

October 2, 2013

Introduction

It is often forgotten that redistricting is, at its heart, a noble pursuit. Redistricting ensures that each person in a jurisdiction, in this case San Mateo County, has equal representation among the County's elected leadership. While abuses of redistricting, commonly called "gerrymandering," get most of the attention, thousands of jurisdictions across the nation undertake this process each decade – and most do it honorably, honestly, and fairly, with considerable public outreach.

San Mateo County certainly qualifies as "considerable public outreach." After 10 hearings, viewing 31 district plans, and scores of public comments, the San Mateo District Lines Advisory Committee has now completed its work.

NDC, in this memo, focuses on the plans before the Board and the key questions the differing plans present for consideration.

Rules and Criteria for Redistricting

There have been hundreds of books and articles about redistricting and the rules and criteria surrounding the drawing of election boundaries, so I will simply summarize them here. The first requirement is a federal requirement: each district must have essentially equal population. Until the mid-2000's, the rule of thumb was the difference between the populations of the largest and smallest districts must be no more than ten percent off from the ideal target population. Roughly translated, this meant with +/- five percent. But in its *Larios* decision, the US Supreme Court threw out that rule of thumb and declared that all deviations must be justified by adherence to 'traditional redistricting principles,' though within that ten percent range the burden of proof of a violation lies with any potential plaintiff.

The second requirement is compliance with the Federal Voting Rights Act. Briefly, this means that any "protected class" (Latino, Asian-American, African-American, or Native American) population that is politically cohesive must not be divided up in ways that dilute their "ability to elect" their preferred candidates. It is also sometimes summarized as a requirement for "an equal opportunity to elect their preferred candidate." The *Bartlett* case is often cited as saying that the Federal Voting Rights Act requires the drawing of any district where a "protected class" can be drawn to be a majority of the Citizens of Voting Age in a reasonably compact district, but that misstates Bartlett. The real test is whether a district drawn by a jurisdiction dilutes a protected class's ability to elect, and this is not a bright-line test.

The California Elections code, in section 21500, says that County redistricting "may give consideration to the following factors: (a) Topography, (b) Geography, (c) Cohesiveness, contiguity, integrity, and compactness of territory, and (d) Community of interests of the districts." But that is not binding. Section 21506 is more limited and more direct: "The term of office of any supervisor who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which he or she was elected." So if redistricting moves a district line in a way that displaces a sitting Supervisor from his or her current district, that Supervisor continues to serve and

completes his or her current term in office. That Supervisor would, however, have to move if he or she wished to run for re-election to an additional term in office.

After those federal and state rules, there are what the Supreme Court has called “traditional redistricting principles,” which are sometimes referred to as “good government criteria.” The Court said that these principles are not legal requirements, but they are justifiable considerations for which small population deviations can be accepted. They are, in no particular order:

- Communities of Interest (however that term may reasonably be defined);
- Following visible natural and man-made borders, such as rivers, freeways, or major roads;
- Keeping districts compact and contiguous;
- Preserving continuity in office (meaning avoiding pairing current incumbents, so that re-election decisions are made by the voters on election day, not in redistricting);
- Population growth (small deviations can offset anticipated growth, as long as such decisions are made uniformly across the entire county and based on reliable data for expected growth across the county);
- Preserve the core of existing districts (relationships and organizations have grown based on the current lines, so if none of the other criteria dictate a change, do not disrupt those relationships simply for the sake of balancing out a small population deviation).

Most of the discretion in redistricting decisions comes down to the definition of “communities of interest.” The Committee’s public hearings certainly followed that path, as speakers, in particular the Community Unity members, focused on income, language spoken at home, renters vs owners, and immigrants as definitions of community, while residents of Pacifica, Hillsborough and other areas focused on existing governmental borders and the fire, education, and other organizational ties as representative of communities of interest. Both are valid definitions of community of interest, and the committee’s work brought the debate into focus and the many sides of the debate much closer together than they began (though some differences remain, as will be covered below).

