case Law.

Art. VIII, §1(e), Fla. Const. provides that “[a]fter each decennial census, the board of county commissioners shall divide the county into districts of contiguous territory as nearly equal in population as *practicable*.” (e.s.) Section 125.01, Florida Statutes (2010) echoes the constitutional requirement where it states at subsection 3:

The Board of County Commissioners shall from time to time, fix the boundaries of the above districts so as to keep them as nearly equal in proportion to population as *possible*; provided, that changes made in the boundaries of county commission districts pursuant to this section shall be made only in odd numbered years. (e.s.)

Section 124.011, Fla. Stat. specifically relates to counties with seven commissioners and in subsection (b) provides that:

...[T]he districts together covering the entire county and as nearly equal in population as *practicable*, and each commissioner being nominated and elected only by the qualified electors who reside in the same county commission district as the commissioner....(e.s.)

The slightly different word usage between the Constitution and statutory provisions may or may not be significant. Both the Constitution and Section 124.011, Fla. Stat. use the word “practicable” regarding the equality of the districts. Section 124.01(3), Fla. Stat. uses the word “possible.” While the two words may mean the same thing in this context and were simply the result of inadvertence, it may also mean, nearly equal in population as practicable, which more specifically applies to our situation, and gives government somewhat greater leeway in any variances in population that may exist.

The dominant purpose of the constitutional provision is equality of representation as nearly as can be attained within a reasonable range of discretion. It should, however, be emphasized that the districts do not need to be identical in population as long as the Board does not abuse its discretion to comply with the law.

The statute only says that the districts must be “nearly equal in proportion to

² RLS 05-375: Adjusting Commission Districts; CAO File No. 1010-2317; Opinion by attorney Pat McVoy.

population as possible;" [Section 124.01(3)] or "as practicable" [Section 124.011(1)(a)]. Therefore, we must turn to case law for an explanation of what this means. This office has previously opined that the districts can deviate in population by as much as 10% [citing *Brown v. Thompson*, 462 U.S. 835 (1983)].³

The Florida Supreme Court observed that the Florida Constitution and statutes... "do not require absolute equality in population." *Flagler Cty Bd of Comms v. Likins*, 337 So.2d 801, 804 (Fla. 1976). The court did not say what percentage of deviation was required to make the districts unequal under the statute. It did, however cite a case with what it said was a "wide discrepancy in population" that still met all constitutional and statutory requirements. *Id* at 803.⁴ It concluded that "it is within the discretion of the Board, after a study of the decennial census figures, to decide whether the existing districts are as nearly equal as possible." *Id* at 804.

The 10% or less deviation would probably be acceptable based on traditional federal and state case law. *Voinovich v. Quilter*, 507 U.S. 146 (1993). *Singleton v. State, ex rel. Kaufman*, 69 So.2d 794 (Fla. 1954) However, as so often happens, technology expands faster than law can keep up with it. We therefore recommend that staff keep any deviation in population under 10% due to the ease that current computer software gives local governments to accomplish the intent of the statute to provide "nearly equal" districts. We believe the courts in the future will require more perfection in population equality between districts because more perfection is now possible in making "nearly equal" districts. The County may someday have to comply with the 1% or less deviation in districts as technology progresses.

There is a 4,447 person difference between the population of the most populous district (District 3) and of the population of the least populated district (District 2). This is a population deviation of 6.647% and well under the 10% limit suggested by the courts.

3. Can the County consider projected future growth populations based on building permit activity in achieving the statutory directives?

While there is significant case law involving overall discrepancies in population, as cited above, there is no recent authority that we have found indicating whether population differences due to projected future growth are subject to current law. We therefore advise that the reasons for any discrepancy between populations (except as indicated in the next section) are irrelevant so long as there is no "wide discrepancy in population" or in other words, no deviation materially exceeding 10%.

We have discovered only one case that considers the implication of the rapid growth area causing population variances between districts. *Ryan v. State, ex rel. Ford*,

³ See County Attorney's Office Opinion of December 7, 2001; File No. 1010-152; P. McVoy.

⁴ Referring to *Dusch v. Davis*, 387 U.S. 112 (1967).

