



# COUNTY OF HUMBOLDT

For the meeting of: 7/7/2020

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File #: 20-780

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**To:** Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Time Certain Matter

**SUBJECT:**

10:00 a.m. - Consider placing a local measure on the Nov. 3, 2020, General Election ballot regarding development of affordable rental housing, pursuant to Article XXXIV of the Constitution of the State of California, and related options, and a supplemental budget request to fund the ballot measure (4/5 Vote Required)

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Consider results of public opinion research conducted in June 2020 by Fairbank, Maslin, Maullin, Metz & Associates (FM3) on likely success of a ballot measure for the development of low income housing, and housing for persons with disabilities at the Nov. 3, 2020 General Election, pursuant to Article XXXIV of the Constitution of the State of California;
2. Direct a ballot measure for the development of affordable housing pursuant to Article XXXIV of the California State Constitution be placed the Nov. 3, 2020, General Election and determine the language of the measure to be submitted to the qualified electorate; and
3. Direct staff to return on July 28, 2020 with a resolution for Board adoption containing language of the ballot measure to be consolidated with the November 3, 2020 General Election and to submit measure to qualified electors.

**SOURCE OF FUNDING:**

The salary funding for preparing this staff report and managing the proposed ballot measure is included in the General Fund contribution to the Advanced Planning budget unit 1100-282. The proposed supplemental budget of \$92,000 to transfer from Contingencies will be funded by the General Fund. There will be no additional assessment or increase in taxes as a result of the proposed ballot measure. See below for further discussion.

**DISCUSSION:**

On May 19, 2020, the Board elected to conduct public opinion research of potential voters to determine the likely success of a ballot measure to allow the county to sponsor development of affordable housing pursuant to Article XXXIV of the California State Constitution. As part of that action, the Board directed a two phased approach to first determine feasibility of the ballot

measure and based on this information decide whether additional professional help is needed to pursue a public education campaign. The results of the polling were very positive (81% favorable rating) and so additional professional assistance in developing the public education campaign is not recommended as part of this action. The public education campaign will be conducted using staff resources. The focus of this Board report is on developing language for the ballot measure.

Following the May 19 meeting the County entered into a contract with Fairbank, Maslin, Maullin, Metz & Associates (FM3) and developed a survey instrument. In mid-June, FM3 asked potential voters residing in the unincorporated area of Humboldt County a variety of questions to estimate the likelihood that a County Article 34 initiative would pass. A report summarizing the results of the survey is included in Attachment 2. The measure tested by FM3 was:

“Shall a measure be adopted allowing Humboldt County to obtain state and federal funding to construct, develop, or acquire housing affordable for low-income families, seniors, and people with disabilities within unincorporated areas, either directly or through assisting private projects, up to 2.5% or 1.5% of the total number of housing units existing in unincorporated Humboldt County, without raising taxes?”

Some potential voters were asked about 2.5% housing unit limit, and others were asked about 1.5%. The polling results suggest a measure like the one above is “viable, especially if voters understand a bit more about what it will do and that it will not increase taxes. The measure starts with support from 81% of voters, with considerable intensity from supporters.” (Personal communication M. Everitt, FM3, June 15, 2020.)

Board Decision Points.

As discussed in the May 19, 2020 Board report (File No. 20-525), there are four key areas of discretion in crafting an Article 34 measure:

1. *Number of housing units.* For an Article 34 measure to be legally valid it must specify the maximum number of housing units that could be developed, constructed, or acquired under the measure. The housing unit limit established by an Article 34 measure only applies to those housing units that are developed using the authorization; it does not apply, affect or limit other housing developments.

The following numerical values were tested to determine the response of voters:

	<u>Tested Art. 34 HU Values*</u>	<u>How Many Art. 34 HU?</u>
Scenario A	2.5% of 2019 existing HU	872
Scenario B	1.5% of 2019 existing HU	523
Scenario C	175	175
Scenario D	525	525
Scenario E	870	870
Scenario F	1,700	1,700

\* HU = housing units

While some scenarios result in nearly the same number of housing units, (e.g., Scenario A and Scenario E), it is important to know whether or not voters are sensitive to value as a percentage vs. a whole number. The response did not seem to provide a clear preference indicating that a percentage of total housing would be appropriate.

The appropriate number of Article 34 housing units should be consistent with the planning periods within the County's policy documents including:

- The General Plan (2017-2040).
- The 2019 Housing Element (2018-2027).
- The next Housing Element (2027 - 2035).

Table 1 in Attachment 1 walks through this analysis for Scenarios A through F. As can be seen in the table a measure using language of "up to 2.5% of the total number of housing units existing in unincorporated Humboldt County" would be sufficient to accommodate the housing needs for the planning periods of the 2019 Housing Element and 2017 General Plan. This number of housing units is within the scope of General Plan PEIR and would begin meeting the housing needs anticipated in the next Housing Element beginning in 2027. An alternative would be using the language of 1.5% of the existing 2019 housing inventory. This value is nearly sufficient for the 2019 Housing Element planning period and is within the planning and evaluation scope of the General Plan and the Plan's PEIR.

