



COUNTY OF HUMBOLDT

For the meeting of: 1/5/2021

File #: 21-13

To: Board of Supervisors

From: Public Works

Agenda Section: Consent

SUBJECT:

Adoption of Relocation Assistance Policy for County Property Acquisition

RECOMMENDATION(S):

That the Board of Supervisors:

1. Adopt the attached Resolution approving the Relocation Assistance Policy; and
2. Direct the Clerk of the Board to provide one (1) fully executed original copy of the attached resolution and policy to the Humboldt County Department of Public Works Facility Management.

SOURCE OF FUNDING:

N/A

DISCUSSION:

On Dec. 8, 2020, the Board of Supervisors directed staff to report back to the Board with revisions to the proposed Relocation Assistance Policy. Government Code section 7267.8 states that all public entities shall adopt rules and regulations to implement payments and to administer relocation assistance under Chapter 16 of Division 7 of Title 1 of the Government Code.

The County of Humboldt is committed to ensuring that uniform, fair and equitable treatment is afforded to persons displaced from their homes, businesses or farms as a result of the county's actions, in order for such persons to not suffer disproportionate injury as a result of action taken for the benefit of the public as a whole. In the acquisition of real property, the county is also committed to ensuring consistent and fair treatment for owners and/or their tenants of the real property to be acquired, to encourage and expedite acquisition by agreement with owners and/or their tenants of such property in order to avoid litigation and relieve congestion in courts, and to promote confidence in the county's land acquisition.

The county has received correspondence regarding the proposed County Relocation Assistance Policy

from Mr. Greg M. Holtz with Legal Services of Northern California by letter dated Dec. 8, 2020 (Exhibit A - Legal Services Letter), from Ms. S. Lynn Martinez with Disability Rights California by letter dated Oct. 12, 2020 (Exhibit B - Disability Rights California Letter) and from Colin Fiske with Coalition for Responsible Transportation Priorities by email dated Dec. 7, 2020 (Exhibit C - Coalition for Responsible Transportation Priorities Email).

With consideration to the input received and direction from the Board, staff has completely revised the proposed Relocation Assistance Policy to adopt the State and Federal codes and regulations by title that are currently applicable to relocation assistance (Attachment 1 - Relocation Assistance Policy). Adoption of these codes and regulations was an alternative as stated in the Dec. 8, 2020 staff report to the detailed policy presented in the Dec. 8, 2020 Board meeting. The revised policy is written in a way so that it will automatically adapt to State or Federal regulation changes without the need to present it to your Board for adoption, unless there is a conflict with one of the above and beyond regulations.

The following addresses comments referred to in Exhibit A - Legal Services Letter, stating the County did not address, or fully address, some of the specific concerns identified in a letter from Ms. S. Lynn Martinez of Disability Rights California dated Oct. 14, 2020 (Exhibit B - Disability Rights California Letter):

Section II of the Oct. 14, 2020 letter states the county's policy attempts to narrow displacing activity to real estate acquisitions. Staff's response is that the revised policy addresses this concern by including and adopting ALL State and Federal Regulations effecting displacement activity to real estate acquisitions, thus removing any attempt to narrow said displacement.

Section III of the Oct. 14, 2020 letter states Article I, Section 1.1(c) of the prior Dec. 8, 2020 policy raises the concern the county will not comply with its relocation responsibilities when a project is suspended or terminated. Staff's response is that Section 6016(b) of Title 25 of the California Code of Regulations ("CCR") as included in Section II of the revised policy addresses this concern. Section 6016(b) states "Eligible persons who move without offers of assistance and benefits, after the [county] was required to offer assistance or benefits, shall be provided such assistance and payments and when appropriate, compensation for additional costs incurred. The [county] shall make every effort to identify and locate such persons."

Section III of the Oct. 14, 2020 letter states Article I, Section 1.1(e) of the prior Dec. 8, 2020 policy should remove language that refuses relocation assistance if federal funds are used. Staff's response is to include the applicable Federal code section in the policy to address this concern; specifically, Chapter 61 of Title 42 of the U.S. Code titled Uniform Relocation Assistance and Real Property Acquisition Polices for Federal and Federally Assisted Programs.

Section III of the Oct. 14, 2020 letter also states that Article 1, Section 1.6 of the prior Dec. 8, 2020 policy must add and remove specific language in the prior policy in order to be consistent with state law. Staff's response is that the adoption of 25 of the CCR, specifically Section 6010, as included in the revised policy addresses this concern.

