

Incorporating the City of McKinleyville: To Be, or Not to Be?

SUMMARY

Humboldt County has a housing shortage. Eureka, Arcata, and Fortuna are largely built-out, with populations that have remained relatively stable or grown slowly for decades. New housing in those cities will come largely from high-density infill projects. But there is one part of our county that's had a steadily increasing population, and that still has room to grow: McKinleyville.

How will McKinleyville grow, and who will make those decisions?

McKinleyville has the third-largest population in our county, opportunities for commercial development and housing, a high quality of life, and a citizenry that has become more cohesive over time. McKinleyville used to be a big, ill-defined area – it's grown into a community. More precisely, it's an unincorporated community – it has no elected government with a City Council that answers directly to the citizens. Much of its future is guided by the County of Humboldt and the Board of Supervisors, only one of whom is elected by the residents of McKinleyville.

Functions that would normally be part of city government come from a variety of places. Land-use planning, building codes, roads, and police protection are provided by the county. A special district provides water and sewer service, streetlights, and parks. Another special district provides fire protection.

Recently, significant interest has been shown in exploring whether that should change.

There are advantages and disadvantages to incorporating into a city. There are many things to consider, including the future of housing and the Town Center, tax and revenue factors, service needs and desires, and a more intangible element, a sense of pride and engagement in one's community.

The purpose of this report isn't to advocate for remaining unincorporated or becoming a city. It won't explore the intricacies of revenue sources, what it might cost to form a planning department, the nuts-and-bolts of the Local Agency Formation Commission, or whether the idea is even practical or not. The topic is simply too complicated for the Grand Jury to tackle. It is something that takes a nonpartisan group of professionals to analyze.

The purpose of this report is to advocate that a preliminary comprehensive independent study on the practicality of McKinleyville incorporating into a city be done. It is only by having this information that the people of McKinleyville and Humboldt County can make important decisions about the wisdom of incorporating into our county's eighth city.

BACKGROUND

The arrival of non-Indigenous people to the area around Humboldt Bay was the singular watershed moment for our area. With the many changes, positive and tragic, came the largest industry in the area – the logging of old-growth redwood trees. Using local redwood, the California Barrel Company of Arcata and San Francisco, better known as Cal Barrel, became the largest barrel-makers in the world, shipping their products around the globe.

With increased logging the forests receded from Humboldt Bay. Transportation was often by horseback and getting workers to fresh timber became a challenge. In the late 1890's a small community was established on recently logged land about 6 miles north of the Cal Barrel mill and factory. Workers were given land by the company and built their homes out of whatever was available. Appropriately enough, it was named Calville.

Calville was built at what eventually became the intersection of Central Avenue and Sutter Road, in the heart of what we now know as McKinleyville, named after our 25th President, and the third-largest community in Humboldt County.

The growth of McKinleyville started slowly – in 1945 there were only about 500 people. By 1949 that number had jumped to about 1,500. Between 1950 and 1960 the Humboldt County population grew by 33%, and McKinleyville grew right along with it. Today about 16,500 people call McKinleyville home.

Humboldt County, and specifically the northern parts of Humboldt Bay, are poised for significant population growth. Increased enrollment at CalPoly Humboldt and expected increased employment in offshore energy projects and aquaculture will contribute to an already tight housing market. Due to its geographical location and open space McKinleyville is a logical place for much of that population growth.

In 1966 the citizens of McKinleyville first explored the possibility of creating a new city, and it has been explored several times since. At no point has a comprehensive independent study been completed that evaluated the pros and cons of incorporating. Recently an organized group of McKinleyville citizens have once again shown interest. This newly revived interest from the citizens of McKinleyville led the Humboldt County Civil Grand Jury to investigate the background, history, and current status of efforts to incorporate McKinleyville as a city.

GLOSSARY

- BOS Humboldt County Board of Supervisors
- CEQA California Environmental Quality Act
- CalPoly California State Polytechnic University, Humboldt
- IES Incorporation Exploration Sub-committee
- IFA Initial Feasibility Analysis

- LAFCo Local Agency Formation Commission
- MCSD McKinleyville Community Services District
- MMAC McKinleyville Municipal Advisory committee
- MOU Memorandum of Understanding
- “The county” Unincorporated portions of Humboldt County

METHODOLOGY

The methodology for conducting this investigation involved the study of legal authorities and public domain materials, as well as the conducting of interviews.

