



TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

210 N. Church Street, Suite B, Visalia 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

LAFCO MEETING AGENDA
March 6, 2013 @ 2:00 P.M.
BOARD OF SUPERVISORS CHAMBERS
COUNTY ADMINISTRATIVE BUILDING
2800 West Burrel Avenue
Visalia CA 93291

COMMISSIONERS:
*Cameron Hamilton, Chair
Steve Worthley, V-Chair
Rudy Mendoza
Allen Ishida
Juliet Allen*

ALTERNATES:
*Mike Ennis
Dennis Mederos
Janet Hinesly*

EXECUTIVE OFFICER:
Ben Giuliani

I. Call to Order

II. Approval of Minutes from February 6, 2013 (Pages 1-4)

III. Public Comment Period

At this time, members of the public may comment on any item not appearing on the agenda and that is within the scope of matters considered by the Commission. Under state law, matters presented under this item cannot be discussed or acted upon by the LAFCO Commission at this time. So that all interested parties have an opportunity to speak, any person addressing the Commission may be limited at the discretion of the chair. At all times, please use the microphone and state your name and address for the record.

IV. Consent Calendar

There are no items.

V. New Action Items

1. Proposed Amendment to Policy C-9 (AB 1555 Island Annexation Policy) (Pages 5-10)
[No Public Hearing].....Recommended Action: Approval

In response to a recent Attorney General opinion, the proposed amendment would amend policy to remove a provision that allows for the splitting of County islands greater than 150 acres to take advantage of the stream-lined island annexation process.

VI. Executive Officer's Report

1. Proposed Draft Amendment to Policy 5.11 (MSRs) (Pages 11-14)

The proposed draft amendment would align language in policy regarding disadvantaged unincorporated communities with Government Code as amended by SB 244 (Wolk). The proposed amendment also details how the public review period for MSRs are noticed which would result in cost savings to the Commission's budget.

NOTE: Persons wishing to speak on any of the agenda items who have made a political contribution of more than \$250 to any commissioner in the last twelve months must indicate this when speaking.

2. SB 244: Land Use, General Plans, and Disadvantaged Communities (Pages 15-42)

The Governor's Office of Planning and Research has issued the final technical advisory guidance on the implementation of SB 244 (Wolk) relating to disadvantaged unincorporated communities (DUCs). There were two sections added relating to CEQA that were not present in the draft technical advisory guidance that was presented to the Commission at the October 24th meeting.

3. City Selection Committee (Page 43-44)

On February 19th, the City Selection Committee voted for Mayor Janet Hinesly of the City of Dinuba to serve as the Alternate City Member of the Commission for the term from May 2013 to May 2017.

4. Sequoia Memorial District (Page 45-48)

At the October 24th meeting, staff provided a report to the Commission regarding special districts in Tulare County. In the report to the Commission, the Sequoia Memorial District was one of the districts which staff recommended further evaluation because of the District's historical problem with achieving a quorum at their board meetings. Commission representatives met with District representatives on February 15th.

5. Legislative Update (No Page)

The Executive Officer will provide a legislative update at the meeting.

6. Upcoming Projects (No Page)

The Executive Officer will provide a summary and tentative schedule of upcoming LAFCO cases and projects.

VII. Correspondence

None

VIII. Other Business

1. Commissioner Report

At this time, any Commissioner may inform the Commission, Staff, or the public of pertinent LAFCO issues not appearing on the agenda.

2. Request from LAFCO for items to be set for future agendas

IX. Closed Sessions

There are no items.

X. Setting Time and Place of Next Meeting

April 3, 2013 @ 2:00 P.M. in the Board of Supervisors Chambers in the County Administration Building

NOTE: Persons wishing to speak on any of the agenda items who have made a political contribution of more than \$250 to any commissioner in the last twelve months must indicate this when speaking.

XI. Adjournment

Item No.

Agenda Summary

- II. *Please see enclosed February 6, 2013 meeting minutes.*
- V.1 *Please see enclosed Memo for Proposed Amendment to Policy C-9.*
- VI.1 *Please see enclosed Memo for Proposed Amendment to Policy 5.11.*
- VI.2 *Please see enclosed Memo for SB 244: Land Use, General Plans, and Disadvantaged Communities.*
- VI.3 *Please see enclosed attachment for City Selection Committee.*
- VI.4. *Please see enclosed Memo regarding Sequoia Memorial District.*
- VI.5 *There are no enclosures for this item.*
- VI.6. *There are no enclosures for this item.*

NOTE: Persons wishing to speak on any of the agenda items who have made a political contribution of more than \$250 to any commissioner in the last twelve months must indicate this when speaking.

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TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION
Minutes of the Meeting

February 6, 2013

Members Present: Allen Ishida, Cameron Hamilton, Rudy Mendoza, Steve Worthley

Members Absent: None

Alternates Present: Dennis Mederos

Alternates Absent: Mike Ennis, Janet Hinesly

Staff Present: Ben Giuliani, Cynthia Echavarria, Carrie Perez

Counsel Present: Nina Dong

I. Call to Order

Chair Hamilton called the Tulare County Local Agency Formation Commission meeting to order at 2:00 p.m. on February 6, 2013.

II. Approval of the December 5, 2012 Minutes:

Upon motion by Commissioner Worthley and seconded by Commissioner Ishida, the Commission unanimously approved the December 5, 2012 minutes.

III. Public Comment Period

Chair Hamilton opened the Public Comment Period

No comments were received

Chair Hamilton closed the Public Comment Period

IV. Consent Calendar Items

There were no Consent Calendar items.

V. Continued Action Items

1. The Adoption of the City of Visalia's Municipal Service Review (MSR).

Chair Hamilton opened the Public Hearing portion of the meeting at 2:05 p.m.

Josh McDonnell, City of Visalia, stated that the City supports the MSR adoption.

Jake Raper, County of Tulare, stated the County supports the adoption of the MSR of Visalia with the acknowledgement of the issues discussed.

Chair Hamilton closed the Public Hearing portion of the meeting at 2:08 p.m.

Commissioner Mendoza asked questions regarding the purpose of the MSR and the relationship between the MSR and City/County Memorandum of Understanding (MOU).

Ben Giuliani, Executive Officer of LAFCO, responded the MSR is a technical document used for Sphere of Influence (SOI) updates and that the MOU was mentioned only in context with the City's and County's goal of matching the Urban Development Boundaries (UDBs) with the SOI.

Commissioner Allen stated concerns regarding the continuations of the hearing for issues that are outside the scope of the Commission.

Upon motion made by Commissioner Ishida and seconded by Commissioner Allen the Commission unanimously approved the City of Visalia's Municipal Service Review.

VI. New Action Item

1. Termination of LAFCo Case 1442-D-60 City of Dinuba Reorganization 2007-02 (Margosian)

Executive Officer Giuliani reported that Case No. 1442-D-60 was approved by LAFCO but was never recorded because a condition of approval wasn't met. The City has now requested to withdraw its request for reorganization and staff is recommending termination of the case.

Upon motion made by Commissioner Mendoza and seconded by Commissioner Allen the Commission unanimously approved the withdrawal of the request for reorganization.

VII. Executive Officer's Report

1. Proposed Amendment to Policy C-9 (AB 1555 Island Annexation Policy)

In response to a recent Attorney General opinion, the proposed amendment would amend policy to remove a provision that allows for the splitting of County islands greater than 150 acres to take advantage of the stream-lined island annexation process. Staff will bring this policy back to the Commission for action at the March 6, 2013 meeting.

Brad Dunlap, City of Porterville, expressed concerns regarding the interpretation of the AG opinion and also inquired regarding the possibility of extending the sunset date of the stream-lined island annexation process.

EO Giuliani stated that substantially surrounded islands within East Porterville could still qualify for the stream-lined process and that CALAFCO was working on legislation to extend the sunset date of the process.

2. Legislative Update

EO Giuliani reviewed upcoming legislation.

Commissioner Worthley asked Commissioner Allen, while at the CALAFCO meeting, to ask other LAFCO's about their reaction to the Attorney General's opinion on island annexations.

3. Upcoming Projects

Executive Officer Giuliani provided an update of upcoming projects.

4. 2013 CALAFCO Schedule

Commissioner Allen noted the CALAFCO Annual Conference has been moved to the end of August.

VIII. Correspondence

There were no correspondence items

IX. Other Business

1. Commissioner Report

There were no reports

2. Request from the Commission for items to be set for future agendas

There were no requests

X. Closed Sessions

There were no items

XI. Setting Time and Place of Next Meeting

March 6, 2013 @ 2:00 P.M. in the Board of Supervisors Chambers in the County Administration Building

XII. Adjournment

The meeting was adjourned at 2:41 p.m.

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Janet Hinesly*

EXECUTIVE OFFICER:

Ben Giuliani

March 6, 2013

TO: LAFCO Commissioners, Alternates, Counsel

FROM: Cynthia Echavarria, Staff Analyst

SUBJECT: Proposed Amendment to Policy C-9 (AB 1555 Island Annexation Policy)

Background

The Commission adopted Policy C-9 (AB 1555 Island Annexation Policy) on February 2, 2005 to address county island annexation provisions that were amended into Government Code through AB 1555 (Longville). These provisions included what is commonly known as the “stream-lined island annexation process” that allows for islands which meet certain requirements to be annexed without protest or vote by landowners or registered voters. A subsection was included in this policy that permitted cities to split islands of greater than 150 acres into smaller islands to take advantage of the stream-lined process as long as all the other requirements were met.

Discussion

The Attorney General’s Office released an opinion on June 1, 2012 stating that county islands of greater than 150 acres may not be split into smaller islands to take advantage of the stream-lined island annexation process. Attached for review is the draft amendment to Policy C-9 which would remove the provision (9.3(A)(2)) that allows for the splitting of islands greater than 150 acres. This change in policy would affect only the City of Porterville. In Tulare County, Porterville has the only developed island (East Porterville) that is greater than 150 acres. However, as stated at the February Commission meeting, there are islands within East Porterville that are substantially surrounded and can still qualify for the stream-lined annexation process.

The draft policy was distributed to city and County staff for review on January 14th and to the Commission in the February LAFCO agenda packet. At the February meeting the City of Porterville, expressed concerns regarding the interpretation of the AG opinion and also inquired regarding the possibility of extending the sunset date of the stream-lined island

annexation process. To date, no additional comments have been received. There have been no changes to the attached draft policy since it was reviewed by the Commission at the February 6th meeting.

Recommendations

Staff is recommending approval of the attached amended Policy C-9.

Attachments:

Proposed Amended Policy C-9

Policies and Procedures

Tulare County Local Agency Formation Commission

Policy Number: C-9

Effective Date: *Adopted February 2, 2005*

Authority: *Government Code §56000 et seq., LAFCO Resolutions: 05-006, 05-062*

Title: ***AB 1555 Island Annexation Policy***

Procedure:

9.1. General Considerations

Assembly Bill (AB) 1555 (Longville) took effect on January 1, 2000. It contains amendments to GC §§56113, 56375, 57080 and 57087.3 located within the Cortese-Knox Government Reorganization Act of 1985 (“Cortese-Knox Act”). In 2000, the Act was comprehensively revised to incorporate these and other changes, and re-titled the Cortese-Knox-Hertzberg Act. Further amendments were made to the law in 2003, and in July 2004, SB 1266 (Torlakson) was signed into law. These amendments are addressed herein.