The only real community of interest requirement for defining all election districts is that race and ethnicity can be *one* of the factors considered, but if race and ethnicity are the “*predominate*” factor considered then, under the Court’s *Shaw* series of rulings, the plan is an unconstitutional racial gerrymander.

Chronology of Plans

The Committee spent its first seven meetings educating the public and gathering public comments and plans. Only in its final three meetings did the Committee formally vote to designate plans as either under “active” ongoing consideration or “inactive.”

When the Committee began voting on plans at its eighth meeting, it had the following 25 plans:

Current Districts	Millbrae Split	Nakamura 1D2
Blended	Nakamura 1A	Nakamura 1E
Burlingame Split	Nakamura 1A2	Nakamura 2
Community Unity 1	Nakamura 1B	Precinct Cleanup
Community Unity 2	Nakamura 1B2	Republican A2
Compact Adjustments	Nakamura 1B3	Republican B2
Huber (D3 only)	Nakamura 1C	South SF Preferred (D1 only)
Lareaux (D5 only)	Nakamura 1D	South SF San Bruno (D1 only)
		Two City Split

Mr. Nakamura asked that Nakamura 1B, 1B2, 1B3, 1C, and 2 be made “inactive,” as he preferred his other plans. At this eighth meeting, the Committee voted to designate six plans as their “active” plans: Community Unity 2; Nakamura 1A; Nakamura 1A2; Nakamura 1D; Precinct Cleanup; and Two City Split. The other 19 plans became “inactive,” though at each meeting it was mentioned that the Committee or the Board could “re-activate” any of the “inactive” plans at a later date.

Between the Committee’s eighth and ninth meetings, the Community Unity 3 plan was submitted with a request that it replace Community Unity 2 as the plan under the Committee’s “active” consideration.

At the start of its ninth meeting, the Committee faced the following “active” or new maps:

existing	Current Districts	active	Nakamura 1D
active	Community Unity 2	active	Precinct Cleanup
active	Nakamura 1A	active	Two City Split
active	Nakamura 1A2	new	Community Unity 3

At its ninth meeting, the Committee voted to designate as “inactive” the plans Community Unity 2, Nakamura 1A, Nakamura 1D, and Two-City Split. The Committee voted to continue with three “active” plans: Precinct Cleanup; Nakamura 1A2; and Community Unity 3.

Between the Committee’s ninth and tenth meetings, five additional plans were submitted by the consultant or the public: Community Unity 4; Republican AA; Nakamura 1G; and, at the Committee’s request, South SF NDC 1 and South SF NDC 2.

As it began its tenth meeting, the Committee faced the following list of plans:

existing	Current Districts	new	Community Unity 4
active	Community Unity 3	new	Republican AA
active	Nakamura 1A2	new	Nakamura 1G
active	Precinct Cleanup	new	South SF NDC 1
		new	South SF NDC 2

At its tenth and final meeting, the Committee recommended to the Board plans Community Unity 4; Republican AA (renamed “Equity”); and Nakamura 1G.

Comparing the Plans

The Committee recommended 3 plans as potential replacements for the districts currently in place. As prioritized by the Committee, those 3 plans are the following:

1. Community Unity 4
2. Equity
3. Nakamura 1G

Existing Districts

The northernmost area of the County is currently covered by Supervisorial District 5. District 5 encompasses all of Daly City, Brisbane, and Colma, along with the portion of South San Francisco west of El Camino Real.

Along the coast, existing District 3 begins at Pacifica and includes essentially everything west of I-280 except the portion of San Bruno that extends west of that freeway. District 3 also includes Atherton, San Carlos, the “Sequoia Tract” (between Atherton and western Redwood City), most of Emerald Lake Hills, Devonshire, the “Redwood Shores” portion of Redwood City, and the southern quarter of the city of Belmont. Woodside, Portola Valley, Half Moon Bay, Montara, Moss Beach, El Granada, La Honda, Loma Mar, Pescadero and most of unincorporated West Menlo Park are all included in District 3.

District 1 includes the portion of South San Francisco east of El Camino Real, along with the entirety of San Bruno, Millbrae, Burlingame, Hillsborough, Burlingame Hills, and the San Mateo Highlands.