60 So.2d 188 (Fla. 1952) held that the dominant purpose of Section 5 of Article VIII, Fla. Const. was equality of representation as near as can be obtained within a reasonable range of discretion. In that case, Volusia County had certain rapid growth areas which caused an overall variation of approximately 37% difference between districts.

The Court noted that the four coastal districts grew at a faster pace than the interior district. It held that the county commissioners may take into account natural variances and other "practical considerations" "provided they do not lead to a result too far at variance from the constitutional requirement." *Ryan* at 190. The Court concluded that:

The dominant purpose of Section 5, Article VIII, is equality of representation as near as can be attained within a reasonable range of discretion. It is not required that the districts be equal in population. After consideration of the elements shown to have been brought into play in this case, we cannot say that the County Commissioners abused their discretion. There was approximate equality of representation in four of the districts and, while there is variance as to the other, some good reasons are shown for it. *Id.*

We conclude that staff can use projected growth so long as it does not result in a deviation greater than the law allows. There is no significant deviation in Plan "D."

4. Additional Federal Law Considerations.

Under federal law, when proposing a redistricting plan, several additional factors must be adhered to. The federal courts have not stricken down any redistricting plans that (a) protect existing incumbents; or (b) favor one party over another. The federal courts have been particularly concerned with the equal protection principles involving the subject of racial gerrymandering in order to dilute the power of minority voting. *Avery v. Midland Cty*, 390 U.S. 474 (1968) (applying equal protection requirements to local government districts; district with 67,000+ compared with districts of less than 1,000). If there is a considerable racial disparity between districts, involving either black or white voters, the redistricting plan can be challenged and may be overturned if it can be proven that the disparity results in an adverse impact on minority voting. Staff has indicated that no district line has been drawn to favor one race over another. The racial make-up of the respective districts shows no significant change from earlier redistricting plans. While District 2 has the highest percentage of black population (21.27%), it represents a compact and contiguous district located in the center of Manatee County. In order to equalize the black population within all Manatee County districts, it would require significant gerrymandering to virtually all the other districts and would represent a radical transformation of the geographic districts without a historical precedent and a material change in the impact of the black vote in District 2. Nor have there been any allegations that the minority population in that district or elsewhere has been adversely

affected by Plan "D." It is therefore my opinion that the proposed Plan "D" complies with the applicable federal requirements, as well as the current state requirements.

5. Procedural Requirements.

Staff indicates that approval of county commission districts has been done by resolution in the past. The statute just requires that a certified copy of the Board's minutes reflecting the description of the boundaries be made available. Since the redistricting issue does not involve local general law but applies to redistricting in accordance with Sections 124.01, Fla. Stat. and 124.011, Fla. Stat., the County Attorney's Office approves the use of a resolution. When the Board adopts its resolution it shall publish a certified copy of its resolution, minutes and an accurate description of each district in the Bradenton Herald for two consecutive weeks to comply with §124.02, Fla. Stat.

The resolution together with a certified copy of the Board minutes and an accurate description of the new boundaries, shall be furnished to the Secretary of State by the Manatee County Clerk. §124.03, Fla. Stat.. The Supervisor of Elections also receives the new district boundaries and applies these districts to his revised precinct map. An inquiry with the Supervisor of Elections indicates that he then confirms the new precincts with the Secretary of State as being in conformity with Manatee County's redistricting.