According to the Legislative Counsel’s Digest of AB 1555, this bill would authorize LAFCo’s to approve without an election the annexation or reorganization of an unincorporated island or unincorporated islands within city limits under specified conditions depending on whether the proceeding is initiated on or after January 1, 2000 and before January 1, 2007. However, after reviewing AB 1555, there are several ambiguous provisions which can cause uncertainty in the application of these new requirements to annexations of county islands.

When applying the Cortese-Knox Act in general, GC §56300 provides that it is the intent of the Legislature that each commission establish policies and exercise its powers in a manner that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands within those patterns. Similarly, GC §56375, subdivision (i), empowers a commission to adopt written procedures for the evaluation of proposals.

Against this background, this policy initially addresses the Basic Requirements of AB 1555 and then provides an interpretation of how AB 1555 will be applied as matter of policy by the Tulare County Local Agency Formation Commission unless other required by law.

9.2. **Basic Requirements of AB 1555**

Pursuant to GC §56375, subdivision (a), the commission shall not have the power to disapprove a city annexation (initiated by resolution of the city) of contiguous territory if the commission finds that any of the following requirements are met:

- A. The contiguous territory is surrounded or substantially surrounded by the city to which the annexation is proposed, or by that city and a county boundary, or by the Pacific Ocean, if the contiguous territory:
 - I. is substantially developed or developing,
 - II. is not prime agricultural land as defined in GC §56064,
 - III. is designated for urban growth by the general plan of the annexing city, and
 - IV. is not within the sphere of influence of another city; or
- B. The contiguous territory is located with an urban service area which has been delineated by the commission and which is not designated prime agricultural land as defined in GC §56064, and is designated for urban growth by the general plan of the annexing city; or
- C. The contiguous territory is an annexation or reorganization of unincorporated islands meeting the following requirements:
 - I. The annexation is initiated by resolution of the affected city on or after January 1, 2000, and before January 1, 2007.
 - II. The commission shall approve an annexation after notice and hearing, and waive protest proceedings if the commission finds that the territory contained in the annexation proposal meets all of the following requirements:
 - (a) The contiguous territory does not exceed 150 acres in area and that area constitutes the entire island.
 - (b) The contiguous territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands.
 - III. The contiguous territory is surrounded in either of the following ways:
 - (a) Surrounded, or substantially surrounded, by the city to which the annexation is proposed, or by the city and a county boundary, or
 - (b) Surrounded by the city to which the annexation is proposed and adjacent cities.

- (c) GC §56375.3 shall not be construed to apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district
 - (d) Notwithstanding any other provision of law, at the option of either the city or the county, a separate property tax transfer agreement may be agreed to between a city and a county pursuant to Revenue and Taxation Code Section 99 without affecting any existing master tax sharing agreement between the city and the county.
- IV. The contiguous territory is substantially developed or developing. This finding shall be based on one or more factors, including, but not limited to, any of the following factors:
 - (a) The availability of public utility services,
 - (b) The presence of public improvements, or
 - (c) The presence of physical improvements upon the parcel or parcels within the area.
 - V. The territory is not prime agricultural land as defined by GC §56064.
 - VI. The contiguous territory will benefit from the annexation or is receiving benefits from the annexing city.
 - VII. Notwithstanding any other provision of subdivision (d) of GC §56375.3 subdivision (d) shall not apply to all or any part of that portion of a redevelopment project area referenced in Health and Safety Code §33494.41, which as of January 1, 2000, meets all of the following requirements:
 - (a) is unincorporated territory,
 - (b) contains at least 100 acres,
 - (c) is surrounded or substantially by unincorporated territory, and
 - (d) contains at least 100 acres zoned for commercial or industrial uses, or is designated on the applicable county general plan for commercial or industrial uses.

9.3. Interpretation of AB 1555

- A. Unless otherwise required by law, the following policies shall apply to the provisions of AB 1555:
 - I. There are two ways to define the term ‘substantially surrounded’:

- (a) First is the percentage method. In this context, the terms “substantially surrounded” shall mean that the contiguous territory subject to an AB 1555 annexation must be surrounded by at least sixty five percent (65%) by that city and a county boundary.
 - (b) Second, an island of unincorporated territory may also be determined to be “substantially surrounded” if that island is surrounded by city limits comprising less than sixty-five percent (65%) AND if the remaining side is comprised of a natural or man-made barrier, including such features as: a river, an irrigation canal, a railway or a divided highway.
- ~~II. Subject to meeting the other requirements of AB 1555, the commission may allow a city to split an area that is more than 150 acres for the purpose of annexing contiguous territory authorized by AB 1555. In other words, a county island of more than 150 acres may be divided into two or more substantially surrounded sub-islands which may be annexed separately.~~

9.4. City-County Tax Sharing Agreement for Island Annexations

The City and County may negotiate a special tax sharing agreement to replace the existing Master Tax Agreement to mitigate any adverse service effects from an island annexation proposal. The tax sharing agreement should address the island annexation(s) consistent with Revenue and Taxation Code Section 99.

- A. If a separate tax sharing agreement has been proposed but hasn’t been ratified by the City and County before the island annexation proposal is heard by the Commission then the following applies:
 - I. The approval of the annexation may be conditioned to require the ratification of a tax sharing agreement by the City and County before the Certificate of Completion is recorded, and
 - II. If a separate tax sharing agreement can not be reached then the following applies:
 - a) The City or County shall notify LAFCo that the agreement can not be reached, and
 - b) The Master Tax Agreement shall apply to the annexation, or
 - c) If the City or County does not accept the Master Tax Agreement, the approval of the annexation shall be voided.



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Mike Ennis*

EXECUTIVE OFFICER:

Ben Giuliani

March 6, 2013

TO: LAFCO Commissioners, Alternates, Counsel

FROM: Benjamin Giuliani, Executive Officer

SUBJECT: Draft Policy Amendment – Municipal Service Reviews (MSRs)

Background

The Commission last adopted amendments to policy regarding MSRs at the April 13, 2011 meeting. These amendments included how disadvantaged unincorporated communities (DUCs) and other unincorporated communities are addressed in MSRs and included the addition of an informational meeting within the subject agency's jurisdiction during the MSR update process. The amendment took place ahead of the final approval of Senate Bill (SB) 244 (Wolk) which addressed DUCs in context with the MSR and general plan processes.

Discussion

This proposed amendment (attached) would essentially make two types of changes to policy. First, as already noted, the last policy amendment took place ahead of the final approval of SB 244. While, existing policy currently complies with state law as amended by SB 244, there are some wording differences between existing policy and the amendments to Government Code regarding MSRs. Amendments are recommended to subsection "B" of Policy 5.11 to align policy with Government Code. The proposed amendments to subsection "B" are not substantive and wouldn't affect how DUCs are already being addressed in the MSR updates.

The other proposed amendment to policy affects how MSRs are noticed and would result in a cost savings to the Commission's budget (about \$400 per MSR). Noticed public hearings are not required under state law in the adoption of a MSR. However, noticed public hearings with a 21 day public review period have been conducted for past MSRs as a matter of practice. This proposed amendment would specifically eliminate the noticed public hearing but would still allow for public and agency review of the MSR. The proposed amendments to the public review process are in subsections "A" and "E" of the attached Policy 5.11.

This draft policy amendment was distributed to city and county planning staff for review on February 12th and presented at the City Manager's meeting on February 14th. Based on feedback received to date, the clause "*for requested posting in their jurisdiction*" was added at the end of subsection "E". Staff will bring this policy back to the Commission for action at the April 3rd meeting.

Attachment:

Policy 5.11 (MSRs) with draft amendments

5.11. Municipal Service Reviews (MSRs)

In order to prepare and update Spheres of Influence, the Commission must conduct a service review of the municipal services provided by the agency subject to the Sphere of Influence update. The Commission has determined which agencies are exempt or subject to MSRs and the extent of the review as listed in Appendix B of this policy.

- A. Prior to Commission adoption of a comprehensive MSR for a city or a district that provides sewer or domestic water service, a community meeting shall be conducted within the jurisdictional boundaries of the subject agency **in conjunction with the subject agency's council, planning commission or board meeting** (a combined meeting may be held for districts that share a common sewer or water system or that are located in proximity of each other). Said meeting shall be ~~noticed~~ **agendized** in accordance **with the Brown Act** (GC §~~56660~~ **54954.2(a)**). Said meeting will consist of a SOI and MSR informational presentation provided by LAFCO Staff and a question and answer session. Any comments provided by those in attendance ~~shall be incorporated into~~ **will be considered in the development of** the subject agency's MSR if applicable.
- B. Pursuant to GC §56430(a), a written statement of determinations for the following subject areas shall be included:
 - I. Growth and population projections for the affected area.
 - II. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.**
 - III. Present and planned capacity of public facilities and adequacy of public services, **including infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.**
 - IV. Financial ability of agencies to provide services.
 - V. Status of, and opportunities for, shared facilities.
 - VI. Accountability for community service needs, including governmental structure and operation efficiencies.
 - VII. Any other matter related to effective or efficient service delivery, as required by commission policy.
 - (a) ~~The location and characteristics, including service and infrastructure needs or deficiencies, of any disadvantaged or other developed communities outside existing agency boundaries but inside or adjacent to the SOI. The Written Statement of Determinations prepared in regard to this policy provision~~ **disadvantaged unincorporated and other developed communities** shall be based on a comprehensive review of area service providers conducted in accordance with GC §56430 (b) and shall include, but is not limited to: estimate of existing population, identification of existing service providers, identification of services provided within the community, service costs and identification of surrounding land use designations, both existing and planned, contained in a

city's General Plan or County's Community Plan. (Developed communities should be addressed on a systemic basis in subsections I through VI above.)

Note: A reasonable effort shall be made to conduct a thorough review; however, the level of detail is subject to the extent data is readily available and relevant to the overall MSR analysis.