Existing District 2 covers all of San Mateo, all of Foster City, and the northern three-quarters of Belmont.

And existing District 4 includes most of Redwood City (excluding Redwood Shores and the far western “boot” of the City), all of Menlo Park, all of East Palo Alto, North Fair Oaks, Menlo Oaks, and portions of the West Menlo Park unincorporated area.

Brief Plan Summaries

Community Unity 4

This plan moves the unincorporated Burlingame Hills and the City of Hillsborough from District 1 to District 2. Then it moves northeastern San Mateo from District 2 to District 1. All of Belmont is united in District 2, while the San Mateo Highlands move into District 3. Redwood City is united in District 4, Menlo Oaks moves from 4 to 3, and Menlo Park east of El Camino Real moves into District 3 (from 4).

Equity

More of South San Francisco is concentrated in District 1, as the border moves from El Camino Real west to Junipero Serra. But San Bruno northwest of the 280 / 380 interchange moves into District 5.

Hillsborough and the San Mateo Highlands move from current District 1 into District 2, while northeast San Mateo is split off into District 1. The split of Belmont moves east to the railroad, and San Carlos is divided along Old Country Road just east of El Camino Real. Redwood City is united in District 4, the Sequoia Tract moves from District 3 into District 4, Menlo Oaks moves from District 4 into District 3, and Menlo Park is divided along Bay Road and Interstate 101.

Nakamura 1G

Brisbane moves from District 5 to District 1, and the current north-south border between Districts 1 and 5 in South San Francisco switches to a northeast / southwest border along Westborough. Northeast San Mateo moves from District 2 to District 1, while Hillsborough and the San Mateo Highlands move from District 1 to District 2. Belmont is united in District 2. Redwood City is united in District 4. Sequoia Tract moves from District 3 to District 4 and Menlo Oaks moves from District 4 to District 3. Menlo Park is divided along Middlefield Rd.

Demographic Summary

This packet contains full demographic breakdowns of racial, ethnic, economic, social, and other demographics for each plan. Those demographics were discussed at length by the Committee and the public.

The key demographic number in determining whether plans comply with the federal equal population requirement is each plan's overall population deviation. A plan's population deviation is calculated as the difference between the largest district and the smallest district in a given plan, measured using the population deviations of the largest and smallest districts. For example, in the current districts, the largest population in any district is 1.87% over the ideal target population (District 2). And the smallest district is 1.46% under the ideal target population (District 5). The difference between those two values, or 1.87% + 1.46%, is the plan's overall population deviation of 3.33%

Status	Plan	Pop. Dev.
existing	Current Districts	3.33%
recommended	Community Unity 4	5.38%
recommended	Nakamura 1G	8.04%
recommended	Equity	8.20%

As shown in the table above, the current districts are the closest to balanced population. The Community Unity 4 plan is at 5.38%, while both Nakamura 1G and the Equity plan are over 8% -- somewhat dangerously close to the 10% limit at which plans are presumed unconstitutional. Previous court rulings determined that at a plan deviation of 10%, the burden of proof in any legal challenge would shift to the County to justify that deviation. There is no longer a "safe harbor" of acceptable deviation, as courts have been getting tighter and tighter on their allowable population deviations. At a minimum the courts demand that population deviations be justified as required to comply with one or more of the traditional redistricting principles described above.

City Splits

The number of city splits in each plan was a frequent topic of discussion at Committee hearings, and a number of speakers addressed the importance of keeping cities united – and the impact of city divisions

on the services and goals of city residents. The following tables detail the splits involved in the current districts and in each of the recommended plans:

Status	Plan	City Splits	List
existing	Current Districts	3	Belmont, South SF, Redwood City
recommended	Nakamura 1G	3	Belmont, Menlo Park, South SF
recommended	Community Unity 4	3	Menlo Park, San Mateo, South SF
recommended	Equity	6	Belmont, Menlo Park, San Bruno, San Carlos, San Mateo, South SF

The following break down the splits city by city in each plan:

Existing Districts:

City	District	Population	% of City
Belmont	2	19,320	73.4
Belmont	3	6,996	26.6
Redwood City	3	12,721	16.1
Redwood City	4	66,307	83.9
South San Francisco	1	35,140	54.0
South San Francisco	5	29,987	46.0

Nakamura 1G:

City	District	Population	% of City
Menlo Park	3	18,237	55.8
Menlo Park	4	14,453	44.2
San Mateo	1	21,973	22.2
San Mateo	2	77,088	77.8
South San Francisco	1	31,501	48.4
South San Francisco	5	33,626	51.6

Community Unity 4:

City	District	Population	% of City
Menlo Park CA	3	13,420	41.1
Menlo Park CA	4	19,270	58.9
San Mateo CA	1	14,486	14.6
San Mateo CA	2	84,575	85.4
South San Francisco CA	1	37,885	58.2
South San Francisco CA	5	27,242	41.8

Equity:

City	District	Population	% of City
Belmont	2	21,953	83.4
Belmont	4	4,363	16.6
Menlo Park	3	24,480	74.9
Menlo Park	4	8,210	25.1
San Bruno	1	31,940	74.6
San Bruno	5	10,888	25.4
San Carlos	3	27,586	95.2
San Carlos	4	1,400	4.8
San Mateo	1	17,140	17.3
San Mateo	2	81,921	82.7
South San Francisco	1	50,398	77.4
South San Francisco	5	14,729	22.6