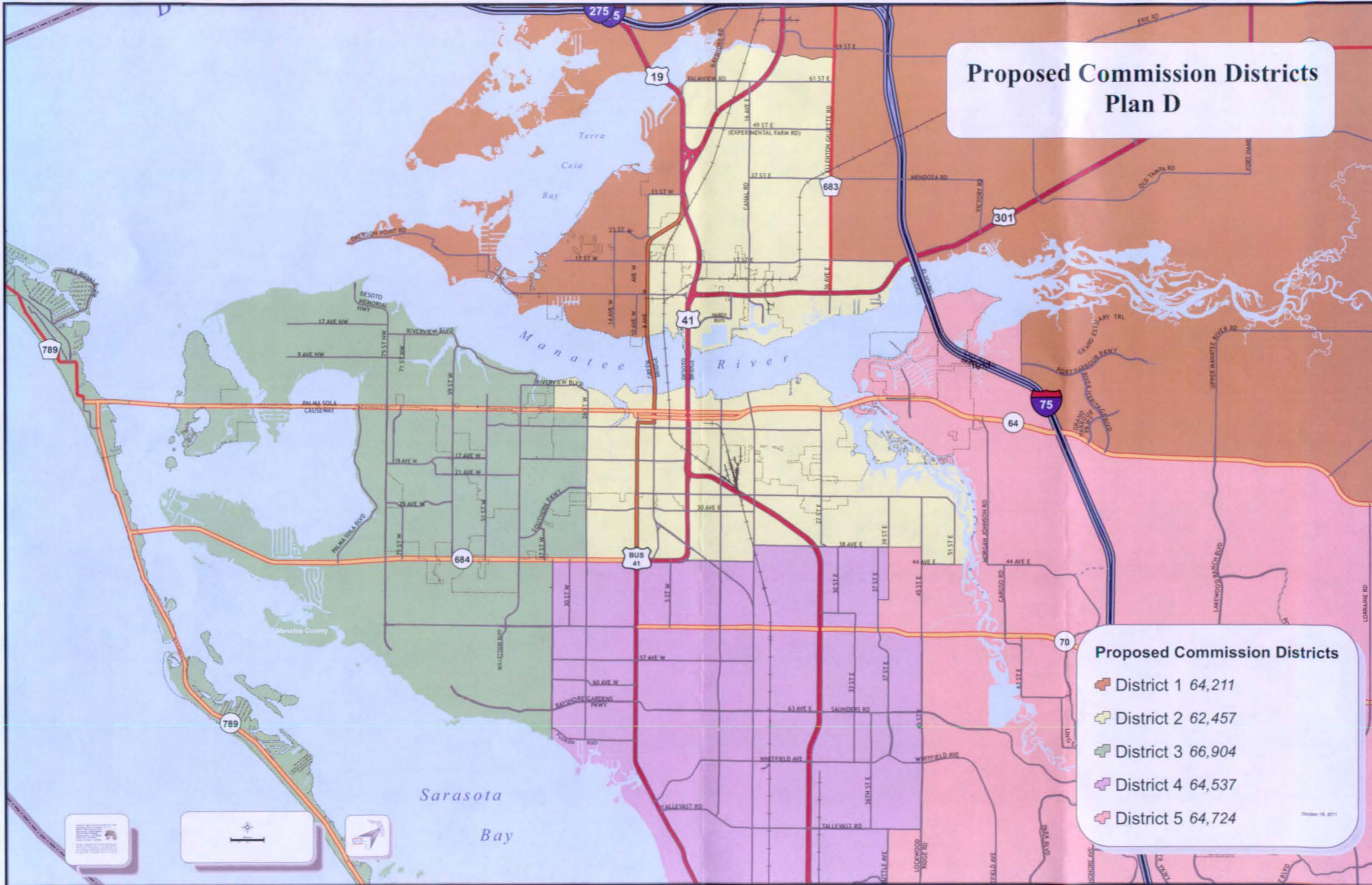
V. CONCLUSION

I recommend Plan "D" for consideration by the Board of County Commissioners and final approval of the attached Resolution R-11-226 for form and legal sufficiency. I recommend that future redistricting plans not exceed 10% between the lowest and the highest populated districts.

