COUNTY OF HUMBOLDT

Legislation Text

File #: 20-4, **Version:** 1

To: Board of Supervisors

From: Clerk of the Board

Agenda Section: Special Presentation

SUBJECT:
Housing Trust Fund and Homelessness Solutions Committee's presentation on Funding Sources for the Affordable Housing Trust Fund

RECOMMENDATION(S):
That the Board of Supervisors:
1. Receive the presentation and consider providing other instructions to the Housing Trust Fund and Homelessness Solutions Committee.

SOURCE OF FUNDING:
Please refer to the discussion below.

DISCUSSION:
On February 17, 2018, the Board of Supervisors adopted Resolution No. 18-14 which established the Humboldt County Housing Trust Fund and Homelessness Solutions Committee (HTFHSC). That resolution was superseded by Resolution 18-73 on July 24, 2018. After meeting twice monthly since June 2018, the Committee on March 19, 2019, submitted draft foundational documents including bylaws and policies and procedures as well as a funding strategy to the department heads of the County Administrative Office, the Department of Health and Human Services, and the Planning and Building Department with the goal of having the information heard by the Board of Supervisors. The documents did not move forward. On July 17, 2019 the Committee again attempted to get the information before the Board through the Deputy Clerk of the Board but received a response that County Counsel needed more time to review the documents. Since then, the committee has met with County Counsel and agreed upon a different approach on how to proceed.

Resolutions 18-14 and 18-73 charged HTFHSC with making recommendations regarding funding sources, including all applicable state and federal housing programs, including, but not limited to, the grants available to counties pursuant to Health and Safety Code section 50843.5- the Local Housing Trust Fund (LHTF) program. In addition, the current Housing Element provides that your Board shall identify and commit a revenue stream to fund the development of housing and shelter, including for the purposes of matching federal or state funds for housing and shelter development, or off-site improvements in support of eligible projects, within budgetary constraints.

To that end, the HTFHSC has prepared this report to inform the Board about potential funding sources for the Affordable Housing Trust Fund.

1. Local Housing Trust Fund (LHTF). According to the California Department of Housing and Community Development's (HCD) most recently published Notice of Funding Availability (NOFA) Calendar, a NOFA will be issued for this program in April 2020 with $57 million available statewide. On October 8, 2019, HCD published draft guidelines that, once final, would govern the program, including rules regarding eligible applicants, eligible uses, and matching funds.

Under the draft guidelines, the County of Humboldt (the County) would be eligible to apply either as a solo applicant or as a member of a regional housing trust fund, defined as a trust fund serving at least three jurisdictions. Permanent Local Housing Allocation (PLHA) funds discussed below may only be used as a match for a regional housing trust fund.

In order to be eligible, the trust fund must be funded from ongoing revenues of a minimum of $100,000 per year for five years from dedicated sources of funding such as taxes, fees, loan repayments, or legally-binding public or private commitments. If revenues from a source are variable (such as tax or fee revenue), the applicant must demonstrate a two-year history of annual receipts greater than or equal to the LHTF program application funding request.

The minimum application amount for solo applicants is $500,000, or $750,000 for regional housing trust funds, and legally binding commitments to deposit matching funds equaling the amount requested must be on deposit prior to disbursement. The application must contain evidence of a legally-binding commitment to deposit the required matching funds, or proof that the funds are already on deposit, and must include the identity of the source of the matching funds.

LHTF and matching funds may only be used on eligible projects, defined as:

A. Rental housing projects including Permanent Supportive Housing with income and rent restrictions for not less than fifty-five (55) years;
B. Emergency shelters and transitional housing as those terms are defined in U.S. Department of Housing and Urban Development regulations;
C. Homeownership projects or units within a homeownership project.

2. Permanent Local Housing Allocation (PLHA) Formula. Funded by the Building Homes and Jobs Act (SB 2, 2017), which established a $75 recording fee on real estate documents, this program will provide a permanent source of funding to all counties and cities in California that meet eligibility requirements. HCD currently has the first NOFA scheduled for February 2020. The preliminary non-competitive allocation for Humboldt County is $272,931. Eligible activities include matching portions of funds placed into local or regional housing trust funds, among other activities related to housing and homelessness.