*2. Electorate: Who Would Vote?* The electorate should be limited to qualified voters in the unincorporated area of the County. The City of Arcata is placing their own Article 34 measure on the November 3, 2020 General Election ballot and expressed concern about creating confusion with both measures appearing on the same ballot. Arcata's measure proposes to moderately increase the number of Article 34 housing units authorized in that jurisdiction as they have already approved an Article 34 ballot initiative. The City of Eureka also recently approved an Article 34 ballot initiative. Other cities expressed concern with the potential for extra affordable units being placed within city jurisdictions. Under current circumstances a clearly defined Article 34 measure focused on the unincorporated area of the county would not generate concern or opposition from other jurisdictions.

*3. What entities would be eligible to use the Article 34 authorization?* Article 34 of the California Constitution prevents public bodies from developing, constructing, or acquiring in any manner affordable rental housing until a ballot measure authorizing such activities is approved by a simple majority of qualified voters. "Public bodies" are defined in Article 34 and are any city, county, housing authority, or other subdivision or public body of the state. In order to remove the potential for confusion, the County of Humboldt should be the only eligible governmental entity authorized under this ballot measure.

*4. Language used to express affordability.* The legal validity of the County measure is improved by incorporating language that tracks closely to Article 34 or with language in Public Housing Election Implementation Law, Health and Safety Code §37000 et seq. Common terminology includes:

- “Low-rent”: tracks verbatim with Article 34; therefore, is legally valid. However, it is antiquated and viewed as being derogatory.
- “Low income”: tracks with Health and Safety Code § 37000 and is commonly used, which reduces legal risk.
- “Lower income”: is sourced from Health and Safe Code Section § 50079.5 which is cross referenced in Health and Safety Code § 37001.3. This phrase applies to low-income, very low-income and extremely low-income households all at the same time.
- “Affordable housing” may be more familiar but is only statutorily defined for owner-occupied housing, Health and Safe Code § 50052.5, which is not subject to Article 34.

Based on this information the terminology with the least legal risk would be to describe the housing type as “low income.”

Based on above discussion and pending the final results of June 2020 public opinion research by FM3, staff recommends the measure be written as follows:

“Shall a measure be adopted allowing Humboldt County to obtain state and federal funding to construct, develop, or acquire housing for low income families, seniors, and people with disabilities within unincorporated areas, either directly or through assisting private projects, up to 2.5% of the total number of housing units existing in unincorporated Humboldt County, without raising taxes?”

Should the Board decide to advance the measure, staff will draft the measure in accordance with Board direction and return on July 28, 2020 with a resolution for adoption to consolidate the election and to submit the measure to the electorate.

#### **ENVIRONMENTAL REVIEW (CEQA):**

Placing a ballot measure on a general election to allow the county to sponsor housing to lower income households is not a Project under CEQA because it is not an activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The ballot measure will not allocate any additional land use or zoning beyond what already exists, does not authorize issuance of any permits, or result in development beyond what is already planned. The ballot measure would be limited to deciding whether the County could participate financially in the development of low-income housing. All future actions to develop, construct or support development of housing will be a project under CEQA.

#### **FINANCIAL IMPACT:**

On May 19, 2020, the Board considered a supplemental budget request to transfer \$121,500 from General Fund Contingencies for public opinion research and ballot measure expenses. There are two expense categories for this request: fixed and discretionary. The fixed cost to place the measure on the ballot for voters in the unincorporated area is \$25,000. Discretionary expenses consist of expenditures for public opinion polling and a contract for public outreach information services. The Board decided to take a conservative approach and limited expenditures to the public opinion polling. The Board stated it would further consider the supplemental budget request to contract with Lew Edwards Group

(LEG) for public outreach information once the results of the public opinion research were reported and discussed by the Board on July 7, 2020.

In accordance with Board direction, staff entered into contract with FM3 for public opinion research for \$29,500, their lowest price point for services. Given the results of polling and current economic conditions, staff recommends that public information materials be prepared by county staff and made available on the county's website. Staffing time for 1.0 full-time equivalent (FTE) Senior Planner to complete this work is already allocated for FY 2020-2021. At Board direction, staff can prepare a single mailer to be sent to potential voters living in the unincorporated area. For the county's 2017 ballot measure the costs of printing and mailing was \$23,300. Staff expects the printing and mailing costs to be similar even though the Article 34 will not include the seven cities because the cost of postage has increased. Attachment 3 is an updated Supplemental Budget accounting for the above expenditure changes. This shows a cost estimate of \$77,800, \$43,700 less than previously estimated.

Funding unspent in the FY 2019-20 fiscal year will be carried forward at First Quarter in FY 2020-21, with any unspent funding being returned to the General Fund. Staffing time for 1.0 FTE Senior Planner to conduct work across both fiscal years is already filled and allocated, and no additional staff is needed.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by protecting vulnerable populations; creating opportunities for improved safety and health; and facilitating public/private partnerships to solve problems.

OTHER AGENCY INVOLVEMENT:

County Administrative Office and the Office of County Counsel.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

Board discretion

ATTACHMENTS:

1. Housing Unit Number Options.
2. Report summarizing the results of public opinion research, prepared by FM3, June 2020.
3. Updated Supplemental Budget.

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: May 19, 2020

File No.: 20-525