- (b) Recommendations shall be made regarding possible ways to address needs and discrepancies through a collaborative effort between the subject agency, principle county, existing service providers, citizens groups, LAFCO and any other entity/organization the Commission deems appropriate.
 - (c) For the purpose of executing subsection 5.2 (Conflicting Boundaries), the MSR shall also identify the location of existing city and county growth boundaries and determinations shall be made with regard to their continuity/discontinuity to the existing SOI.
- C. For the purpose of identification in MSRs and filing fees for annexation (Policy B-2.5), a disadvantaged community is an area that has a median household income 80% or less of the statewide average pursuant to PRC §75005(g) and contains at least 20 dwelling units at a density not less than one unit per acre.
- D. Municipal Service Reviews will not be required for minor Sphere of Influence amendments that meet all of the following criteria:
 - I. The requested amendment is either less than 40 acres or less than 5 percent of the total acreage of the area located within the subject agency's existing Sphere of Influence, whichever is more, inclusive of incorporated territory.
 - II. There are no objections from other agencies that are authorized to provide the services the subject agency provides and whose Sphere of Influence underlies or is adjacent to the subject territory.
 - III. The combined net additional acreage of the subject agency's minor Sphere of Influence amendments adopted pursuant to this section does not exceed 200 acres over any consecutive 5-year period.
 - IV. CEQA review is accomplished by a Notice of Exemption, Negative Declaration, Mitigated Negative Declaration, an Addendum to an EIR, or where the SOI amendment is within the scope of a previous EIR.
 - V. In addition, a municipal service review is not required when a sphere of influence amendment is proposed solely to accommodate an expressed governmental purpose in the provision of public facilities or public services, as described in section 5.7.B IV.
- E. *The adoption of a Municipal Service Review is not subject to a public hearing (GC §56430). However, to allow for public participation in addition to section 5.11(A), the Draft MSR shall be posted on the Commission's website with a minimum 21 day public review period and notice of the public review period will be posted at the Clerk of the Board of Supervisors Office and will be mailed or e-mailed to the subject agency for requested posting in their jurisdiction.***



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Mike Ennis*

EXECUTIVE OFFICER:

Ben Giuliani

March 6, 2013

TO: LAFCO Commissioners, Alternates, Counsel

FROM: Benjamin Giuliani, Executive Officer

SUBJECT: Final Technical Advisory for Senate Bill (SB) 244

Background

The Governor's Office of Planning and Research (OPR) issued a draft technical advisory guidance on the implementation of SB 244 (Wolk) relating to disadvantaged unincorporated communities (DUCs) on October 10, 2012. This draft was presented to the Commission at the October 24th meeting. The Tulare County Resource Management Agency (RMA) submitted a comment letter to OPR regarding the advisory on October 31st (attached).

The draft technical advisory included guidance relating to changes made by SB 244 to state law in addressing DUCs in Municipal Service Reviews (MSRs) and local agency general plans. The RMA comment letter included application of the California Environmental Quality Act (CEQA), grant funding opportunities and implementation observations.

Discussion

OPR released the final advisory (attached) on February 15th. There are two sections that were added that weren't present in the draft advisory.

On page 2-3, a section was added regarding CEQA compliance for LAFCOs. This section was essentially copied from OPR's MSR Guidelines from 2003 with some added comment regarding disadvantaged communities. This advisory shouldn't affect how MSR environmental documentation is already being approached. CEQA analysis is conducted on an individual MSR basis. However, the planning study exemption (CEQA Guidelines section 15262 and 15306) has typically been used on the basis that the MSR is a planning study leading to a further action (in this case, a Sphere of Influence (SOI) update).

On page 11, a section was added regarding CEQA compliance for local governments. This section focuses on CEQA analysis of disadvantaged communities in context with general plans and growth inducing impacts in relation to the provision of infrastructure.

Page 4 still contains a discussion of "residents" versus "registered voters" in relation to annexations neighboring DUCs even though state legislation corrected that inconsistency last year.

Attachments:

RMA comment letter to OPR

OPR final technical advisory for SB 244



RESOURCE MANAGEMENT AGENCY

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Michael C. Spata Planning
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JAKE RAPER JR., AICP, DIRECTOR

Sent Via Email and U.S. Mail

October 31, 2012

Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

Att: Magda Arguelles

Re: Comments to Public Review Draft Technical Advisory (Senate Bill 244: Land Use, General Plans and Disadvantaged Communities)

On behalf of the Tulare County Resource Management Agency (RMA), this is to thank you for the opportunity to provide comments regarding the Office of Planning and Research's Public Review Draft Technical Advisory concerning *Senate Bill 244: Land Use, General Plans and Disadvantaged Communities*. Your work-product is clear, concise, well-researched, and informative; in which case, implementation of SB 244 should be facilitated by your effort.

The comments provided below are spurred by the need to address practical implementation issues at the local level, particularly at the county level because disadvantaged communities are located and serviced within unincorporated territory. Accordingly, counties have a substantial stake in seeing to it that SB 244's implementation process is efficient, effective and decisive.

RMA's comments encompass three broad categories: (1) Application of the California Environmental Quality Act to Annexation Proposals; (2) Identification of Grant Funding Opportunities; and (3) Practical Implementation Observations. Each category will be discussed separately below.

1. Application of the California Environmental Quality Act to Annexation Proposals

The draft Technical Advisory refers to the California Environmental Quality Act (CEQA) on page 1 in the Introduction. (See generally Public Resources Section 21000 *et seq.*) In reviewing the draft further, there does not seem to be any discussion associated with CEQA as applied to proposed annexations involving disadvantaged communities.

After considering CEQA in the context of annexation proposals authorized under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code section 56000 *et seq.*), several comments are made.

Essentially, SB 244 prohibits approval of city annexations greater than 10 acres that are contiguous to a disadvantaged unincorporated community, unless the city applies to annex the disadvantaged unincorporated community as well. (Government Code section 56375, subd. (a)(8).)

However, this requirement is not applicable if an application to annex the disadvantaged unincorporated community had been made during the prior five years, or if a majority of residents (now registered voters according to AB 2698) in that community are opposed to the annexation. (Government Code section 56375, subd. (a)(8).)

Importantly, after July 1, 2012, LAFCOs must consider the present and future need for public facilities and services by disadvantaged unincorporated communities for any city or district which updates their sphere of influence and provides public sewer, municipal and industrial water, or structural fire protection facilities or services. These considerations must be reflected in a city's or district's sphere of influence or municipal service review. (Government Code sections 56425, 56430.)

Applied to CEQA itself, it has been held that annexation proposals are subject to environmental review. (See *Bozung v. Local Agency Formation Commission* (1975) 13 Cal. 3d 263, 282; see also Governor's Office of Planning and Research, *LAFCOs, General Plans, and City Annexations* (1997) pp. 4-5, 7-9.) In connection with the State CEQA Guidelines, Appendix G (Environmental Checklist Form) addresses "Public Services" and "Utilities and Service Systems." (See generally State CEQA Guidelines, 14 Cal. Code Regs. section 15000 *et seq.*, Appendix G, parts XIV (Public Services) and XVII (Utilities and Service Systems).)

Specifically, when considering "Public Services," Appendix G inquires whether the proposed project (i.e., annexation proposal in this case) would result in substantially adverse physical impacts associated with, among other things, the need for new or physically altered government facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for public services. (Appendix G, part XIV.)

When considering "Utilities and Service Systems," Appendix G probes whether the proposed project (i.e., annexation proposal in this case) would require or result in, among other things, the construction of new water or wastewater treatment facilities, the construction of which would cause significant environmental effects. (Appendix G, part XVII.)

Equally important to this discussion, it should be noted that the State CEQA Guidelines indicate that CEQA analysis must include, as part of the environmental setting, "a description of the physical environmental conditions" (14 Cal. Code Regs. Section 15125, subd. (a)) -- which should include a baseline analysis of existing infrastructure

and the degree to which this infrastructure is adequate or substandard in terms of its capability to provide public services to the affected area.

Against this background of annexation and environmental principles, it is suggested that an environmental impact analysis be conducted as part of an annexation proposal that affects a disadvantaged community. More specifically, LAFCO should consider the environmental effects of either the failure to include a disadvantaged community in the annexation proposal or the inclusion of a disadvantaged community in the annexation proposal.

The reason is that before making a decision, LAFCO should be informed of the proposed annexation's environmental consequences to the disadvantaged community resulting from (a) the presence of continued substandard infrastructure, (b) the absence of needed infrastructure, or (c) the proposed construction of new or upgraded infrastructure.

Without this environmental analysis, LAFCO would not know how harmful or beneficial the proposed annexation will be to the disadvantaged community, thus affecting the public disclosure and informational values of CEQA. (See, e.g., Public Resources Code section 21005, subd. (a); 14 Cal. Code Regs. section 15003, subds. (c), (i).) Viewed positively, environmental analysis embracing infrastructure planning, development and construction for disadvantaged communities would enhance the public disclosure and informational process valued so highly by CEQA.

Therefore, it would be helpful if local public agencies understood in the Technical Advisory that the effect of SB 244 on annexation proposals is that the lead agency (e.g., the city or special district) should conduct the appropriate CEQA analysis regarding, among other things, the presence, absence or proposed construction of new or upgraded infrastructure on disadvantaged communities.

As a practical matter, a consultation should occur between the city or special district (i.e., lead agency) and LAFCO -- out of which generates comments allowing the lead agency to address the infrastructure issues in the context of the annexation's CEQA document (i.e., mitigated negative declaration or environmental impact report). To make the lead agency and LAFCO consultation meaningful, the county should be included as part of any annexation proposal which affects a disadvantaged community.

2. Grant Funding Opportunities for Disadvantaged Communities

The draft Technical Advisory does an excellent job in identifying various grant and loan funding opportunities for infrastructure planning affecting disadvantaged communities. (See Analysis and Listing of Potential Funding Mechanisms at pages 9 through 11 and Funding Matrix at pages 17 through 18.) For example, the Funding Matrix delineates the elements of certain funding from the California Department of Public Health, State Water Resources Control Fund, the California Department of Water Resources, and the California Infrastructure and Development Bank.

Equally noteworthy, the draft Technical Advisory at page 11 refers to the Sustainable Community Planning Grant and Incentive Program, United States Department of

Agriculture Rural Development Grants and Loans, and Community Development Block Grant Funds.

However, it appears that the matrix does not describe relevant elements of funding opportunities (both grant and loan) from these funding sources. Accordingly, to the extent not reflected in the matrix, it would be helpful if the Technical Advisory could summarize the key elements of funding opportunities associated with these programs.

3. Practical Implementation Observations

The following practical observations are predicated on years of proven experience garnered by Tulare County's community development and grant specialists who have enthusiastically embraced projects involving disadvantaged communities, public infrastructure and housing.

As a prelude to these practical observations, it is noteworthy that Tulare County's Housing Element has been identified on page 12 of the draft Technical Advisory as an example of Infrastructure Planning; and as such, these comments are suggested respectfully from the perspective of deepening a practical understanding of disadvantaged communities and their relationship to several interrelated planning areas such as land use, environmental, infrastructure, socio-economic, and grants.

In connection with the availability of water and fire protection, there should be an investigation and evaluation to determine whether non-potable or contaminated water supplies could be used for fire suppression, thus leaving the potable water for residential uses. Unfortunately, many disadvantaged communities have contaminated water sources from existing wells. These contaminated wells should be used strictly for non-drinking purposes and domestic distribution systems should be connected to potable water supplies.

In terms of funding, collaboration is highly recommended for all interested parties. This method of interaction should be reflected by the funding sources actually talking to one another at the state level to understand how their programs could coordinate together to benefit and complete one individual project. For example, given the high cost of infrastructure projects, it is critical for small communities to utilize grant funding where possible and take advantage of below-market interest rate loans, where necessary.

Projects also should be established with multiple funding sources in mind. As a suggestion, the funding source agencies should be collaborating similar to the California Finance Coordinating Committee (CFCC) (www.cfcc.ca.gov.) In this regard, project descriptions are submitted and funding sources are reviewed to ascertain whether funding is applicable. Practically speaking, the funding matrix lists the same funding sources as the CFCC; however, it should be stressed that CFCC helps to coordinate the process.

When discussing projects, it is suggested that all projects be identified, and, thereafter, the affected entities should attempt to raise sufficient funding to complete projects at one time. This would help establish the "only dig once" philosophy, thereby creating cost efficiencies. The major problem with this philosophy appears to be the costs associated with each project. The idea should be to reduce costs by "piggy backing" the steps that

need to be taken on multiple projects. Examples of this effort include environmental review, road closures, bulk purchasing, construction, digging up pavement, etc.