As described above, PLHA may only be used as a match for the LHTF program if the county partners with at least two other jurisdictions to create a regional housing trust fund. For example, if the county partnered with the cities of Arcata, Eureka and Fortuna and agreed to deposit all of our initial PLHA allocations into a Regional Housing Trust Fund, the combined amount for the first year would be $656,706. The fund would still need an additional $93,294 in order to be eligible to apply for LHTF funds under the draft LHTF guidelines. PLHA is a variable funding source, dependent on the amount of recording fees collected statewide, and it is a new funding source for 2020. Thus, it would not be possible to demonstrate a two-year history of annual receipts totaling at least $750,000, the minimum funding request for a regional housing trust fund.

To receive a PLHA award, a local government must have adopted a compliant housing element as certified by HCD and must submit the most recent Housing Element Annual Progress Report. As of the HCD Housing Element Compliance Report dated October 3, 2019, HCD had confirmed that the cities of Arcata and Fortuna had certified compliant Housing Elements. HCD certified Humboldt County's 6th Cycle (2019-2027) Housing Element on October 22, 2019. HCD's report listed the cities of Blue Lake, Eureka, Ferndale, Rio Dell and Trinidad as being out of compliance.

3. Local taxes, fees, and other local sources. HTFHSC members researched at various ways that local governments fund existing trust funds, and found that they are funded with dedicated revenue from local taxes and fees, such as:

A. Transient Occupancy Tax. Revenue administration is already in place locally. Revenues generally fund new tourism activities, but an expanded program could generate revenues to address the issue of housing being taken out of the rental market and placed into the transient market. Further taxation on transient occupancy may reduce the number of visitors and the revenues earned from tourist spending. Examples include the cities of Anaheim and Long Beach.

B. Business Registration Fee. An annual business registration fee may be charged for permission to do business within a particular jurisdiction. This may range according to the size and type of business. While all organizations must register, organizations with income tax exemptions do not pay the fee.

Revenue administration is already in place locally. Business owners need housing that the workforce can afford and wants to live in. On the other hand, it may discourage business growth. It may be difficult to establish a nexus between business profits and the need for affordable housing. San Francisco uses this tax to fund its trust fund.

C. Cannabis Tax Set Aside. This revenue is relatively new and may not be fully allocated or may be easily reallocated for affordable housing. There is a strong linkage between the cannabis industry and affordable housing as the industry has encouraged larger numbers of employees in need of housing. This is a variable revenue source. San Joaquin County uses this source for its housing trust fund.

D. Measure Z. The Board could dedicate a portion of Measure Z revenue to the trust fund. Some Measure Z funds have already been allocated to housing and homelessness programs, so it's clear that there is a nexus between public safety and housing programs.

E. In Lieu Fees and Fractional Payments for Inclusionary Zoning. Inclusionary Zoning ordinances require developers to designate a percentage of any new development as affordable for low- and moderate-income housing. Developers are required to develop the new units at the same time as any market rate units. Some jurisdictions allow developers to opt out of constructing affordable housing units by paying an In-Lieu Fee equal to the value of the required affordable housing units or require Fractional Payments for the value of un-built portions of required housing units.

Inclusionary zoning ordinances are a more effective means of creating new affordable housing units. They also promote healthy mixed-income communities and deconcentrate pockets of poverty. Inclusionary zoning also allows jurisdictions with limited resources to "share the cost" of affordable housing with for-profit developers. Inclusionary requirements are not subject to the Mitigation Fee Act.

While in-lieu and fractional fees generate modest revenue, inclusionary zoning policies are most successful when they create actual affordable housing development, not revenue. Developers may argue that inclusionary zoning policies make it more difficult to build market rate housing. The county's Housing Element does not provide for inclusionary policies and would need to be amended. Examples include the cities of Santa Monica, San Jose and Folsom.

F. Linkage Fees and Developer Impact Fees. Developer Impact Fees have historically been imposed by local governments on new development (commercial and residential) for the cost of providing new public services and infrastructure such as sidewalks, schools, and parks. Many jurisdictions have expanded these fees to support affordable housing. Linkage fees are a type of development impact fee charged specifically for the cost and need of affordable housing, often based on jobs and housing nexus studies. This is the most common revenue source dedicated to affordable housing and services.

These fees leverage the private market to produce affordable housing. They offer more flexibility than In Lieu Fees when determining operating parameters such as units dedicated to persons at lower Area Median Income percentages, special needs housing and homeless housing. Humboldt County has minimal impact fees and a lot of potential to implement new impact fees.

