



Homeless Commission

ACTION CALENDAR

October 3, 2017

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Paul Buddenhagen, Director, Health, Housing and Community Services

Subject: Companion Report to Porta-Potties for Poor Tour (aka: First They Came for the Homeless)

RECOMMENDATION

Take no action on the Homeless Commission's recommendation to place a public toilet directly at the First They Came for the Homeless encampment site, and instead adhere to the original action taken by Council on July 25, 2017, referring the development of a Neighborhood Public Toilet Policy to the City Manager.

FISCAL IMPACT OF RECOMMENDATION:

Staff time.

CURRENT SITUATION AND ITS EFFECTS

The Homeless Commission's Porta-Potties for Poor Tour report states that the placement of a public toilet at MLK and Alcatraz has been insufficient to meet the needs of the nearby First They Came for the Homeless (FTCFTH) encampment. This companion report offers an alternative recommendation.

The First They Came for the Homeless group is one of several large homeless encampments—among many more unsheltered people—residing in Berkeley. The City's severely limited affordable housing and homeless shelter resources have raised legitimate questions about how to address basic human needs, such as toileting, for everyone living outside in a manner that is humane, cost-effective, and equitable (both to those living in encampments as well as surrounding neighborhoods).

Recognizing this, Council voted at its July 25, 2017 regular meeting to take up two Urgency Items regarding public toilets for people living in homeless encampments. First, Council voted unanimously to permit the placement of a port-a-potty in a city parking lot at Alcatraz and MLK for general public use, including for those living in the nearby FTCFTH Encampment (at the Here/There sign along MLK). Second, Council voted unanimously to refer to the City Manager the development of a "Neighborhood Public Toilet Policy," referenced in further detail below.

Subsequent to these votes, two public toilets were placed at the MLK and Alcatraz site. However, the accompanying Homeless Commission report states that this has been insufficient to meet the FTCFTH group's needs, citing the toilets' distance from the encampment and use by other members of the public. To mitigate these concerns, the Homeless Commission recommends that Council "develop a way" to place a public toilet at the actual encampment site, which the report confirms will be paid for by the encampment residents themselves. This is the exact type of situation the Neighborhood Public Toilet Policy referral was designed to address. Specifically:

- The FTCFTH encampment is currently residing on publicly-owned and publicly managed land, meaning that more citizens than just the encampment residents themselves may be affected by a decision to permit or place a public toilet at the site. The forthcoming Neighborhood Public Toilet Policy would create a mechanism affording all community members within a two-block radius the chance to weigh in on such land-use decisions by majority vote.
- Second, the City is home to more encampments and unsheltered people than just the FTCFTH group. We caution against any Council action that would create a precedent for specific groups to receive public land use permissions outside of the City's codified administrative processes for so doing. The forthcoming Neighborhood Public Toilet Policy would create precisely such an administrative process.

Accordingly, the City Manager recommends that Council take no action on the Homeless Commission recommendation, and instead act on the original Neighborhood Public Toilet Policy referral which was approved by council on July 25, 2017 and referred to staff. Recognizing the urgency of this human-needs matter, this referral has been prioritized for short-term (90-day) action by the City Manager.

BACKGROUND

The Homeless Commission voted on June 14, 2017 as follows:

Action: M/S/C Orgain/Cohen to recommend that Council develop a way, potentially through a permit, to put a bathroom for the purposes of serving the Poor Tour encampment, for the sake of sanitation, safety, and human rights.

Vote: Ayes: Cohen, Gor, Kealoha-Blake, Marasovic, Orgain,
Noes: None. *Abstain:* None. *Absent:* Feller

The Homeless Commission has submitted an accompanying report for the October 3, 2017 action calendar formally making this recommendation to Council.

On July 25, 2017, Council passed a motion permitting "the placement of a porta potty to be placed in a city parking lot at Alcatraz and MLK for general public use." As the

accompanying Homeless Commission report states, “Subsequently, Friends of Adeline completed all necessary paperwork and made arrangements for the delivery of the port-a-potty which arrived about August 5, 2017.”

Also on July 25, 2017, Council passed a motion referring to the City Manager the development of the following “Neighborhood Public Toilet Policy”:

- Develop a process in which residents can obtain a permit for a neighborhood public toilet via an official petition.
- Residents should contact the City via 311 to obtain an official petition form to apply for a permit.
- In order to obtain the permit, the petition should be signed by at least 51% of residential addresses and business owners within the nearest two block radius of the proposed public toilet site.
- The City shall not fund or contribute to the financing of the public toilets or their maintenance.

RATIONALE for RECOMMENDATION

The First They Came for the Homeless encampment is one of several encampments and many unsheltered homeless people living in Berkeley. The City’s limited supply of resources to address the extent of this need has raised legitimate questions about how to address basic human needs, such as toileting, for those living outside. Because encampments often reside on publicly-owned, publicly managed land, land-use decisions (such as permitting the placement of public toilets) potentially affect more constituents than just encampment residents, necessitating a transparent administrative process for all affected parties to weigh in. Council has already referred the development of a Neighborhood Public Toilet Policy that can be accessed by any private group in Berkeley to the City Manager. Therefore, such action should come after a policy has been developed.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

Peter Radu, Homeless Services Coordinator and Secretary to the Homeless Commission, Health, Housing, and Community Services Department, (510) 981-5435.