Concerning wastewater and drainage, it is suggested that a network of drainage systems should be constructed to take advantage of ground water recharge when possible. This network is critical to prevent the overflow into communities where one basin reaches capacity. The network also could produce a positive externality in terms of promoting prudent groundwater management

Connectivity is a concept that should be encouraged as well. Some of the disadvantaged legacy communities are relatively close to one another. Economies-of-scale should be realized where possible to reduce individual costs. Funding agencies have been concerned in the past about speculative construction; however, it would be better to build for the future and only build it once, rather than having to upgrade following future growth.

These communities suffer because the affected population is low. If the costs could be shared by more in the long-run, it would reduce the cost for everyone. To facilitate and strengthen this approach, the determination, imposition and spreading of infrastructure costs should be consistent with “nexus” and due process requirements, where applicable.

Conclusion

Thank you again for the opportunity to comment on the OPR’s draft SB 244 Technical Advisory. As stated previously, the draft Technical Advisory is well-written and well-researched. Please provide any response and the final Technical Advisory to the undersigned at RMA.

Sincerely,



Michael C. Spata, Assistant Director – Planning Branch

- cc: Jean Rousseau, Tulare County Administrative Officer
Debbie Vaughn, Senior Administrative Analyst, Tulare County Administration
Jake Raper, Jr., AICP, Director, Tulare County Resource Management Agency
Britt Fussel, Assistant Director – Public Works Branch
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David Bryant, Planner IV, Special Projects
Kathleen Bales-Lange, Tulare County Counsel
Ben Giuliani, Executive Officer, Tulare County Local Agency Formation Comm

Technical Advisory



STATE OF CALIFORNIA
Jerry Brown,
Governor

OFFICE OF PLANNING AND RESEARCH
Ken Alex,
Director

SENATE BILL 244: Land Use, General Plans, and Disadvantaged Communities

Introduction

This technical advisory is one in a series of advisories provided by the Governor's Office of Planning and Research (OPR) as a service to professional planners, land use officials, and [California Environmental Quality Act \(CEQA\)](#) practitioners. OPR issues technical guidance from time to time on issues that broadly affect the practice of CEQA and land use planning. This document provides guidance on implementing [Senate Bill 244](#) (Wolk, 2011) (SB 244), a new law addressing disadvantaged unincorporated communities.

Background/Purpose of SB 244

According to legislative findings in SB 244, hundreds of unincorporated communities in California lack access to basic community infrastructure like sidewalks, safe drinking water, and adequate waste processing. These communities range from remote settlements throughout the state to neighborhoods that have been surrounded by, but are not part of, California's fast-growing cities. This lack of investment threatens residents' health and safety and fosters economic, social, and education inequality. Moreover, when this lack of attention and resources becomes standard practice, it can create a matrix of barriers that is difficult to overcome.

The purpose of SB 244 is to begin to address the complex legal, financial, and political barriers that contribute to regional inequity and infrastructure deficits within disadvantaged unincorporated communities. Including these communities in the long range planning of a city or county, as required by SB 244, will result in a more efficient delivery system of services and infrastructure including but not limited to sewer, water, and structural fire protection. In turn, investment in these services and infrastructure will result in the enhancement and protection of public health and safety for these communities.

Requirements of SB 244

Under SB 244, there are procedural requirements for both local governments and local agency formation commissions (LAFCOs). These requirements are summarized and the relevant terms are defined below.

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Requirements for Local Agency Formation Commissions (LAFCo's)

SB 244 requires LAFCo's to make determinations regarding "disadvantaged unincorporated communities." A "disadvantaged community" is defined as a community with an annual median household income that is less than 80 percent of the statewide annual median household income (Water Code Section 79505.5). Disadvantaged unincorporated communities (DUCs) are defined as "a territory that constitutes all or a portion of a "disadvantaged community" including 12 or more registered voters or some other standard as determined by the commission.

The bill affects LAFCo's operations in three areas:

1. Municipal Service Reviews (MSR) Determinations
2. Sphere of Influence (SOI) updates on or after July 1, 2012
3. Annexation approval restrictions of territory adjacent to DUCs

Municipal Service Reviews

The [Cortese-Knox-Hertzberg Act of 2000](#) requires a local agency formation commission to develop and determine the sphere of influence of each local governmental agency in the county or other area designated by the commission. It also requires the LAFCo's to prepare a municipal service review (MSR), which is a written statement of the commission's determinations with respect to the growth and population projections for the affected area and the present and planned capacity of public facilities and adequacy of public services, financial ability to provide services, opportunities for shared facilities, and accountability for community service needs.

Government Code (GC) Section 56430, as amended by SB 244, now requires LAFCo's to include in the MSR a description of the "location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence." (Gov. Code, § 56430(a)(2).) The MSR must also contain specific written determinations on infrastructure needs or deficiencies related to public facilities and services, including but not limited to sewer, water, and fire protection services in any disadvantaged unincorporated communities within or contiguous to the sphere of influence of a city or special district that provides those services.

Sphere of Influence Updates

In addition to the new requirements for MSRs, GC Section 56425 also requires commissions on or after July 1, 2012, to adopt additional determinations for an update of a sphere of influence (SOI) of a city or special district that provides public facilities and services related to sewer, water, and fire protection. The commission must make determinations regarding the present and probable need for those public facilities and services in any DUCs within the existing sphere of influence.

CEQA Compliance for LAFCo's

In order for CEQA requirements to apply to an activity, that activity must be considered a "project" under CEQA. (State CEQA Guidelines § 15378.) The main question that the

LAFCo must consider is whether its action may have a potential to cause significant environmental impacts, either directly or indirectly. Adoption of MSR may meet this test if the action could influence future growth patterns or otherwise affect land use in a way that impacts the environment. This action may include the proposed construction of new or upgraded infrastructure for disadvantaged communities.

MSRs are intended to support SOI updates, which may include expansions or reductions in SOI boundaries, the creation of new SOIs, or SOIs amendments that trigger a need to update the pertinent SOI. In some cases, an MSR, and its required determinations including those required by SB 244, will provide policy guidance for future LAFCo decisions that may direct or affect the location and pattern of growth. Because of the nature of the analysis required, MSRs may be perceived or interpreted by some as the first step in creating, updating or amending SOIs or initiating other government organizations or reorganizations. In other cases, MSRs may actually be an integral part of a larger project. MSRs may frequently be triggered by pending applications to LAFCo for SOI amendments, or for annexations that cannot proceed without an SOI update.

To ensure compliance with CEQA, and avoid unnecessary legal challenges, OPR recommends that LAFCos consider MSRs as projects subject to CEQA where such reviews provide policy guidance regarding the location and pattern of future growth. In such cases, LAFCo would be the “lead agency” responsible for complying with CEQA because it is the entity with the principal responsibility for approving or carrying out the MSR (i.e., the project) (Public Resources Code §21067). If an MSR is prepared in conjunction with a local agency’s application for an SOI update, the local agency would be the “lead agency” responsible for complying with CEQA while the LAFCo would be the “responsible agency.” The lead agency, whether it is the local agency or the LAFCo, must ensure that all required elements of the CEQA review process are conducted consistent with the requirements of CEQA and their own adopted CEQA procedures.

Annexation Approval Restrictions

GC Section 56375 also imposes new restrictions on approval of city annexations greater than 10 acres, or as determined by commission policy, where there is a DUC contiguous to the area of the proposed annexation. The commission is prohibited from approving such an annexation unless an application to annex the DUC has also been filed. However, there are two exceptions to the requirement to file an application to annex a contiguous DUC:

1. An application to annex the DUC has been filed in the past five years
2. The commission finds, based upon *written evidence*, that a majority of registered voters within the affected territory are opposed to annexation.

The statute does not define the phrase “written evidence.” A number of LAFCos throughout the state have established policy that defines “written evidence.” For example, both Sonoma and Tulare Counties have determined that “written evidence” may be in the form of annexation survey results.

Results from annexation surveys can vary depending on the format, content and methodology used to conduct the survey. For example, Riverside LAFCo has determined that “written evidence” can be either a petition signed by a majority of registered voters residing within the disadvantaged unincorporated community, or a scientific survey conducted by an academic institution or professional polling company. A petition or scientific survey, if not available to residents in their native language, may produce results that do not reflect true community sentiment. To effectuate the purpose of the statute, OPR recommends that LAFCos conduct the survey in both English and the language spoken by a substantial number of non-

English speakers.¹ Furthermore, commissions should ensure that questions focus on the annexation in question.

When drafting cover letters, surveys or any additional documents pertaining to the annexation, OPR encourages commissions to use unbiased language to convey information about the proposed annexation and its potential impact on the affected community. In addition, documents used to obtain written evidence and that are distributed to the public should remain fact based, neutral and written in an accessible format that can be understood by an educationally and culturally diverse audience.

Residents and Registered Voters

SB 244 states that a required annexation can be exempted if the commission “finds, based upon written evidence, that a majority of the residents within the affected territory are opposed to annexation” (GC Section 56375(a)(8)(B)(ii)). While the statute references “residents,” other relevant California Government Code sections refer to “registered voters who reside within the area” or “property owners” rather than “residents” for purposes of approving or protesting an annexation (GC Sections 57075-57090). Some local commissions have proposed policies to establish consistency between these Government Code Sections. Tulare LAFCo, for example, proposed a policy that would use “residents, registered voters, and property owners.” Other commissions have also indicated using “registered voters” for purposes of written evidence, including Riverside LAFCo. In order to be consistent with current statutory protest policies, OPR recommends that commissions gather written evidence from residents, registered voters and property owners.

Residents and Registered Voters

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¹ In some contexts involving state agencies, state law defines “substantial number” to mean over 5 percent of the service population. (See, e.g., Gov. Code § 7296.2.) For additional information about federal and state requirements governing language access, see “Language Access Laws and Legal Issues: A Local Official’s Guide,” Institute for Local Government, 2011, available online at: http://www.ca-ilg.org/sites/main/files/file-attachments/resources_Language_Access_Guide_formatted_9-27-11_0.pdf.