Public records reviewed include, but were not limited to:

- Relevant provisions of the California Government Code regarding incorporation
- Local Agency Formation Commission (LAFCo) procedures
- Rules and Regulations of the Humboldt County Board of Supervisors regarding the McKinleyville Municipal Advisory Committee (MMAC)
- Correspondence, memos, and presentations on municipal incorporation processes by LAFCo staff
- Correspondence, economic and fiscal analysis, and other work product from the year 2000 to the current time from California State Polytechnic University, Humboldt (CalPoly) graduate students and faculty
- Clerk’s minutes, agendas, and attachments from the recorded proceedings of the MMAC and its Incorporation Exploration Sub-committee (IES)

Interviews and other live proceedings included:

- Attendance at or review of the audio-recorded proceedings of several MMAC and /or IES meetings
- Interviews with people involved with the MMAC, the MCSD, and the LAFCo

DISCUSSION

Government in Humboldt County

Geographically, Humboldt County is large - at 3,567 square miles we're the 14th largest county in California and larger than two states.¹ By contrast, Humboldt County's population is small - in California there are 34 counties and 44 cities with greater populations than our 136,623.² Humboldt County is sparse - we have one person for every 33.3 square miles, 42nd in the state for density.

Forty-seven percent of our citizens live in one of our seven organized, independently governed cities: Eureka, Arcata, Fortuna, Rio Dell, Ferndale, Blue Lake, and Trinidad.³ These cities provide a range of services to their citizens, including water and sewer service, roads, streetlights, law enforcement, land-use planning, building code standards, and zoning and development. Each is governed by a City Council, elected solely by the residents of the city.

The remaining fifty-three percent of our citizens live in "the county", with services such as roads, streetlights, and law enforcement provided by the county government. Land-use planning, building code standards, and zoning and development are applied county-wide with little input and no ultimate control from the affected local communities. Local "special districts" provide other services, such as sewer and water, streetlights, and fire protection. The county is governed by the Board of Supervisors (BOS), who are elected by the voters in each of five particular Supervisorial Districts. More than 72,000 people live in "the county" and are widely dispersed with one exception: McKinleyville. With a population of about 16,500, 12% of the total county population, McKinleyville is the 3rd largest community in our county.⁴

Where does the money come from to pay for all this government? It depends where you live. City and county governments have many revenue sources, which may include property tax, local or countywide sales tax, and other local taxes. It might include money from the state government, the federal government, and from grants. It may include fees for services, such as recreational programs, business permits, or building permits. Some cities have "enterprise funds" for things like water and sewer service, which are run like a business paid for by direct billing for the services. Services provided by a special district, such as the McKinleyville Community Services District (MCSD), are paid for by the people who live within the borders of the district. In short, it's complicated.

¹ Counties by size: <http://www.usa.com/rank/california-state--land-area--county-rank.htm>

² Counties by population: https://www.california-demographics.com/counties_by_population

³ Searchable Census Database: <https://www.census.gov/quickfacts/humboldtcountycalifornia>

⁴ Humboldt County Population Trends: Population change by U.S. Census Division: <https://humboldtgov.org/DocumentCenter/View/467/2010-Population-Change---High-Resolution-PDF?bidId=>

Historical Explorations of Incorporating McKinleyville

The question of whether McKinleyville should be incorporated as a city has been considered in the past. In 1966, when the population was less than 6,500, the issue was put to a vote and was defeated. In 1981, with a population of about 7,700, the issue was again explored, but we could find no evidence that any complete analysis of costs, fiscal impacts or feasibility emerged from that effort.

By 1997 the population had grown to about 13,000 residents, and the McKinleyville Chamber of Commerce formed a committee to investigate the pros and cons of incorporation. In the year 2000 this effort led to the creation of a 27-page draft report by three California Polytechnic State University, Humboldt (CalPoly) graduate students in the Masters of Business program. This report was well done, but it fell far short of examining all the factors needed to make informed decisions about the feasibility of incorporation. The information, data, and analysis developed in that effort was incomplete and didn't move forward to a more formal examination.