Section V of the Oct. 14, 2020 letter states Article III, Section 3.12 and 3.13 of the prior Dec. 8, 2020 policy states the language for replacement housing payments is misleading and endeavors to make the policy a usable and informative document and requests the county to cross-reference its “last resort housing” provisions as set forth in Article 4 of the Dec. 8, 2020. Staff’s response is that these two sections in the Dec. 8, 2020 policy were essentially the same as the applicable code sections; specifically, Sections 6102 and 6104 of Title 25 of the CCR, and neither code sections cross-reference any last resort housing provisions. Moreover, with the revised policy which include these code sections, the revised policy will address the misleading concern

Section VII of the Oct. 14, 2020 letter states Article V, Section 5.5(a) of the prior Dec. 8, 2020 policy should be revised to add language stating “When a claimant seeks review, the County shall inform the claimant that the claimant has the right to be represented by an attorney, to present the claimant’s case by oral or documentary evidence, to submit rebuttal evidence, to conduct such cross examination as may be required for a full and true disclosure of facts, and that the claimant need not exhaust an administrative appeal prior to seeking judicial review” . Staff’s response is that the added language (specifically, “and that the claimant need not exhaust an administrative appeal prior to seeking judicial review) deviates from Section 6158(a) of Title 25 of the CCR 6158(a) which requires the claimant to exhaust their administrative appeal before seeking judicial review. The requested language in other words would permit the claimant to seek judicial review and bypass your Board’s review of the complaint.

Section VII of the Oct. 14, 2020 letter states Article V, Section 5.9 of the prior Dec. 8, 2020 policy should remove the Public Records Act (PRA) as such documents should be made available to claimants on demand within one week of the claimant’s request so they might make timely objections to the county’s determination. Staff’s response is that Section 6166 of Title 25 of the CCR as included in the revised policy requires the public entity to permit the claimant to inspect all files and records bearing upon their claim or the prosecution of the claimant’s grievance. Section 6166 permits the claimant to inspect all files and records to the extent the confidentiality of material is protected by law or its disclosure is prohibited by law and if the claimant is improperly denied access to any relevant material bearing on the claim, then such material may not be relied upon in reviewing the initial determination. Section 6166 also does not specify a time period for when the public entity shall provide those records. The letter requests the policy to deviate from Section 6166.

The following addresses comments referred to in Exhibit C - Coalition for Responsible Transportation Priorities’ email:

The prior Dec. 8, 2018 policy did not include any reference to transportation characteristics in its definition of “comparable replacement dwellings.” Mr. Fiske encourages the county to include comparable transportation characteristics as a key component of replacement dwelling comparability before final adoption of the policy. Staff’s response is Mr. Fiske’s concern of the transportation characteristics is addressed in Section 6048 of Title 25 of the CCR as included in the revised policy. Section 6048 requires the county to conduct a survey which includes obtaining the individual’s transportation information and analyze the relocation needs of the displaced person.

In addition, Mr. Fiske proposes to include transportation costs with respect to replacement housing payments. Staff's response is these costs would be beyond the policy's definition and deviates from the computation used to determine replacement housing payments as specified in Sections 6102(c) and 6104(c) of Title 25 of the CCR.

Staff believes that the concerns and comments as stated in Exhibits A, B and C are addressed by the revised Relocation Policy which directly adopts Federal and State code and regulations.

Attached for requested approval and adoption is the revised Relocation Assistance Policy (Attachment 1 - Relocation Policy) and Resolution (Attachment 2 - Resolution).

FINANCIAL IMPACT:

The financial impact is unknown at this time as various costs associated with providing relocation assistance is dependent on the circumstances of the real property being acquired. Grant funding for a future project that involves relocation may cover some or all of the relocation costs.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by protecting vulnerable populations.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF:

1. Your Board could choose not to approve the Relocation Assistance Policy. However, this is not recommended as Government Code section 7267.8(a) requires all public entities to adopt rules and regulations to implement payments and to administer relocation assistance.
2. Your Board could choose to adopt the Relocation Assistance Policy and include any of the requests in Exhibits A, B and C. These requests go above and beyond the requirements set forth in state and federal law. Grant funding for future projects may not allow funds to be spent on these enhancements. Any expense not covered by grant funding would need to be covered by the General Fund or other funding source. This alternative may create an unfunded obligation for future projects that require relocation assistance.

ATTACHMENTS:

Attachment 1 - Relocation Assistance Policy

Attachment 2 - Resolution

Exhibit A - Legal Services Letter

Exhibit B - Disability Rights California Letter

Exhibit C - Coalition for Responsible Transportation Priorities Email

PREVIOUS ACTION/REFERRAL:

Board Order No.: L-2, C-27

Meeting of: 7/7/2020, 12/08/20

File #: 21-13

File No.: 20-847, 20-1526