Requirements for Local Governments

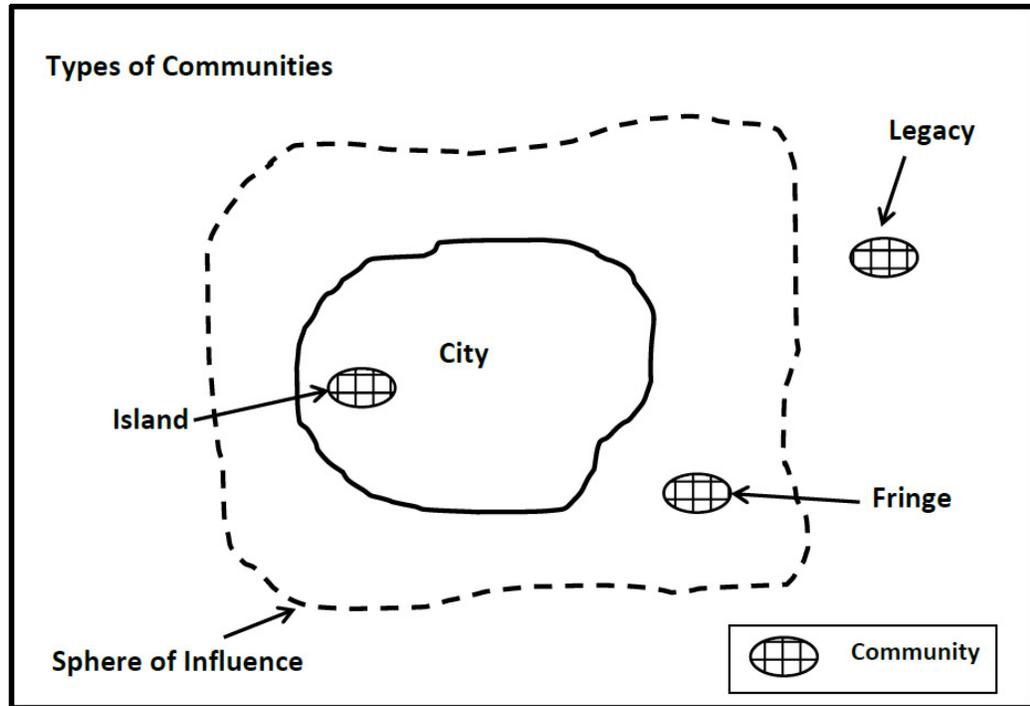
SB 244 also includes requirements for cities and counties. On or before the next adoption of its housing element, GC Section 65302.10.(a) requires that each city and county review and update the land use element of its general plan, based on available data, including, but not limited to, the data and analysis developed pursuant to Section 56430, of unincorporated island, fringe, or legacy communities inside or near its boundaries. The updated land use element shall include the following criteria. Please note that these requirements and definitions are independent of the new requirements and definitions related to the Cortese-Knox-Hertzberg Act of 2000 described above.

- Cities must identify and describe each “island community” or “fringe community,” as defined, that exist within that city’s sphere of influence that is a disadvantaged unincorporated community. (GC Section 65302.10.(a))
- Counties must identify and describe each legacy community, as defined, within the boundaries of a county that is a disadvantaged unincorporated community, but not including any area within the sphere of influence of a city. (GC Section 65302.10.(a))
- Cities and counties must include an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies for each of the identified communities in the land use element. (GC Section 65302.10.(a))
- Cities and counties must include an analysis in the land use element of potential funding mechanisms that could make the extension of services and facilities to identified communities financially feasible. (GC Section 65302.10.(a))

Cities and counties are not required to analyze or update their Land Use and Housing Elements as provided in SB 244 if: 1) the aforementioned communities are not present; or 2) if present, the communities are not defined as disadvantaged communities based on the analysis of the data available through the U.S. Census Bureau, Department of Finance, California Franchise Tax Board, or determined by LAFCo.

The following terms have the following meanings as they relate to the long range planning requirements of cities and counties under GC Section 65302.10 (a):

- “Community” means an inhabited area within a city or county that is comprised of no less than 10 dwellings adjacent or in close proximity to one another.
- “Disadvantaged unincorporated community” means a fringe, island, or legacy community in which the median household income is 80 percent or less than the statewide median household income.
- “Island community” means any inhabited and unincorporated territory that is surrounded or substantially surrounded by one or more cities or by one or more cities and a county boundary or the Pacific Ocean.
- “Fringe community” means any inhabited and unincorporated territory that is within a city’s sphere of influence.
- “Legacy community” means a geographically isolated community that is inhabited and has existed for at least 50 years.



Local Discretion and Spirit and Intent of SB 244

While SB 244 allows some discretion for commissions to draft alternative policies such policies must be consistent with the spirit and intent of SB 244. For example, SB 244 defines “inhabited area” as an area where 12 or more registered voters reside (Government Code Section 56046). However, LAFCOs may also redefine “inhabited area” as determined by local commission policy. LAFCo policies that increase the residency threshold have the potential to eliminate many mobile home communities that are both within and beyond spheres of influence of cities and, thus, perpetuate their exclusion from planning processes and basic municipal services. For this term and other terms lacking statutory guidance, OPR recommends that any alternative definition and/or policy conform to the intent of SB244 to remedy the exclusion of communities from planning processes and critical municipal services.

Identifying Communities and Disadvantaged Unincorporated Communities

The first task in the implementation of SB 244 is the identification of communities and disadvantaged unincorporated communities. As noted above, the statute specifically refers to income, population size and special relationship to other communities in the definition of disadvantaged unincorporated communities. To fully effectuate the purpose of SB 244, however, OPR encourages local governments to review a broader range of data sources. Potential data sources are described below.

One source of data about unincorporated communities is the US Census Bureau, which calls unincorporated communities “Census Designated Places” (CDP). The US Census Bureau defines Census Designated Places as:

“the statistical counterparts of incorporated places, and are delineated to provide data for settled concentrations of population that are identifiable by name but are not legally incorporated under the laws of the state in which they are located.

While the 2000 Census identified 3.6 million people in 598 CDPs, in that same year, nearly 2.8 million people lived in unincorporated areas that were not defined as CDPs but that arguably should be defined as disadvantaged unincorporated communities.² Therefore, while CDP data is one useful source of data, OPR suggests that local governments treat it as only one of a combination of data sources to identify and characterize disadvantaged unincorporated communities in a given area.

In addition to CDPs, OPR recommends that local government review income data generated by the [Department of Finance](#) and [California Franchise Tax Board](#). To the extent that they have been conducted, OPR also encourages cities and counties to review income surveys developed by academic research institutions, local government agencies such as local public health departments, or community-serving not-for-profit organizations.

Along with these data sources, OPR recommends that cities and counties do additional analyses to identify specific communities within large geographic areas. Because economic data, outside of more densely populated areas, is aggregated over large geographies, it fails to pick up specific communities within the boundaries of, for example, a census tract or ZIP code. PolicyLink, in collaboration with California Rural Legal Assistance, Inc. and California Rural Legal Assistance Foundation, has developed a methodology that employs a parcel density analysis, in combination with economic data to identify specific communities that would otherwise be masked by the data³. A description of the methodology is provided in the insert on this page.

Finally, OPR recommends that local government consult with community-serving government and non-government organizations that may have knowledge about the existence of disadvantaged unincorporated communities. These organizations include: local departments of public health and health services agencies, legal service organizations, local community service providers, churches, community clinics, local research institutions, and other nonprofit organizations serving low-income communities.

Fringe, Island, and Legacy Communities

GC Section 65302.10 provides definitions of fringe, island, and legacy communities. However, certain terms within those definitions can be interpreted differently based on local context. For example, terms such as “substantially surrounded” or “close proximity” can differ greatly between rural and urban communities. Therefore, OPR recommends that, prior to identifying these communities in the land use element, cities and counties consult local LAFCo policies, if adopted, that may provided further definition.

2 Through extensive efforts to identify and map disadvantaged communities in the San Joaquin Valley Region and in Riverside County, the [Community Equity Initiative](#) found that limiting data to CDPs fails to capture many, if not most, of these communities SB 244 seeks to identify and bring into the processes. (PolicyLink and California Rural Legal Assistance (2011). *Community Equity Initiative: A Collaborative for Change*.)
http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5-cca3bbf35af0%7D/CEI_FINAL.PDF

3

Limitations of Census Designated Places

There are a variety of reasons that the data from Census Designated Places (CDP), when used alone, does not sufficiently capture the communities SB 244 seeks to serve. First, while the US Census Bureau works hard to create CDP boundaries that reflect the reality of communities on the ground, additional analysis may be required. For example, the 2000 Census data for the CDP of Fairmead in Madera County includes both the low-income community of Fairmead as well as a neighboring community with a significantly higher median household income. CDP data masks this income difference. Another challenge with the CDP data is that as the US Census Bureau has moved the collection of economic data to the American Community Survey, the margin of error has become quite large. In fact, in some communities, the margin of error can be as great as the value associated with median income for the community itself. For example, for the community of Tooleville in Tulare County, the Census data between 2006 and 2010 show that the median household income is \$43,977 with a margin of error estimate at +/- \$101,562.

While CDP data is useful, OPR recognizes that the CDP data is limited and, therefore, recommends that it should be only one of several metrics used by local government to identify and characterize the disadvantaged unincorporated communities in a given area.

Land Use Element Update

GC Section 65302.10.(a) requires each city and county to review and update the land use element of its general plan to include an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies for each of the identified communities. This update is to be completed on or before the next adoption of its housing element.

Current OPR [General Plan Guidelines](#) (2003) include recommended methods pertaining to the assessment of a city or county's physical infrastructure. To analyze the service needs or deficiencies for the identified communities, OPR has identified methods from the *General Plan Guidelines* that correspond with the requirements of SB 244. These recommended methods are as follows:

- Coordinate with the Local Agency Formation Commission (LAFCo) to incorporate the information contained in the Municipal Service Review into the infrastructure needs of the identified communities
- Map the location of existing infrastructure elements including, but not limited to fire stations, sewer trunk lines, and drainage systems
- Conduct an assessment of the capacity and availability of the physical infrastructure necessary to support the existing and proposed land uses in the identified community
- Consult with affected public utilities and special districts, if any, for information on the location and capacity of their facilities to determine the ability and the timing of facility expansion for infrastructure improvements for the identified community
- Review regional and state transportation, air quality, and water quality plans and

regulations to consider whether any of these plans affect the future operation and expansion of public and private facilities

The general plan circulation element is required to describe the location and extent of existing and proposed local public utilities including water and wastewater infrastructure, and stormwater drainage systems and be correlated with the land use element (GC Section 65302(b)(1)). A general plan safety element must provide for the protection of the community from any unreasonable risk associated with the effects of wildland and urban fires (GC Section 65302(g)(1)). Each element of a general plan must be internally consistent, meaning that the information and policies in each element should complement each other. Cities and counties should be aware of the requirements for each element when preparing the SB 244 analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies. The analysis must be consistent with the circulation element utility information and the safety element fire protection measures.

In addition to these recommendations, OPR suggests that cities or counties consider these issues identified in the optional capital improvements/public facilities element in the General Plan Guidelines when updating the land use element. Some of these issues may overlap the recommendations previously noted and should be addressed in the LAFCo Municipal Service Reviews. These issues are as follows:

- General distribution, location, and extent of existing and proposed infrastructure
 - o *Inventory existing water distribution and treatment facilities, wastewater collection and treatment facilities, and drainage facilities*
 - o *Analyze the projected demand for infrastructure and facilities*
 - o *Inventory the condition of existing infrastructure and analyze the estimated need for maintenance and improvements to meet the projected demand*
- General distribution, location, and extent of existing and proposed public facilities
 - o *Analyze the projected demand for public facilities*
 - o *Inventory the condition of existing facilities and analyze the estimated need for maintenance and improvements to meet projected demand*
- Plans of other entities that provide public services or facilities, including service capacities
 - o *Collect and review capital improvements and other plans of cities and counties, public utilities, water suppliers, special districts (e.g., fire protection, wastewater treatment, etc.) and other entities that may provide services*
- Schedule or timetable for improvements, expansion, and replacement of infrastructure and facilities
 - o *Identify needs of existing facilities*
 - o *Estimate demand for new facilities*
 - o *Review capital improvements programs, including those of other affected agencies*
- Consultation/coordination with other service providers and public utilities
 - o *Contact other service providers and public utilities regarding service capacities, planned expansion, financing, and other common interests*

OPR advises that the above-listed methods for analyses and information sources be used when updating the land use element to include an analysis of public infrastructure needs or deficiencies for each of the identified communities.