The Local Agency Formation Commission

A Local Agency Formation Commission (LAFCo) is created in all but one county and reviews and approves, modifies, or rejects boundary changes, new or different services, and extensions of services.⁵ Importantly, LAFCo must analyze and approve the formation of a new city. This approval comes after a long and involved study of many factors. In 2019, a member of the Board of Supervisors conducted research into incorporating McKinleyville, leading to a LAFCo “City Incorporation Fact Sheet”.⁶

Current Exploration of Incorporating McKinleyville

The McKinleyville Municipal Advisory Committee (MMAC) was created by the Board of Supervisors and consists of eight volunteers who reside, own property, or conduct business in the greater McKinleyville area. Six members are appointed by the BOS. The McKinleyville Community Services District (MCSD) provides water and sewer services, streetlights, and parks and recreation opportunities. It is a special district, receiving most of its funding from fees for the services it provides. In recognition of its importance to the community, the MCSD General Manager and one MCSD board member occupy the two remaining positions on the MMAC.

The MMAC is an advisory group only. It has a minimal budget and staff support from the county. Per the MMAC Rules, Regulations, and Procedures (RRP), they have two primary responsibilities.⁷ The first is to give advice to county departments based on the ideas and local concerns they gather from community members.

⁵ LAFCo website: <https://humboldtlaico.org/>

⁶ LAFCo fact sheet: http://humboldtlaico.org/wp-content/uploads/8A_McKinleyville-Incorporation.pdf

⁷ MMAC Rules, Regulations, and Procedures: <https://humboldt.gov.org/DocumentCenter/View/103548/MMAC-Rules-Regs--Procedures-1-27-2022>

The second responsibility is to “review, comment, and provide advisory recommendations to the Planning Commission and the Board of Supervisors on proposed zoning amendments, and General Plan petitions and amendments...” Their RRP is very specific about what the MMAC may *not* do:

- The MMAC will not review, comment or provide advisory recommendations on subdivisions, conditional use permits, special permits, coastal development permits or variances unless they are a part of a larger project which also includes a General Plan Amendment or Zone Reclassification.
- The MMAC is not a decision-making body, but it can make recommendations on proposed zoning, General Plan petitions and amendments.
- The MMAC will not have authority to make, set, provide interpretation of, or enforce county ordinances, policies or laws.

In other words, the MMAC has no binding authority on any matter, and it may not “review, comment or provide advisory recommendations” on significant portions of the land-use decisions in their community.

In 2022 citizens of McKinleyville once again expressed to the MMAC their interest in the possibility of creating a City of McKinleyville.⁸ In response, the MMAC created the Incorporation Exploration Sub-Committee (IES) expressly to facilitate an updated preliminary neutral analysis on the feasibility of McKinleyville becoming our county’s eighth city.

At the MMAC sub-committee’s request, LAFCo gave them a presentation on December 21, 2022, explaining the process needed to create a new city.⁹

Initial Feasibility Analysis: The First Step Toward Incorporation

There are many steps taken prior to forming a new city. The first is an Initial Feasibility Analysis (IFA). Generally, an effective IFA is a study conducted by an independent, experienced professional land use consultant. The focused analysis is just as it sounds – an assessment of the practicality of a proposed project or plan. In this case, the question is principally whether incorporation can or cannot be accomplished. It doesn’t advocate for any particular way to move forward - it merely lays out the facts. Some of the issues to be considered in an IFA are listed below:

- Identifying the overall purpose or objectives for the new city
- Determining the range and level of services the new city may assume
- Demonstrating how those services may be delivered

⁸ MMAC agendas, minutes, and recordings: <https://humboldt.gov/238/McKinleyville-Municipal-Advisory-Committee>

⁹ LAFCo presentation: <https://humboldt.gov/DocumentCenter/View/113826/Humboldt-LAFCo-Presentation-to-MMAC-Incorporation-Subcommittee>

- Exploring the advantages and disadvantages of consolidating services
- Identifying proposed changes to levels of service
- Identifying new revenue sources (taxes, assessments, impact fees, regulatory or service fees, etc.)
- Identifying changes to existing fees for services (building permits and planning fees, business licenses, etc.)
- Defining a logical incorporation boundary and possible boundary alternatives
- Determining the likely revenues and expenditures of the proposed new city to ensure it is financially feasible
- Analyzing the effects of the incorporation on adjacent communities, special districts, and the county
- Outlining steps for drafting and circulating an effective petition for formal incorporation, if supported
- Estimating costs for the incorporation process.