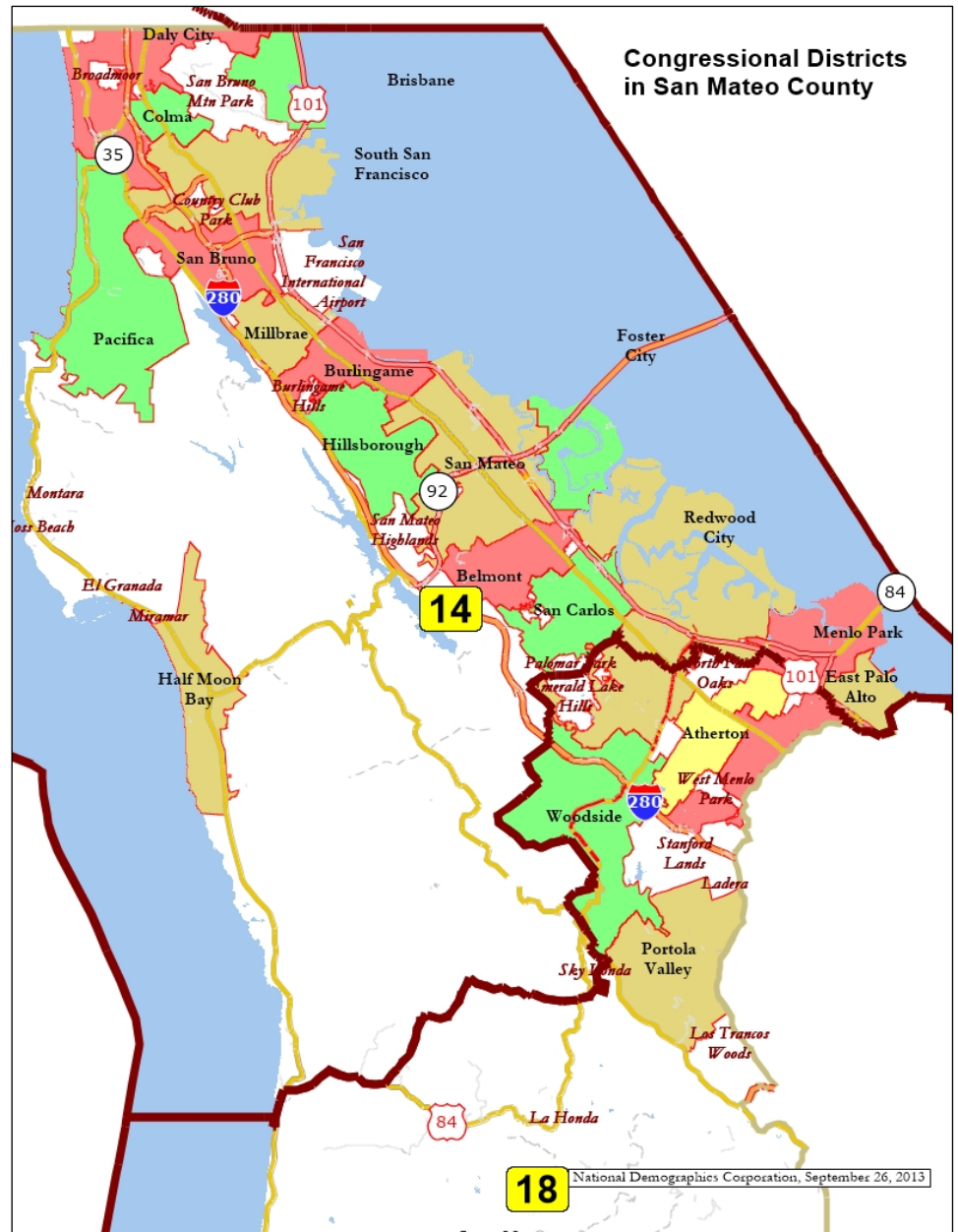
Divisions of Other Jurisdictions

While cities tend to be the level of government with the most issues of partnership or contention with a typical county government, county policy decisions can also impact other levels of government from school districts to Congress. Even precinct splits have impacts, as the County Registrar must redraw precinct lines to correspond to new Supervisorial lines and precinct “slivers” can lead to tiny precincts where residents are required to vote by mail because there are not enough registered voters to justify staffing a precinct on election day. “Slivers” are small areas where one jurisdiction’s lines (such as Supervisorial districts) pass near, but not concurrent with, another jurisdiction’s lines (such as a city border or a Congressional district). While there has not yet been sufficient time to analyze the three recommended plans for potential slivers, this was a topic discussed by the Committee and the Committee’s desire to avoid slivers was made clear by its request for the plan eventually known as “precinct cleanup.”

While counts of precinct “slivers” are not yet available, NDC has reviewed the current and proposed plans and tallied the number of school districts divided by each:

School District Splits	Elementary	Secondary	Unified	Total
Existing Lines	9	3	1	13
Community Unity 4	10	3	1	14
Equity	12	3	1	16
Nakamura 1G	8	3	1	12

Congressional Districts in California are too large for any Supervisorial District in the County to closely follow their borders. As shown by the following map of Congressional Districts in the County, both Districts are almost inevitably divided:



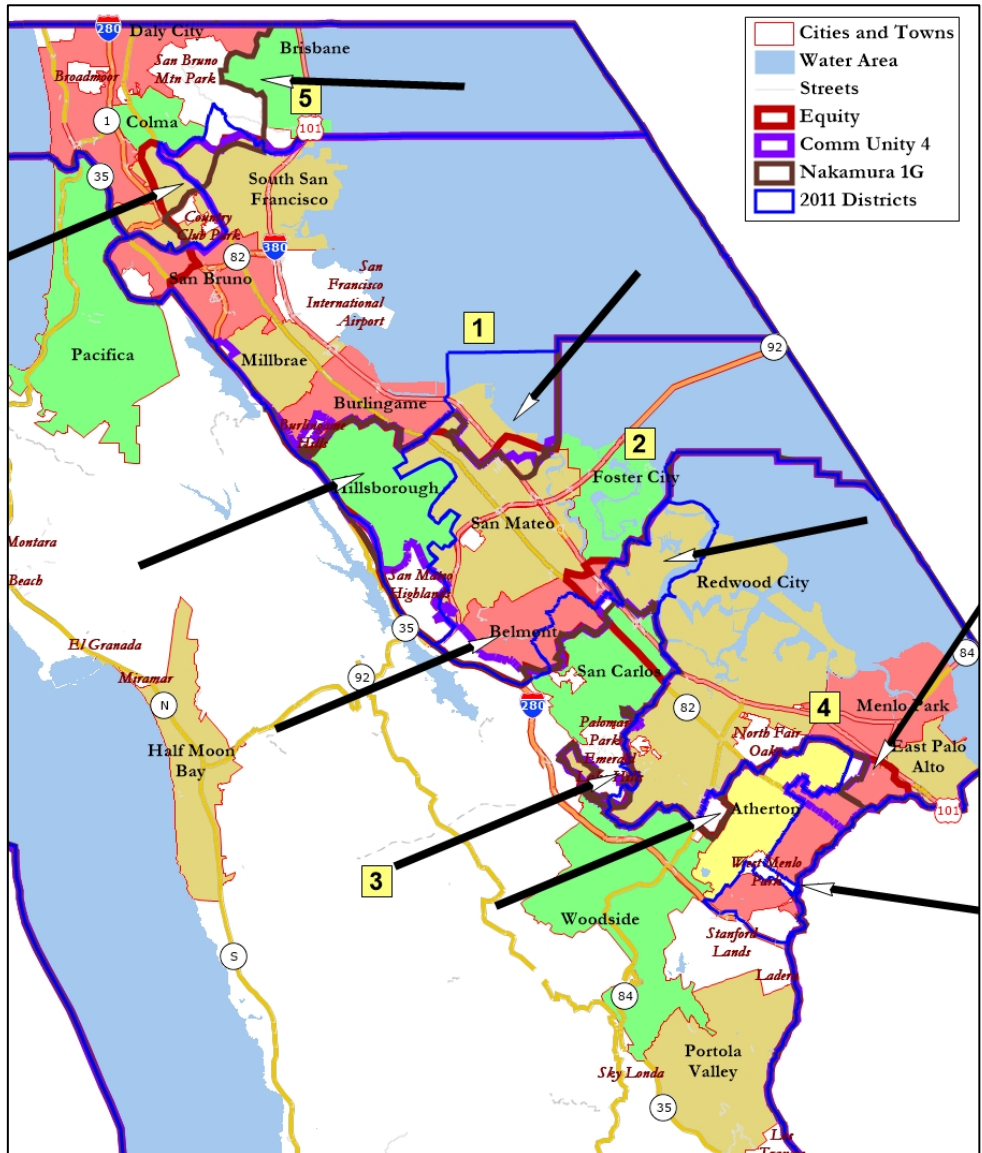
Specific Plan Differences

The map below is somewhat hard to analyze, but it highlights areas of considerable agreement among the current and/or recommended plans, and areas of disagreement. In areas where one thick line defines the border, all of the plans follow the same line. In areas where lines of differing colors and widths run near, but not concurrent, with each other, the plans disagree on where the lines should be drawn. The arrows indicate areas of disagreement.

1. Working from north to south, the first area of disagreement is whether to have Brisbane in District 1 (Nakamura 1G) or District 5 (all other plans).
2. The next difference is where to draw the line through South San Francisco (due to that city's size, no recommended plan is able to keep in intact, though ways to do so were considered during the Committee process).

The question is whether to drawn the line down El Camino Real (current lines; Community Unit 4); down Junipero Serra and continue District 5 into San Bruno (Equity); or westerly on Westborough and then south on 280 (Nakamura 1G).