Identifying Disadvantaged Unincorporated Communities

In addition to publicly accessible income data and income surveys, OPR encourages cities and counties to do additional analyses to identify specific communities within large geographic areas. Because economic data, outside of more densely populated areas, is aggregated over large geographies, it fails to identify specific communities within the boundaries of, for example, a census tract or ZIP code. PolicyLink, in collaboration with California Rural Legal Assistance, Inc. and California Rural Legal Assistance Foundation, has developed a methodology that employs a parcel density analysis, in combination with economic data to identify specific communities in the eight-county San Joaquin Valley region that would otherwise be masked by the data. The data and methodology used in this project are described below:

Community Equity Initiative (CEI) used four basic types of data to identify these places:

Unincorporated Status: Boundary shape files from cities, counties, or from the Census were used to determine unincorporated status (all areas that are not within city limits).

Parcel Density: CEI focused on identifying places that are closely settled with a large number of homes, rather than very spread out rural communities. From publicly available sources, the outlines of parcels (land subdivided into lots) were gathered and the areas with a density of at least 250 parcels per square mile were identified. This density is comparable to the density of Census Designated Places.

Low-Income Unincorporated Communities: 2000 US Census block group data was used to identify these communities. Block groups where the median household income was less than 80 percent of the median household income of the state were selected. This is a benchmark used in several state-level infrastructure funding programs that target low income communities, including the Safe Drinking Water State Revolving Fund and the Storm Water Management Program. In 2000, the median household income of the state of California was \$47,493. Therefore, any Census block group with a median income of less than \$37,994 was included in the analysis.

Visual Inspection & Additional Filters: Land use was mapped to filter out agricultural land. Aerial photography and Google street view were used to verify that the places highlighted by the previous analysis were indeed underserved communities. This review revealed that some communities at the edge of cities had been "low-income" agricultural fields during the 1990 Census, but have since been developed. Identified communities less than $\frac{3}{4}$ of an acre in size were also removed as they often contained only 1 or 2 houses, if any.

For a more detailed explanation of the data and methods used, please refer to the [Community Equity Initiative](#) website for technical appendices.

CEQA Compliance for Local Governments

Amending the general plan land use element, and any necessary associated elements or sections of the general plan, to comply with the requirements of SB 244 may be a “project” subject to the California Environmental Quality Act.

Each Lead Agency will need to determine if their approvals and actions associated with complying with the provisions of SB 244 are subject to CEQA and what level of CEQA analysis will be adequate. Cities that determine that there are no “island” or “fringe communities” within their sphere of influence may determine that making an associated finding is not a “project” subject to CEQA. Likewise, counties that determine that they do not contain “legacy communities” within their boundaries may determine that making the associated finding is not a project subject to CEQA.

For Lead Agencies that do identify “island,” “fringe” and/or “legacy communities” and must include an analysis of water, wastewater, storm water drainage, and structural fire protection needs or deficiencies will need to determine what level of CEQA compliance is adequate for updating the land use and any other associated general plan elements that may require amendments. The level of CEQA analysis may vary depending on policies and already available information in current General Plans, analysis done in previous General Plan, Specific Plan, or other planning level CEQA documents.

Lead agencies should consider whether or not that analysis of infrastructure needs requires a discussion of growth inducing impacts. Jurisdictions that provide additional growth opportunities in and around island, fringe or legacy communities should consider the growth inducing impacts of providing infrastructure to serve existing needs as well as additional growth. Jurisdictions that are not planning for growth in or around such communities may want to “right size” the infrastructure so that only the needs of the existing communities can be met and to avoid any associated growth inducing impacts. Jurisdictions should carefully consider all aspects of providing infrastructure to such communities and provide adequate analysis of those needs in any CEQA documents.

Analysis and Listing of Potential Funding Mechanisms

The final task in the implementation of GC Section 65302.10 for cities or counties is the analysis of benefit assessment districts or other financing alternatives that could make the extension of services to identified communities financially feasible. Principal funding sources for local government infrastructure include taxes, benefit assessments, bonds, and exactions (including impact fees). For information regarding these funding sources, consult *General Plan Guidelines* (Pg 161).

In addition to the principal infrastructure funding mechanisms previously listed, there are funding opportunities for both infrastructure planning and implementation. The following discussion briefly describes some additional sources and includes a link to more information about each funding mechanism.

- [California Department of Public Health Safe Drinking Water State Revolving Fund](#)

The California Department of Public Health (CDPH) provides funding through the Safe Drinking Water State Revolving Fund (SRF). The SRF provides low interest loans to fund public water system planning and infrastructure projects. Grant funding may be available to disadvantaged communities that are unable to afford loans. Emphasis is focused on projects that solve public health and significant compliance issues.

- [State Water Resources Control Board Revolving Fund Program](#)

The Federal Water Pollution Control Act (Clean Water Act or CWA), as amended in 1987, established the Clean Water State Revolving Fund (CWSRF) program. The CWSRF program offers low interest financing agreements for water quality projects. Annually, the program disburses between \$200 and \$300 million to eligible projects. Eligible projects include, but are not limited to:

- o Wastewater treatment
- o Local sewers
- o Sewer interceptors
- o Water reclamation facilities
- o Stormwater treatment
- o Expanded use projects

- [State Water Resources Control Board Small Community Wastewater Grant Program](#)

The Small Community Wastewater Grant (SCWG) Program provides grants for the planning, design, and construction of publicly-owned wastewater treatment and collection facilities to small communities (i.e., with a population of 20,000 persons, or less) with financial hardship (i.e., annual median household income [MHI] is 80 percent of the Statewide MHI, or less).

- [Department of Water Resources Integrated Regional Water Management \(IRWM\) Grant Program](#)

Integrated Regional Water Management (IRWM) is a collaborative effort to manage all aspects of water resources in a region. IRWM crosses jurisdictional, watershed, and political boundaries; involves multiple agencies, stakeholders, individuals, and groups; and attempts to address the issues and differing perspectives of all the entities involved through mutually beneficial solutions. To access this program you must work through the IRWM that covers your [region](#).

- [Sustainable Communities Planning Grant and Incentive Program](#)

On behalf of the Strategic Growth Council (SGC), the Department of Conservation manages competitive grants to cities, counties, and designated regional agencies to promote sustainable community planning and natural resource conservation. The grant program supports development, adoption, and implementation of various planning elements. The Sustainable Communities Planning Grant Program offers a unique opportunity to improve and sustain the wise use of infrastructure and natural resources through a coordinated and collaborative approach.

- [United States Department of Agriculture Rural Development Grants and Loans](#)

Grants and loans are available through the USDA for predevelopment planning, water and wastewater, and emergency water assistance.

- [Community Development Block Grant Funds](#) The Community Development Block Grant (CDBG) program is a flexible program that provides communities with resources to address a wide range of unique community development needs. Beginning in 1974, the CDBG program is one of the longest continuously run programs at HUD. The CDBG program provides annual grants on a formula basis to 1209 general units of local government and States.

Examples of Infrastructure Planning

The following are examples of infrastructure planning that have been employed by some public agencies to address disadvantaged unincorporated areas as programs in their Housing Elements. These are provided for illustrative purposes only.

- [City of Modesto Housing Element](#)

The City of Modesto Housing Element was certified in July 2011 following City Council adoption on June 28, 2011. The Housing Element includes a program for ongoing coordination with Stanislaus County to address “islands,” As stated in the Housing Element, there are many areas that have been developed with residences, often at urban densities, under the governance of Stanislaus County and within Modesto’s Sphere of Influence. Within the five year planning period (2009-2014), the City plans to conduct ongoing coordination with Stanislaus County to address the following issues as they relate to “islands”:

- Address any property tax issues
- Identify infrastructure upgrades and develop cost estimates for upgrading infrastructure in compliance with municipal code provisions and regulations

The annexation of the Shackelford area (138.71 acres) was approved by Stanislaus LAFCo on February 22, 2012, and became effective on June 1, 2012.

- [Tulare County Housing Element](#)

The Board of Supervisors on March 23, 2010, adopted the 2009 Tulare County Housing Element. The Housing Element includes an action program to continue to identify housing related infrastructure needs using a number of methods and sources, including, but not limited to:

- Community needs assessments
- Housing condition surveys
- Public comments at community meetings
- Redevelopment implementation plans and amendments
- Community plans
- Relevant information from Health and Human Service Agency, Environmental Health Services, Regional Water Quality Control Board, public utility districts, community services districts and other agencies

Tulare County has been successful planning for infrastructure improvements for disadvantaged

communities. The Board of Supervisors approved an agreement with the California Department of Water Resources to accept \$2 million in funding for the Tulare Lake Basin Disadvantaged Community Water Study Project. The Tulare Lake Basin includes Fresno, Kern, Kings, and Tulare Counties. The project will develop a plan that provides rural, disadvantaged communities with a safe, clean, and affordable potable water supply and effective and affordable wastewater treatments.

In addition, Tulare County is planning to replace an aging water distribution system in Seville, unincorporated community in Tulare County. In December 2011, the Tulare County Board of Supervisors approved the submittal of a grant application for Federal funding for the replacement of deteriorating distribution lines and water storage facilities in Seville. The total cost of the project is estimated to be more than \$2 million. The grant application for Federal funding and an existing grant application for State funding would cover the cost of the project.

To continue this commitment to identify housing-related infrastructure needs, the County will take the following steps:

- Provide technical assistance to local service providers including Public Utility Districts, Community Services Districts, and other water and wastewater providers
- Establish infrastructure development priorities for the County

Further Information about Disadvantaged Communities

1. California Department of Water Resources Disadvantaged Communities Mapping Tool.
http://www.water.ca.gov/irwm/integregio_resourceslinks.cfm#DAC%20TOOL
2. California Rural Legal Assistance Foundation (2011).
The Human Costs of Nitrate-Contaminated Drinking Water in the San Joaquin Valley.
http://www.pacinst.org/reports/nitrate_contamination/
3. California Rural Legal Assistance Foundation and PolicyLink (2007)
Unincorporated Communities in the San Joaquin Valley: New Responses to Poverty, Inequity, and a system of Unresponsive Governance.
http://www.prrac.org/projects/fair_housing_commission/los_angeles/Colonias_CRLA_%20PolicyLink%20Framing%20Paper.pdf
4. Catarina de Albuquerque.
Report of the Special Rapporteur on the human right to safe drinking water and sanitation: Mission to the United States of America:
http://www2.ohchr.org/english/bodies/hrcouncil/docs/18session/A-HRC-18-33-Add4_en.pdf
5. Council for Watershed Health. Disadvantaged Communities Outreach Evaluation Project (for Greater Los Angeles Region Integrated Regional Water Management Plan) webpage:
<http://watershedhealth.org/programsandprojects/dac.aspx>
6. International Human Rights Law Clinic, University of California, Berkeley School of Law *Human Rights at Home - The rights to housing, water, and political participation in San Joaquin Valley unincorporated communities*
http://www.law.berkeley.edu/files/IHRLC_HumanRightsatHomeNovember2007FINALVERSION.pdf
7. PolicyLink and California Rural Legal Assistance (2011).
Community Equity Initiative: A Collaborative for Change.
http://www.policylink.org/atf/cf/%7B97c6d565-bb43-406d-a6d5-eca3bbf35af0%7D/CEI_FINAL.PDF
8. Self Help Enterprises for the California Partnership for the San Joaquin Valley
An Evaluation of Water Program Funding Available to Disadvantaged Communities
http://www.sjvpartnership.org/uploaded_files/WG_doc/WAT_SHE_FundProgramEval.pdf
9. Tulare County. Tulare Lake Basin Disadvantaged Community Water Study webpage:
http://www.co.tulare.ca.us/government/county_office/disadvantaged_community_grant/default.asp

OPR Resources

1. [LACFos, General Plans, and City Annexations](#) (February 2012)

This document provides a primer on Local Agency Formation Commissions (LAFCos) from a land use planning perspective. The publication addresses the city annexation process, CEQA, and local general plans.