The conclusion of the IFA will determine if the process moves forward. If the IFA shows that creating a new city is impractical for any number of reasons it's likely that support for and interest in the topic will end there. These reasons don't include political considerations – a good IFA is neutral and entirely based on the facts.

There can be advantages to having a community organized as a city, such as:

- Having a locally elected City Council, who answer directly to the people of the city
- Having local control over such things as land-use planning, building code standards, and zoning and development
- Having the ability to provide additional services such as law enforcement and road maintenance, or choosing to contract with the county or another entity for those services
- Having the ability to keep some revenues from local, state, and federal sources closer to home

There can also be disadvantages to having a community organized as a city, such as:

- Possibly having a tax base that is not diverse, leaving the new city more vulnerable to certain kinds of economic downturns
- For urgent issues such as unanticipated road or bridge failures, having fewer resources than the county could provide
- A potential rise in taxes

If the IFA shows that a new city is feasible, the backers of the new city must submit an Initiation Petition to LAFCo. This petition must be signed by 25% of the voters and property owners in the proposed new city. Alternately, a petition may be brought forward by resolution of an affected agency, such as the Board of Supervisors.

The rest of the process is complicated and moves beyond the scope of this Grand Jury report. For instance, the decision to incorporate is subject to environmental and administrative review under the California Environmental Quality Act (CEQA) and other special provisions of law and regulation.

At the culmination of the process, if LAFCo approves moving forward, a vote on whether or not to incorporate is held. Ultimately, incorporation must have public support. The question must meet the threshold of 50% +1 of the ballots returned by registered voters residing in or owning property or a business in the potential new City of McKinleyville.

It should be noted that, similar to 2000, a team from the CalPoly Departments of Geography and Business is currently conducting another fiscal analysis which could constitute an early study of some components of feasibility. This new analysis will assist the MMAC and the Incorporation Exploration Sub-Committee, but it is *not* an IFA suitable for use in moving forward.

Creating an Initial Feasibility Analysis

The MMAC currently receives no substantial support from the county. Staff support is generally in the form of maintenance of the MMAC webpage and the posting, copying, and distribution of meeting agendas. Financial support covers basic supplies and meeting expenses and is at the discretion of the Board of Supervisors through their annual budgeting process. Per the RRP governing the MMAC, “County Staff will be directed to seek available grant funding to support the committee’s efforts.” We have found no evidence that any such grant funding has been sought or applied for.

Currently, the MMAC lacks the authority or funding to commission a thorough, independent Initial Feasibility Analysis. An IFA is much like a Proposition 218 Study, which requires expert fiscal analysis and professional engineering opinions on such things as increases in taxes or assessments of Utility Fee Rates.¹⁰ IFAs are generally prepared by experienced consultants, familiar with the LAFCo, CEQA and municipal incorporation processes.

Costs

In summary, MMAC has no authority or funding to take the next steps as required by LAFCo. They may advise the BOS about the results of the CalPoly study and advise on the proceedings of the Incorporation Exploration Sub-Committee. The ongoing CalPoly study cannot be expected to satisfy LAFCo’s critical assessment of feasibility.

¹⁰ Legislative Analysts Office, Understanding Proposition 218:
https://lao.ca.gov/1996/120196_prop_218/understanding_prop218_1296.html

The cost for preparation of the IFA will depend upon the scope of the county's Request for Proposal to engage appropriate analysts to conduct the study. We recommend that an independent and neutral IFA be conducted to examine the true costs and benefits or disadvantages of incorporating McKinleyville. We recommend the MMAC make an appropriate budget request to the BOS this year, and each year going forward as needed, to fund this study.

Conclusion

Citizens of McKinleyville have expressed interest in becoming a city. Similar interest has been demonstrated several times over the last 58 years, but aside from the "no" vote of 1966 there hasn't been a comprehensive study of whether incorporation makes any sense. The Humboldt County Board of Supervisors, using discretionary funds, can commission such a study. Thus far, they have not demonstrated interest in exploring the issue.

An independent and neutral Initial Feasibility Analysis will give the 16,500 residents of McKinleyville the knowledge they need to make informed decisions about their future. We believe that they deserve to possess this knowledge. The Board of Supervisors can make this happen, and we believe they should do so.