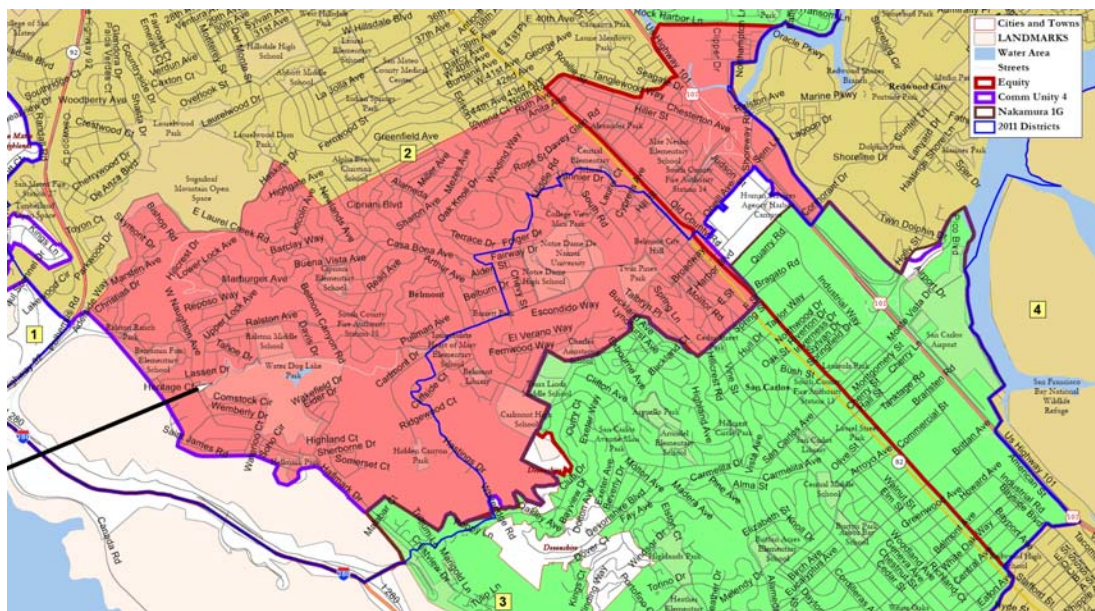
3. Hillsborough is in District 1 in the current lines but all three recommended plans move it to District 2.
4. The unincorporated San Mateo highlands are in District 1 currently, but the Community Unit 4 map moves them to District 3. Nakamura 1G and Equity move the Highlands to District 2.



5. The next disagreements come in San Mateo, where the current lines have the city entirely in District 2 but the three recommended plans all move the northeast corner into District 1. But all three recommended plans disagree on exactly where to draw the line:



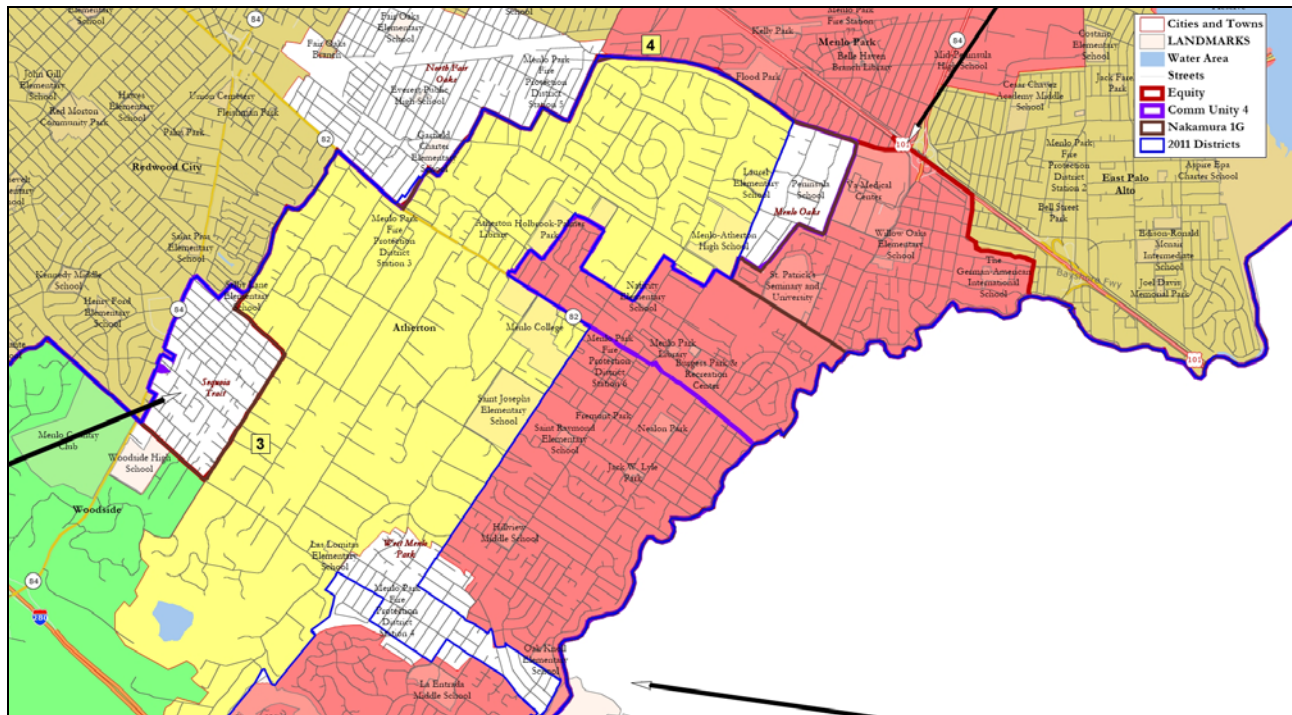
6. The City of Belmont is currently split. According to one unverified comment at a Committee meeting, the division follows a school attendance zone border. Nakamura 1G and Community Unit 4 unite Belmont entirely in District 2. The Equity Plan unites most of Belmont in District 2, but splits the portion east of the railroad (just east of El Camino Real) off into District 4.