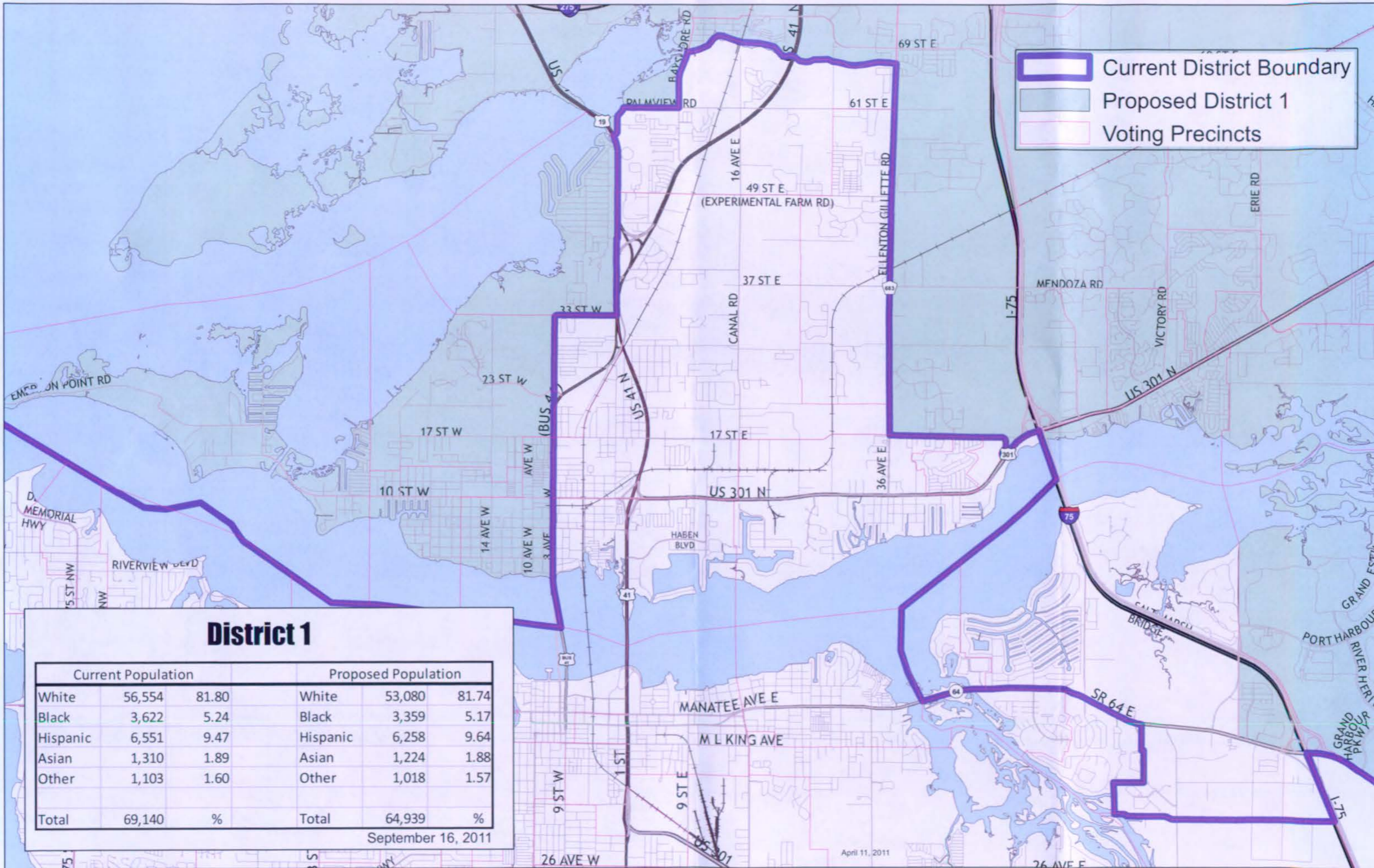
JAM/jcg

cc: R. B. "Chips" Sore, Clerk of the Circuit Court
Bob Sweat, Supervisor of Elections
Ed Hunzeker, County Administrator

Proposed Commission Districts Plan D



- Proposed Commission Districts**
- District 1 64,211
 - District 2 62,457
 - District 3 66,904
 - District 4 64,537
 - District 5 64,724