2. [OPR General Plan Guidelines](#) (October 2003)

To assist local governments in meeting this responsibility, the Governor's Office of Planning and Research is required to adopt and periodically revise guidelines for the preparation and content of local general plans.

3. [Location Maps Required for State Agencies' Review](#) (September 2000)

CEQA Guidelines require the submittal of a suitable map along with the NOP for an EIR under Section 15082 (a) (1) (b), and in the Draft EIR itself, under Section 15124 (a).

Glossary

Annexation: the inclusion, attachment, or addition of territory to a city or district (http://www.caLAFCo.org/docs/CKH/2011_CKH_Guide.pdf)

Annexation Survey: U.S. Census Bureau conducts the Boundary and Annexation Survey (BAS) annually to collect information about selected legally defined geographic areas. The BAS is used to update information about the legal boundaries and names of all governmental units in the United States. (<http://www.census.gov/geo/www/bas/bashome.html>)

California Environmental Quality Act (CEQA): The California Environmental Quality Act (CEQA) generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those environmental impacts to the extent feasible. (http://www.opr.ca.gov/m_ceqa.php)

Census Designated Place: delineated for each decennial census as the statistical counterparts of incorporated places. CDPs are delineated to provide data for settled concentrations of population that are identifiable by name but are not legally incorporated under the laws of the state in which they are located. The boundaries usually are defined in cooperation with local or tribal officials. (http://www.census.gov/geo/www/cob/pl_metadata.html)

Community: means an inhabited area within a city or county that is comprised of no less than 10 dwellings adjacent or in close proximity to one another. (GC Section 65302.10.(a))

Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000: establishes procedures for local government changes of organization, including city incorporations, annexations to a city or special district, and city and special district consolidations. (http://www.caLAFCo.org/docs/CKH/2011_CKH_Guide.pdf)

Disadvantaged Unincorporated Community: a fringe, island, or legacy community in which the median household income is 80 percent or less than the statewide median household income. (GC Section 65302.10.(a))¹

District or Special District: an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries and in areas outside district boundaries when authorized by the commission pursuant to GC Section 56133. Includes a county service area but excludes: the state, a county, a city, a school district or a community college district, an assessment district or a special assessment district, an improvement district, a community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, a permanent road division formed pursuant to Article 3 of Chapter 4 of Division 2 of the Streets and Highways Code, an air pollution control district or an air quality maintenance district, and a zone of any special district. (http://www.caLAFCo.org/docs/CKH/2011_CKH_Guide.pdf)

Fringe Community: any inhabited and unincorporated territory that is within a city's sphere of influence. (GC Section 65302.10. (a))

¹ GC Section 56033.5 defines "Disadvantaged unincorporated community" as an inhabited territory, as defined by Section 56046, or as determined by commission policy, that constituted all or a portion of a "disadvantaged community" as defined by Section 79505.5 of the Water Code (Amended by Stats.2011, Ch. 513)

Integrated Regional Water Management (IRWM): A collaborative effort to manage all aspects of water resources in a region. IRWM crosses jurisdictional, watershed, and political boundaries; involves multiple agencies, stakeholders, individuals, and groups; and attempts to address the issues and differing perspectives of all the entities involved through mutually beneficial solutions. (<http://www.water.ca.gov/irwm/index.cfm>)

Island Community: any inhabited and unincorporated territory that is surrounded or substantially surrounded by one or more cities or by one or more cities and a county boundary or the Pacific Ocean. (GC Section 65302.10. (a))²

Land Use Element: one of seven mandatory elements of a local general plan, the land use element functions as a guide to planners, the general public and decision-makers as to the ultimate pattern of development for the city or county at build-out. (opr.ca.gov/docs/General_Plan_Guidelines_2003.pdf)

Legacy Community: a geographically isolated community that is inhabited and has existed for at least 50 years. (GC Section 65302.10. (a))

Local Agency Formation Commissions (LAFCo): LAFCos are responsible for coordinating logical and timely changes in local governmental boundaries, conducting special studies that review ways to reorganize, simplify, and streamline governmental structure and preparing a sphere of influence for each city and special district within each county. LAFCos regulate, through approval or denial, the boundary changes proposed by other public agencies or individuals. (<http://www.caLAFCo.org/about.htm>)

Municipal Level Services: services typically provided by cities such as fire, police, garbage collection, water, sewer, etc.

Municipal Service Review: a review of the municipal services provided in the county or other appropriate area such as a proposed incorporation area designated by LAFCo's Commission. (GC Section 56430)

Principal Infrastructure Funding Mechanisms: the principal funding sources for local government infrastructure are taxes, benefit assessments, bonds and exactions (including impact fees). (http://opr.ca.gov/docs/General_Plan_Guidelines_2003.pdf)

Sphere of Influence: a plan for the probable physical boundaries and service area of a local agency, as determined by LAFCo. (http://www.caLAFCo.org/docs/CKH/2011_CKH_Guide.pdf)

2 GC Section 56375.3(b)

Funding Matrix

The following matrix lists funding opportunities for drinking water projects. To learn more about the specific funding sources, please visit the websites of the listed State agencies for more information.

Agency	Program (year passed or created)	Funding Provided (in million \$)	Funding Remaining/Available (in million \$)	Limitations/Barriers on Use of Funds for Drinking Water Treatment (capital or O&M)
California Department of Public Health (CDPH)	Safe Drinking Water State Revolving Fund (SDWSRF) (1996) (grants and loans)	Generally \$100–\$150: Low-interest loans and some grants to support water systems with technical, managerial, and financial development and infrastructure improvements.	\$130-\$150 (revolving funds) (annually)	<ul style="list-style-type: none"> • 20 to 30% of annual federal contribution can be used for grants. The remainder must be committed to loans. • Funds can be used only for capital costs. Cannot be used for O&M • Only loans (not grants) for privately owned water systems. • Some funds available for feasibility and planning studies for eligible projects/systems. • Can only be used for Public Water Systems (not domestic wells or State Small Systems)
	Proposition 84 (2006) (grants)	\$180: Small community improvements. ----- \$60: Protection and reduction of contamination of groundwater sources. \$50 Matching funds for federal DWSRF ----- \$10: Emergency and urgent projects.	\$0 (Over subscribed) ----- \$0 (Fully allocated) Will be fully committed with the current year grant but not yet liquidated ----- -\$7	<ul style="list-style-type: none"> • Funds can be used only for capital costs. Cannot be used for O&M. • Some funding available for feasibility and planning studies for eligible projects/systems. • Can only be used for Public Water Systems not domestic wells or State Small Systems • Used to address sudden unanticipated emergency situation such as fires, earthquakes and mud slides that damage critical water infrastructure. May fund short term mitigations such as hauled water.
	Proposition 50 (2002) (grants) (fully allocated)	\$50: Water security for drinking water systems. ----- \$69: Community treatment facilities and monitoring programs. ----- \$105: Matching funds for federal grants for public water system infrastructure improvements.	\$0 (fully allocated) ----- \$0 (fully allocated) ----- \$0 fully allocated, mostly liquidated	<ul style="list-style-type: none"> • Can only be used for capital costs. Cannot be used for O&M. • Can only be used for Public Water Systems not domestic wells or State Small Systems
State Water Resources Control Board (State Water Board)	Clean Water State Revolving Fund (Expanded Use Program) (CWSRF) (1987) (loans)	\$200–\$300 per year: Water quality protection projects, wastewater treatment, nonpoint source contamination control, and watershed management.	\$50 per agency per year; can be waived	Eligible Uses: Stormwater treatment and diversion, sediment and erosion control, stream restoration, land acquisition. Drinking water treatment generally not eligible except under certain Expanded Use scenarios. Capital cost only. O&M not eligible.
	Small Community Groundwater Grants (Prop 40) (2004, amended 2007) (grants)	\$9.5. Assist small disadvantaged communities (<20,000pp) with projects where the existing groundwater supply exceeds maximum contaminant levels, particularly for arsenic or nitrate	\$1.4 remaining - \$0.3 available to encumber; \$1.1 available to appropriate	\$ can go to local govt or NGO. Must demonstrate financial hardship. Can only provide alternate water supply. No O&M costs. Program not currently active due to staff resource limitations
	State Water Quality Control Fund: Cleanup and Abatement Account (2009)	\$10 in 2012 (varies annually): Projects to (a) clean up waste or abate its effects on waters of the state, when there is no viable responsible party, or (b) address a significant unforeseen water pollution problem (regional water boards only). Funds can be allocated to: Public Agencies, specified tribal governments, and not-for-profit organizations that serve disadvantaged communities	\$10, but varies.	Eligible Uses: Emergency cleanup projects; projects to clean up waste or abate its effects on waters of the state; regional water board projects to address a significant unforeseen water pollution problem. Recipient must have authority to clean up waste. Under certain circumstances this fund has been used to provide drinking water O&M for limited

Agency	Program (year passed or created)	Funding Provided (in million \$)	Funding Remaining/Available (in million \$)	Limitations/Barriers on Use of Funds for Drinking Water Treatment (capital or O&M) durations.
	Integrated Regional Water Management (IRWM) (2002) (grants) (fully allocated)	\$380 (Prop 50): Planning (\$15) and implementation (\$365) projects related to protecting and improving water quality.	\$0, fully committed	
California Department of Water Resources (DWR)	Integrated Regional Water Management (IRWM) (2002) (grants)	\$600 remaining (Prop 84): Regional water planning and implementation.	-\$28 (central coast projects) - \$33 (Tulare/Kern projects)	Must be consistent with an adopted IRWM Plan and other program requirements. For capital investment only
	Contaminant treatment or removal technology pilot and demonstration studies (2002) (grants)	Up to \$5 per grant	\$15 million available	Eligible applicants are public water systems under the regulatory jurisdiction of CDPH and other public entities For capital investment only
	Safe Drinking Water Bond Law (Prop 81) (1988)	Up to \$74 to be awarded to current priority list. \$0.025 max per project	Remaining balance to be determined.	Provides funding for projects that investigate and identify alternatives for drinking water system improvements
	Drinking water disinfecting projects using UV technology and ozone treatment (2002) (grants)	\$0.05 minimum, up to \$5 m per grant	\$19 m remaining	Eligible applicants are public water systems under the regulatory jurisdiction of CDPH For capital investment only
iBank (CA Infrastructure and Development Bank)	Infrastructure State Revolving Fund (ISRF) Program (2000) (loans)	\$0.25 to \$10 per project to finance water infrastructure that promotes job opportunities. Eligible projects include -construction or repair of publicly owned water supply, treatment, and distribution systems.	\$52.6 million approved to date for Water Supply, Water Treatment and Distribution Applications continually accepted	Finances system capital improvements only. Must show job creation. Special loan tier for DACs was discontinued.