7. The Equity Plan is the only plan to split San Carlos, and does so along Old Country Road, just east of El Camino Real.

8. The current districts put Redwood Shores portion of Redwood City in District 2, the southwestern “foot” of Redwood City into District 3, and the remainder of Redwood City into District 4. All three recommended plans unite Redwood City in District 4.

One often-mentioned community of interest request at the Committee hearings was to keep East Palo Alto, eastern Menlo Park, North Fair Oaks, and the bordering areas of Redwood City united in one district. The current districts and all three recommended plans do keep all of these areas united in District 4. Where the plans differ is in what else goes into District 4 with those areas:



9. The unincorporated “Sequoia Tract” between Atherton and Redwood City is in District 3 in the Community Unit 4 plan and in the existing districts, but in District 4 in Nakamura 1G and the Equity plan.

The unincorporated “Menlo Oaks” area between Atherton and Menlo Park is in District 4 in the existing districts and in all three recommended plans.

10. The City of Menlo Park is united in District 4 in the existing districts. The recommended plans all divide the city, with the western portion in District 3 and the eastern portion in District 4. But the place to divide the City varies in each plan: Community Unit 4 divides along El Camino Real; Nakamura 1G divides along Middlefield Road; and Equity divides along Bay Road and the 101 Freeway.

Voting Rights Act Analysis to Follow

NDC is currently reviewing the current districts and all three recommended plans for potential federal Voting Rights Act risks. This review will focus on whether there is dilution of the voting power of any protected class in any of these four maps. While the review is not yet complete, based on NDC’s

experience we do not expect to find a problem with any of the plans. This review will be complete by Tuesday, and if any concerns are identified we will highlight them for the Board at that time.

Other Plans

While the Committee recommended the three plans listed above, the Board obviously can choose any plan it wishes to adopt, or direct NDC to make changes to any map. Another option is retaining the existing districts. While the other plans discussed by the Committee are too numerous to detail here, the following list provides the names of all of the plans considered by the Committee:

- | | |
|---|---|
| 1. Current Districts | 20. Nakamura 2 |
| 2. Burlingame Split | 21. NDC Blended |
| 3. Community Unity 1 | 22. NDC Compact Adjustments |
| 4. Community Unity 2 | 23. Precinct Cleanup |
| 5. Community Unity 3 | 24. Republican A2 |
| 6. Community Unity 4 | 25. Republican AA |
| 7. Huber (a single-district plan showing only D3) | 26. Republican B2 |
| 8. Lareaux (a single-district plan showing only D5) | 27. South SF NDC 1 |
| 9. Millbrae Split | 28. South SF NDC 2 |
| 10. Nakamura 1A | 29. South SF Preferred (a single-district plan showing only D1) |
| 11. Nakamura 1A2 | 30. South SF San Bruno (a single-district plan showing only D1) |
| 12. Nakamura 1B | 31. Two City Split |
| 13. Nakamura 1B2 | |
| 14. Nakamura 1B3 | |
| 15. Nakamura 1C | |
| 16. Nakamura 1D | |
| 17. Nakamura 1D2 | |
| 18. Nakamura 1E | |
| 19. Nakamura 1G | |