These policies would need to be established by ordinance. Opposition from pro-business and pro-development groups could complicate the passage of the ordinance. The private development market locally is not very robust and in turn would not generate a large amount of revenues for affordable housing. Examples include the cities of Berkeley and San Diego.

G. Proceeds from the sale of surplus property. Your Board has stated its intention to deposit the proceeds from the sale of the 2769 Lucas Street property in the Affordable Housing Trust Fund. As indicated by Public Works, before the Lucas Street property can be sold, the structure encroachment from the neighboring property must be corrected. The demolition and removal of the encroaching structures is scheduled to be completed by November 18, 2019. The most recent appraisal estimated the property's value at $375,000. The Department of Public Works intends to recommend that your Board adopt a resolution that will authorize Public Works to advertise the property for sale. The former Children's Center at 2956 D Street in Eureka is another possible source of funding.

H. Vacancy taxes. In November 2018, voters in the City of Oakland approved a tax on vacant properties with over 70% of the vote. An owner of real property that is vacant for 50 or more days in a calendar year must pay an annual tax of $3,000 or $6,000 depending on the type of property, with a number of exemptions, including one for very low-income households. This is the only California jurisdiction that has passed a vacancy tax thus far, and as of October 2019 the Oakland City Council had not yet passed an implementation ordinance.

An "empty homes" tax in the City of Vancouver in Canada was one source of inspiration for the Oakland measure. Under Vancouver's tax, an owner of residential property is required to submit a property status declaration to determine if their property is subject to the tax. Properties deemed empty are subject to a tax of 1% of the property's assessed value. Vancouver uses a risk-based approach as well as random audits to identify cases of false declarations that properties were not vacant. Advocates argue that vacancy taxes encourage property owners to either rent or sell their properties, increasing supply, while also raising revenue for affordable housing and homeless assistance programs.

According to the most recently published American Community Survey (ACS) Trend Report, there were 7,535 vacant housing units, or 11.9% of all housing units in Humboldt County. 485 of those units were for sale, 657 were for rent, and 3,131 were being used for seasonal, recreational, or occasional use, leaving 3,262 units that were not for sale or rent and that were not being used occasionally, or 5.2% of all housing units in the county. ACS data is not useful for identifying individual vacant properties and may not accurately reflect the number of vacant properties because the Census Bureau uses sampling methods for the ACS that tend to be less accurate in less densely populated areas such as Humboldt County.

I. Donations. The county could solicit donations for the Affordable Housing Trust Fund.

J. General Fund set asides. The county could make a one-time allocation from the General Fund, or it could dedicate a fixed amount per year for at least five years to help meet the requirements for LHTF eligibility.

"Boomerang Funds" (formerly redevelopment tax increment) are tax increment monies that were redirected to the county after dissolution of the county's redevelopment agencies in Fortuna, Eureka and Arcata. State law required that redevelopment agencies deposit 20-30% of all tax increment generated for the life of all redevelopment project areas into a Low- and Moderate-Income Housing Fund. This money was required to be spent solely on affordable housing. When redevelopment agencies were dissolved, most redevelopment project areas still had a term of 10 or more years before expiration. When redevelopment agencies were dissolved in 2011, any tax increment not needed to pay existing obligations was unexpectedly diverted back to the county.

Boomerang funds are new unrestricted and unexpected general fund monies that the county did not expect to receive for many years. Tax increment financing and redevelopment planning created a substantial increase of tax revenue for the county, and dedication of these funds to affordable housing complies with the original legislative intent of the Redevelopment Act. The county has flexibility to dedicate any amount, up to 100% of these funds, to an affordable housing trust fund.

FINANCIAL IMPACT:
Unknown. Pending direction of the Board

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

OTHER AGENCY INVOLVEMENT:
None

ALTERNATIVES TO STAFF RECOMMENDATIONS:
Board discretion

ATTACHMENTS:
1. California Department of Housing and Community Development Notice of Funding Availability Calendar dated October 11, 2019
2. ACS Trend Report: Humboldt County, California (05000US06023)
3. PLHA Preliminary Formula Allocations
4. Funding Recommendations Chart

PREVIOUS ACTION/REFERRAL:
Board Order No.: C-4
Meeting of: July 24, 2018
File No.: 18-904