FINDINGS AND RECOMMENDATIONS

FINDINGS

The Humboldt County Civil Grand Jury finds that:

F1: Interest in the topic of incorporating McKinleyville as a city has been demonstrated by the citizens of McKinleyville. No in-depth Initial Feasibility Analysis of the advantages and disadvantages of incorporation has ever been conducted, resulting in the citizens not knowing the pros and cons of incorporation.

F2: Incorporation as a city poses financial and other impacts on the residents of the proposed new city, adjacent communities, and the county as a whole. Without an in-depth Initial Feasibility Analysis the citizens of McKinleyville cannot know how these impacts affect them.

F3: The McKinleyville Municipal Advisory Committee is an appointed body that provides recommendations to the County Planning Commission and the County Board of Supervisors on local issues. While the committee has received interest about incorporation from some citizens of McKinleyville, they have no ability to be responsive to these citizens because they cannot implement an in-depth Initial Feasibility Analysis.

F4: An independent and neutral qualified company that specializes in such matters is needed to create an in-depth Initial Feasibility Analysis. No funding for such a study exists.

RECOMMENDATIONS

The Humboldt County Civil Grand Jury recommends that:

R1: By no later than November 1, 2023, the Humboldt County Board of Supervisors provide the McKinleyville Municipal Advisory Committee and any of its subcommittees with the authority to seek other sources of funding to assist in the creation of the in-depth Initial Feasibility Analysis. **(F1, F2, F3, and F4)**

R2: By no later than November 1, 2023, the Humboldt County Board of Supervisors authorize the McKinleyville Municipal Advisory Committee, and any of its subcommittees, to make recommendations to the Board of Supervisors on the scope and specifics of the in-depth Initial Feasibility Analysis. **(F1, F2, F3, and F4)**

R3: By no later than November 1, 2023, the Humboldt County Board of Supervisors provide additional staff support to assist the McKinleyville Municipal Advisory Committee in accomplishing the creation of the in-depth Initial Feasibility Analysis. See below regarding suggested funding sources. **(F1, F2, F3, and F4)**

R4: By no later than January 1, 2024 the Humboldt County Board of Supervisors create a Request for Proposal to solicit bids from qualified contractors to conduct an in-depth Initial Feasibility Analysis on the effects and impacts of McKinleyville being incorporated as a city. See below regarding suggested funding sources. **(F1, F2, F3, and F4)**

R5: By no later than March 1, 2024, the Humboldt County Board of Supervisors enter into a contract with the qualified contractor chosen from the bidding process for the Request for Proposal to conduct an in-depth Initial Feasibility Analysis on the effects and impacts of McKinleyville being incorporated as a city. See below regarding suggested funding sources. **(F1, F2, F3, and F4)**

R6: By no later than October 1, 2024, an in-depth Initial Feasibility Analysis on the effects and impacts of McKinleyville being incorporated as a city be completed. See below regarding suggested funding sources. **(F1, F2, F3, and F4)**

Funding Recommendation: The Grand Jury recommends that the Humboldt County Board of Supervisors fund the expenses listed in **R3, R4, R5, and R6** with existing appropriations in the current fiscal year. If current appropriations are not sufficient, the Grand Jury recommends that BOS, at its next earliest opportunity, pursue additional funding from an appropriate agency, including state or federal agencies.

REQUEST FOR RESPONSES

Pursuant to California Penal Code sections 933 and 933.05, the Grand Jury requests each entity or individual named below to respond to the enumerated Findings and Recommendations within specific statutory guidelines.

Responses to Findings shall be either:

- The respondent agrees with the finding
- The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor

Responses to Recommendations shall be one of the following:

- The recommendation has been implemented, with a summary regarding the implemented action
- The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation
- The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency where applicable. This time frame shall not exceed six months from the date of the publication of the Grand Jury report.
- The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

REQUIRED RESPONSES - Within 90 days

The Humboldt County Board of Supervisors
(All findings, all recommendations)

INVITED RESPONSES - Within 60 days

The McKinleyville Municipal Advisory Committee
(All findings, all recommendations)

The McKinleyville Community Services District
(All findings, all recommendations)

Responses are to be sent to:

The Honorable Judge Neel
Humboldt County Superior Court
825 5th Street, Eureka, CA 95501

The Humboldt County Civil Grand Jury
825 5th Street, Eureka, CA 95501

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.