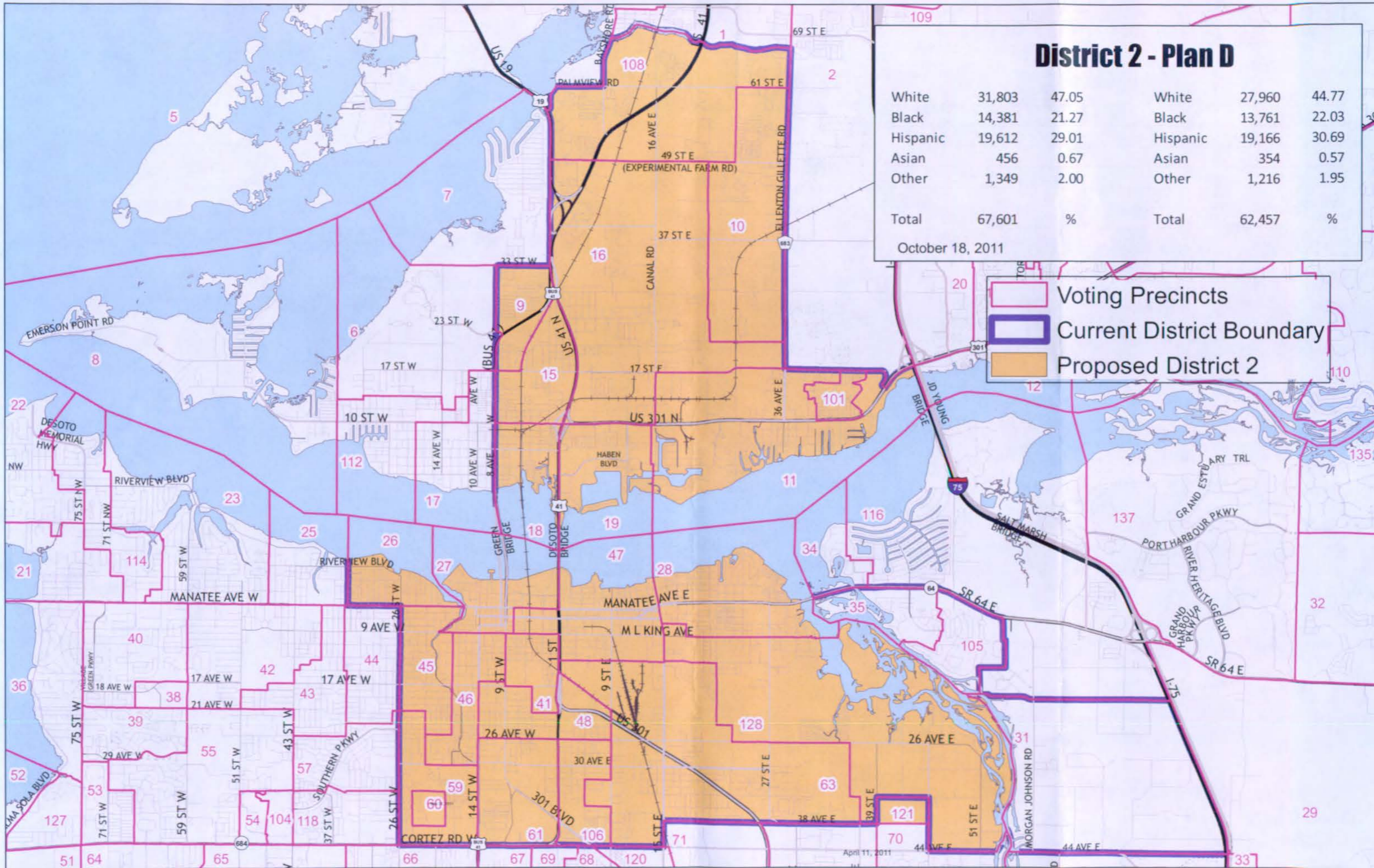


Current District Boundary
 Proposed District 1
 Voting Precincts

District 1

Current Population			Proposed Population		
White	56,554	81.80	White	53,080	81.74
Black	3,622	5.24	Black	3,359	5.17
Hispanic	6,551	9.47	Hispanic	6,258	9.64
Asian	1,310	1.89	Asian	1,224	1.88
Other	1,103	1.60	Other	1,018	1.57
Total	69,140	%	Total	64,939	%

September 16, 2011



District 2 - Plan D

White	31,803	47.05	White	27,960	44.77
Black	14,381	21.27	Black	13,761	22.03
Hispanic	19,612	29.01	Hispanic	19,166	30.69
Asian	456	0.67	Asian	354	0.57
Other	1,349	2.00	Other	1,216	1.95
Total	67,601	%	Total	62,457	%

