



Local Agency Formation Commission of Napa County
Subdivision of the State of California

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We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture

Agenda Item 8c (Discussion)

TO: Local Agency Formation Commission

PREPARED BY: Policy Committee (Mohler, Rodeno, and Freeman)

MEETING DATE: August 6, 2018

SUBJECT: Draft Policy on Disadvantaged Unincorporated Communities

RECOMMENDATION

It is recommended the Commission provide direction to the Policy Committee to circulate the draft *Policy on Disadvantaged Unincorporated Communities* (Attachment One) for public review and comment.

BACKGROUND AND SUMMARY

At its February 6, 2017, meeting, the Commission established an ad hoc Policy Committee (“Committee”) to review the agency’s written policies and propose amendments as appropriate. Commissioners Mohler and Rodeno currently serve with the Executive Officer on the Committee.

The Committee reviewed existing statutes contained in the Cortese-Knox-Hertzberg Act relating to disadvantaged unincorporated communities (DUCs) and determined it would be appropriate for the Commission to adopt a new stand-alone *Policy on Disadvantaged Unincorporated Communities* (“Policy”) based on the reasons summarized in this report.

The Commission is invited to discuss the draft Policy that has been prepared by the Committee. It is recommended the Commission provide direction to the Committee to circulate the draft Policy for public review and invite comments from any local agency or member of the public. It is anticipated the Committee will review all comments received, revise the draft Policy as appropriate, and return with a recommendation for formal action to adopt the Policy at a future meeting.

Margie Mohler, Chair
Councilmember, Town of Yountville

Scott Sedgley, Commissioner
Councilmember, City of Napa

Kenneth Leary, Alternate Commissioner
Councilmember, City of American Canyon

Brad Wagenknecht, Vice Chair
County of Napa Supervisor, 1st District

Diane Dillon, Commissioner
County of Napa Supervisor, 3rd District

Ryan Gregory, Alternate Commissioner
County of Napa Supervisor, 2nd District

Gregory Rodeno, Commissioner
Representative of the General Public

Erik Lawrence, Alternate Commissioner
Representative of the General Public

Brendon Freeman
Executive Officer

DISCUSSION

The Cortese-Knox-Hertzberg Act (CKH) requires all LAFCOs to identify the location and characteristics of DUCs and take specific actions relating to DUCs when the Commission considers changes of organization, reorganizations, sphere of influence amendments and updates, and municipal service reviews. CKH broadly defines DUCs and allows the Commission to determine an appropriate local definition of DUCs with consideration given to local conditions and circumstances. The legislative intent is to ensure disadvantaged communities receive essential public services such as water, sewer, and fire protection. A summary of relevant statutes follows.

- Government Code Section 56033.5 defines a DUC as inhabited territory (meaning 12 or more registered voters), or as determined by commission policy, that constitutes all or a portion of a “disadvantaged community” as defined by Section 79505.5 of the Water Code.¹
- Government Code Section 56375(a)(8)(A) states, with limited exceptions, LAFCO shall not approve an annexation to a city of any territory greater than 10 acres where there exists a DUC that is contiguous to the area of the proposed annexation, unless an application to annex the DUC to the subject city has been filed with LAFCO’s Executive Officer.
- Government Code Section 56425(e)(5) states, in determining the sphere of influence of each local agency, LAFCO shall consider and prepare a written statement of its determinations with respect to the present and probable need for public water, sewer, and/or fire protection facilities and services of any DUC located within the subject agency’s existing sphere of influence.
- Government Code Section 56430(a)(2) states, as part of any municipal service review, LAFCO shall prepare a written statement of its determinations with respect to the location and characteristics of any DUCs within or contiguous to the subject agency’s sphere of influence.

The Committee determined it would be appropriate for the Commission to adopt a new policy that defines DUCs based on local conditions and circumstances. Notably, the Committee agreed the new policy should identify the source of data to be used in determining the existence and location of DUCs. Toward this end, the Committee recommends the Commission explicitly rely on median household income data provided by the United States Census Bureau American Community Survey.

The draft Policy, included as Attachment One, is intended to address these issues. As of the date of this report, there are zero DUCs anywhere in Napa County based on the draft Policy.

ATTACHMENT

- 1) Draft Policy on Disadvantaged Unincorporated Communities

¹ Section 79505.5 of the Water Code defines a “disadvantaged community” as a community with an annual median household income that is less than 80 percent of the statewide annual median household income.



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

Policy on Disadvantaged Unincorporated Communities

(Draft Presented: August 6, 2018)

I. BACKGROUND

An essential component of the state's Environmental Justice framework is to identify and engage disadvantaged and disproportionately impacted communities. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) includes provisions requiring the Commission to identify the location and characteristics of disadvantaged unincorporated communities (DUCs) and take specific actions relating to DUCs pursuant to Government Code (G.C.) §56375, §56425, and §56430. CKH broadly defines DUCs in G.C. §56033.5 and allows the Commission to determine an appropriate local definition of DUCs with consideration given to local conditions and circumstances.

II. DEFINITION

The Commission defines "disadvantaged unincorporated communities" as territory that meets all of the following:

- a) Substantially developed with primarily residential uses. For purposes of this policy, "substantially developed" is determined by the Commission by considering the factors set forth in subsection (b)(4) of Government Code §56375.3.
- b) Does not have reliable public water, sewer, or structural fire protection service available.
- c) Meets the definition of "inhabited territory", meaning at least 12 registered voters (G.C. §56046).
- d) Has a median household income level of less than 80% of the statewide median household income based on available data provided by the United States Census Bureau American Community Survey. The Commission will rely on data for census places identified by the Census Bureau as disadvantaged communities (less than 80% of the state's median household income) and will annually review Census Bureau American Community Survey data to determine if local and/or statewide median household income levels have changed.