



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

1030 Seminary Street, Suite B
Napa, California 94559
Phone: (707) 259-8645
Fax: (707) 251-1053
www.napa.lafco.ca.gov

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

Agenda Item 7d (Action)

TO: Local Agency Formation Commission

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

MEETING DATE: October 1, 2018

SUBJECT: Proposed Policy on Disadvantaged Unincorporated Communities

RECOMMENDATION

It is recommended the Commission adopt the draft resolution, included as Attachment One, adopting the proposed *Policy on Disadvantaged Unincorporated Communities*.

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”).

On August 6, 2018, the Commission discussed a draft Policy and directed the Committee to circulate the draft Policy for public review and comment. The draft Policy was made available to all local agencies and members of the public for review and comment from August 7, 2018, through September 7, 2018. No comments were received and therefore the Committee returns with an identical Policy for formal adoption at today’s meeting.

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

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

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

ATTACHMENT

- 1) Draft Resolution Adopting the 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.

RESOLUTION NO. _____

**RESOLUTION OF
THE LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY
ADOPTING A POLICY ON DISADVANTAGED UNINCORPORATED COMMUNITIES**

WHEREAS, the Local Agency Formation Commission of Napa County (“Commission”) desires to establish a *Policy on Disadvantaged Unincorporated Communities* (“Policy”);

WHEREAS, at its meeting on August 6, 2018, the Commission considered a draft Policy for discussion and the Commission directed the Policy Committee to circulate the draft Policy for public review and comment;

WHEREAS, the draft Policy was made available for review and comment from August 7, 2018, through September 7, 2018. No comments were received;

NOW, THEREFORE, BE IT RESOLVED that the Commission hereby adopts the Policy attached hereto.

This Resolution shall take effect from and after the date of its passage and adoption.

The foregoing resolution was duly and regularly adopted by the Commission at a regular meeting held on October 1, 2018, after a motion by Commissioner _____, seconded by Commissioner _____, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____

ABSENT: Commissioners _____

ABSTAIN: Commissioners _____

Margie Mohler
Commission Chair

ATTEST: _____
Brendon Freeman
Executive Officer

Recorded by: Kathy Mabry
Commission Secretary



LOCAL AGENCY FORMATION COMMISSION OF NAPA COUNTY

Policy on Disadvantaged Unincorporated Communities

(Draft Presented: August 6, 2018; Proposed for Adoption: October 1, 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.