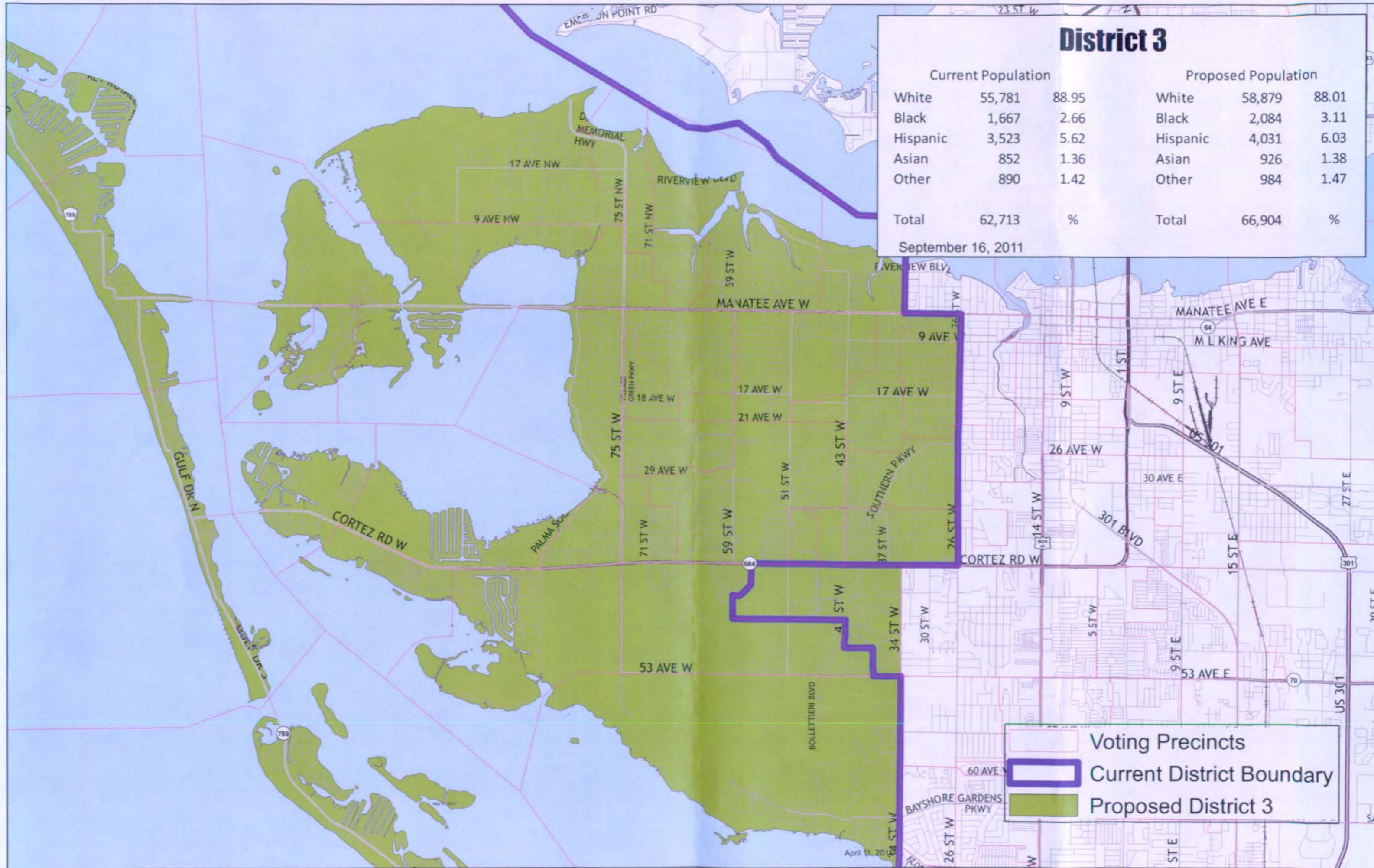
October 18, 2011

Voting Precincts
 Current District Boundary
 Proposed District 2

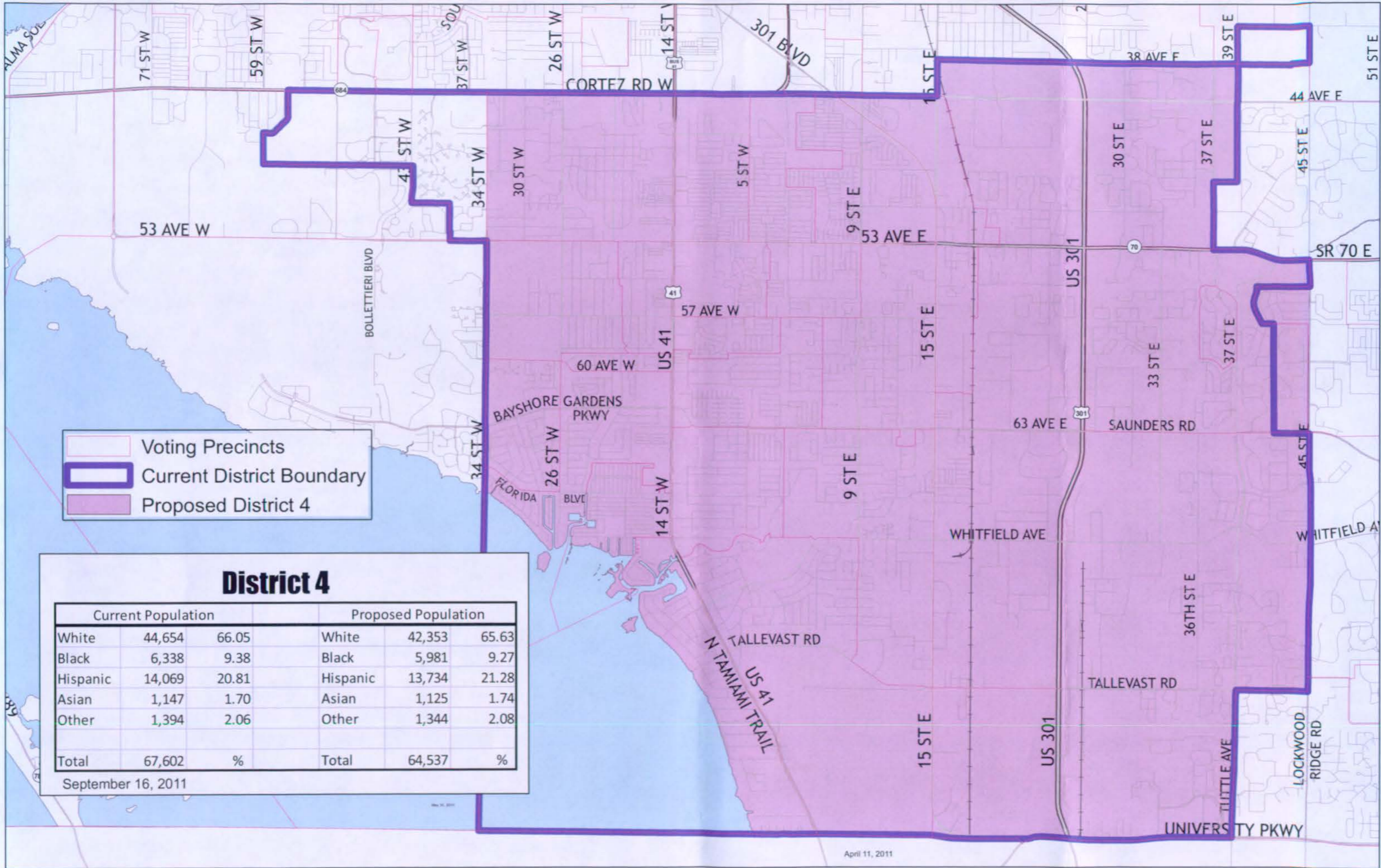
District 3

Current Population			Proposed Population		
White	55,781	88.95	White	58,879	88.01
Black	1,667	2.66	Black	2,084	3.11
Hispanic	3,523	5.62	Hispanic	4,031	6.03
Asian	852	1.36	Asian	926	1.38
Other	890	1.42	Other	984	1.47
Total	62,713	%	Total	66,904	%