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County of Tulare



Clerk of the Board

Jean Rousseau
County Administrative Officer
Clerk of the Board

Michelle Baldwin
Chief Clerk

February 22, 2013

Janet Hinesly, Mayor
City of Dinuba
405 E. El Monte
Dinuba, CA 93618

RE: Local Agency Formation Commission (LAFCo)

Dear Mayor Hinesly:

At a meeting held by the City Selection Committee on February 19, 2013, you were officially reappointed as the City Member – Alternate to the Local Agency Formation Commission (LAFCo) for a term ending the first Monday in May 2017.

Thank you for serving on this board.

Sincerely,

Michelle Baldwin

Michelle Baldwin, Secretary
City Selection Committee

Cc: Ben Giuliani, TCAG



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TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION

210 N. Church St., Suite B, Visalia, CA 93291 Phone: (559) 623-0450 FAX: (559) 733-6720

March 6, 2013

TO: LAFCO Commissioners, Alternates, Counsel
FROM: Benjamin Giuliani, Executive Officer
SUBJECT: Sequoia Memorial District

COMMISSIONERS:

*Cameron Hamilton, Chair
Steve Worthley, V. Chair
Juliet Allen
Rudy Mendoza
Allen Ishida*

ALTERNATES:

*Dennis A. Mederos
Janet Hinesly
Mike Ennis*

EXECUTIVE OFFICER:

Ben Giuliani

Background

At the October 24th meeting, staff provided a report to the Commission regarding special districts in Tulare County. The report addressed some of the issues that were highlighted in the Tulare County Grand Jury's 2011/12 report, "Special Districts Lack of Oversight". In the report to the Commission, the Sequoia Memorial District was one of the districts which staff recommended further evaluation because of the District's historical problem with achieving a quorum at their board meetings.

The Sequoia Memorial District is one of fourteen memorial districts within Tulare County. Statewide, there are a total of 27 memorial districts with six located in Calaveras County and the remaining seven in Amador, Fresno (2), Ventura, Monterey (2) and Santa Clara Counties. Sequoia Memorial District is the smallest memorial district in Tulare County both in terms of geographic area (26.7 sq. mi.) and population (1,498).

Memorial districts are established and governed under the Military and Veterans Code (MVC) sections 1170 through 1259. Five board members are required with the majority of the seats designated for veterans (MVC §1197). Memorial district boundaries must be contiguous and can not cross county lines (MVC §1172). While memorial district law was enacted to address facilities for the use of veterans' associations, non-veteran use is specifically allowed (MVC §1191) as long as it doesn't, "unduly interfere with the reasonable use of the facilities by veterans' associations".

Discussion

Commission representatives met with Sequoia Memorial District representatives on February 15th. A tour of the facility was given and issues of interest were discussed regarding the District. Currently, the District has two unfilled board seats and no paid staff. For Memorial District functions, staffing is provided on a voluntary basis or a contract basis for specific projects.

The Sequoia Memorial District has a unique relationship with the Sequoia Union Elementary School District. The memorial building is located adjacent to the Sequoia Union School, a public K-8 school with an enrollment of about 340 students. The land that the memorial building is located was formerly part of the school grounds. The school district actively uses the memorial building for special events and pays for much of the building's expenses. In exchange, the memorial district does not charge the school district for use of the facilities. Due to the financial arrangement with the school district and not having paid staff, the memorial district is not struggling financially. However, also due in part to the lack of staffing, the District has not opened the building for public rental use since fiscal year (FY) 08/09.

The lack of a full board was discussed. The District has not operated with a full five-member board for quite some time. The District representatives were informed that the Tulare County Board of Supervisors (BOS) has the authority to appoint members to district boards within a certain timeframe around the regular district elections (Elections Code §10515(b)) upon request by the district. The District currently has two veteran seats and one non-veteran seat filled with one veteran seat and one non-veteran seat unfilled. Some memorial districts have had difficulty in keeping seats filled because of the veteran majority requirement. This problematic situation is likely to only increase over time due to the decreasing amount of veterans and the decreasing amount of participation in veterans' groups.

Another issue discussed was regarding financial and government reporting requirements. The District representatives expressed an interest in contracting staffing with other memorial districts for financial and reporting services. While the District representatives were not interested in consolidating with a neighboring memorial district at this time, they were also interested in the possibility of contracting with other districts for property management. Having active property management could open the building again for public rental use.

Conclusion

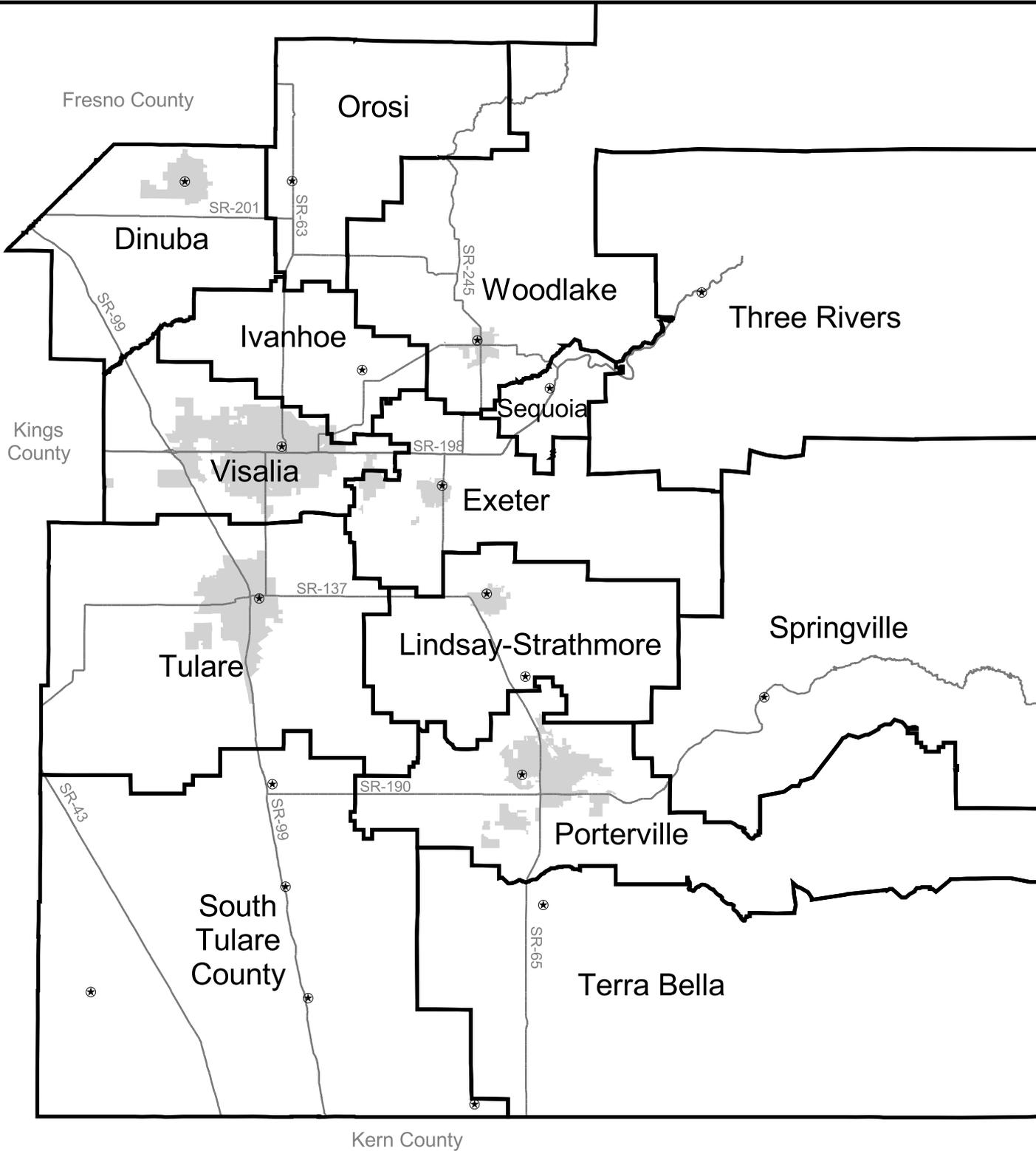
The Sequoia Memorial District is an active district and its facility is being actively used for the public good. However, improvements can be made in regard to having full board representation, financial reporting and potentially opening the facility for greater public use.

To help facilitate in the District's interest in sharing contracted staffing with other districts, Commission staff could draft a letter to the other memorial districts in the County to gauge the level of interest in pursuing this kind of joint service. In addition, the letter could also contain the relevant procedure for how districts can have vacant seats filled by the BOS, determine the interest level in the possibility of amending Military and Veterans Code to make veteran versus non-veteran board membership more flexible and a contact list for all the memorial districts in the County to assist in the collaboration between districts.

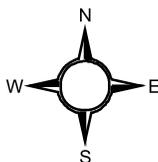
Attachments:

Tulare County Memorial District Map
Memorial District Comparison Table

Tulare County Memorial Districts



- State Highways
- ▭ Districts
- Cities
- ★ Veteran Memorial Buildings



Boundaries as of 9/30/12



Memorial District Comparison

District	Population (2010)	Area (Sq. Mi.)	Tax Increment	Property Tax	Rentals	Interest
Dinuba	32,833	121.2	.005065	\$64,132	\$110,939	\$436
Exeter	24,002	145.6	.014147	\$194,438	\$29,782	\$9,989
Ivanhoe	12,601	76.5	.002919	\$25,372	\$450	\$825
Lindsay-Strathmore	23,319	137.9	.011932	\$108,518	\$30,855	\$1,168
Orosi	18,016	125.1	.007515	\$37,236	\$38,474	\$780
Porterville	76,225	366.8	.008492	\$259,858	\$64,918	\$33,908
Sequoia	1,498	26.7	.011546	\$19,758	\$0	\$4,152
South Tulare	24,732	418.0	.016918	\$282,838	\$81,810	\$4,862
Springville	4,251	903.5	.008981	\$61,195	\$8,051	\$11,419
Terra Bella	7,560	820.7	.007166	\$58,070	\$12,585	\$876
Three Rivers	2,266	702.1	.013988	\$49,227	\$10,372	\$4,195
Tulare	70,510	254.0	.009674	\$439,345	\$77,335	\$13,465
Visalia	133,676	109.3	.001599	\$136,991	\$61,884	\$10,112
Woodlake	10,690	635.2	.011516	\$68,962	\$45,284	\$2,434

Notes:

- Population figures are from the 2010 Census that was derived from matching census blocks to district boundaries.
- Property tax increments are from the primary city or unincorporated community in the district.
- Revenues are from FY10/11 with the exception of Lindsay-Strathmore which is from FY 09/10. (L-S didn't report their FY10/11 info to the Controller.)