September 16, 2011



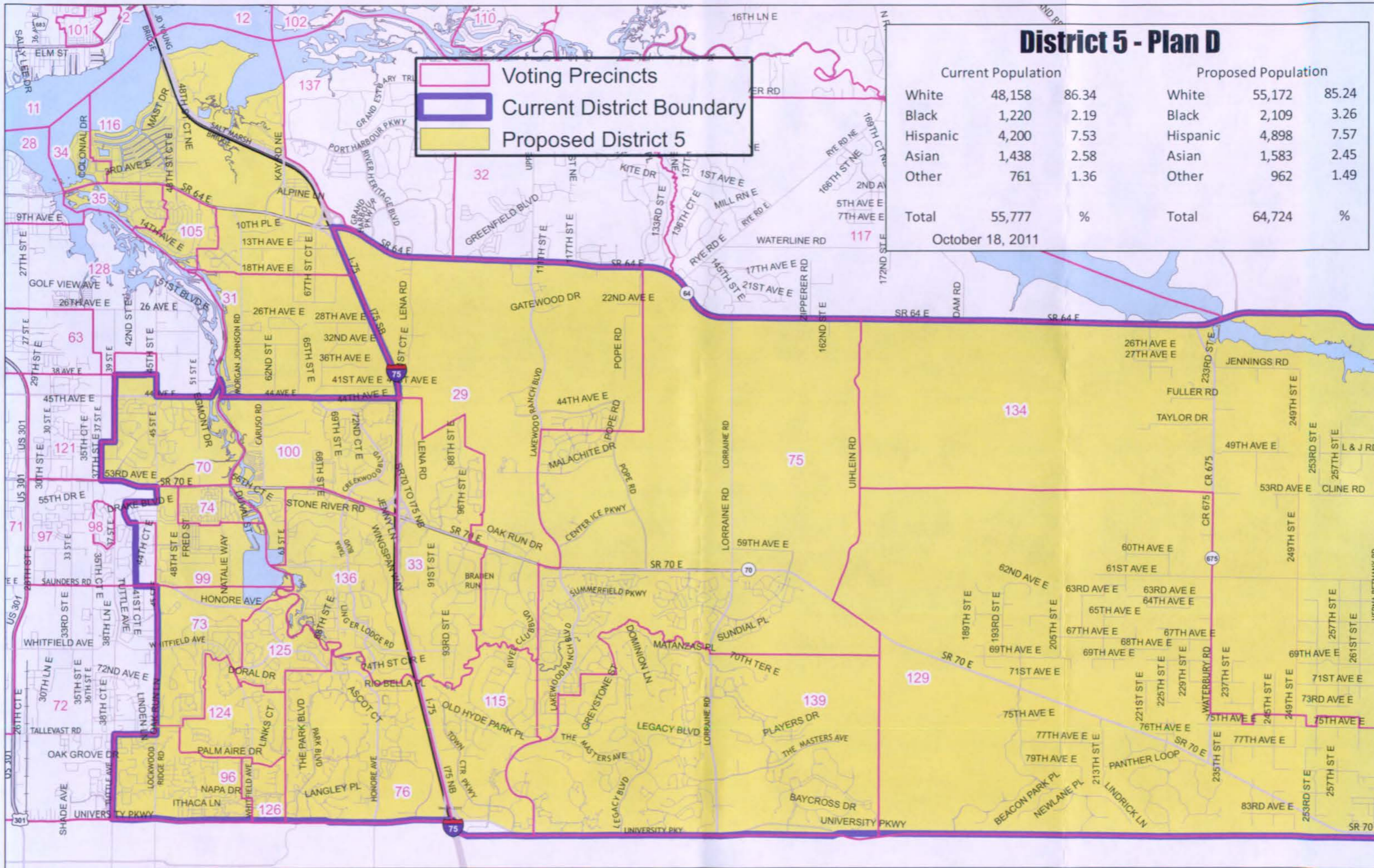
- Voting Precincts
- Current District Boundary
- Proposed District 3



Voting Precincts
 Current District Boundary
 Proposed District 4

Current Population			Proposed Population		
White	44,654	66.05	White	42,353	65.63
Black	6,338	9.38	Black	5,981	9.27
Hispanic	14,069	20.81	Hispanic	13,734	21.28
Asian	1,147	1.70	Asian	1,125	1.74
Other	1,394	2.06	Other	1,344	2.08
Total	67,602	%	Total	64,537	%

September 16, 2011



Voting Precincts
 Current District Boundary
 Proposed District 5

District 5 - Plan D

	Current Population		Proposed Population		
White	48,158	86.34	White	55,172	85.24
Black	1,220	2.19	Black	2,109	3.26
Hispanic	4,200	7.53	Hispanic	4,898	7.57
Asian	1,438	2.58	Asian	1,583	2.45
Other	761	1.36	Other	962	1.49
Total	55,777	%	Total	64,724	%

October 18, 2011