



Office of the City Manager

ACTION CALENDAR
May 1, 2018

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 Peace and Justice Commission's Emergency Outdoor Shelter for the Homeless Report

RECOMMENDATION

Take no action on the Peace and Justice Commission's resolution, and instead:

- (i) Allow for encampment policy to be developed and considered by City Council; and
- (ii) Allow City Manager to continue the program implementation process already underway for the homeless storage pilot program authorized by Council on December 5, 2017.

FISCAL IMPACT OF RECOMMENDATION

None.

CURRENT SITUATION AND ITS EFFECTS

On October 14, 2017, Governor Jerry Brown signed AB 932 ("Shelter crisis: homeless shelters"). This bill would allow certain jurisdictions (including the City of Berkeley), upon declaration of a shelter crisis, to develop reasonable local standards for homeless shelters (subject to approval by the State Department of Housing and Community Development). These new standards would supersede existing state and local laws, regulations, and ordinances that prevent, hinder, or delay the jurisdiction's attempt to mitigate their declared shelter crisis with emergency housing, which may include homeless shelters for the homeless located or constructed on city owned or leased land.

The definition of "homeless shelter" in this bill is as follows:

"Homeless shelter" means a facility with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter for the homeless that is not in existence after the declared shelter crisis. A temporary homeless shelter community may include supportive and self-sufficiency development services (Govt. Code Section 8698.4(b)(1)).

The Peace and Justice Commission has proposed a resolution that would refer to the City Manager the development of local standards for an "outdoor shelter" (i.e., a sanctioned encampment) in Berkeley.

In response, the City Manager stresses that the intent of AB 932 is to allow jurisdictions such as Berkeley a legal mechanism to provide more flexibility to suspend laws or procedures that they believe interfere with or slow down the planning and construction of new homeless shelters and supportive long-term housing. The question of whether to designate a location for sanctioned encampments is a separate matter, and is something that council can consider in the context of its upcoming encampment policy. At this time, the Council has made no formal declaration that they wish to implement an outdoor shelter/encampment area. The Council has focused resources on developing the Pathways STAIR Center, which will provide shelter and a pathway to permanent housing for 80 – 100 homeless people annually.

As such, this recommendation is to not pre-emptively develop local standards for a program that Council has not authorized. Doing so would be putting the cart before the horse. Before adopting this resolution and asking the City Manager to effectively plan for an outdoor shelter, the City Manager recommends that Council should first affirmatively declare whether or not they wish to develop an outdoor shelter (encampment area).

The Peace and Justice Commission's proposed resolution would also "direct the City Manager to make available immediately the storage facilities for which funding was recently authorized in December 2017." As an update on progress, city staff circulated a Request for Information on March 2, 2018 to find a qualified nonprofit that could staff and operate the storage pilot program. Responses are due on March 30th and will be reviewed by a panel consisting of city staff and a representative from the Homeless Commission. Staff will then contract with the selected provider, with an anticipated opening date of mid to late summer 2018. Before the program can be opened, a contract and budget must be negotiated and executed with the selected provider, who must then hire any new staff and execute any start-up plans. Unfortunately, the Peace and Justice Commission's resolution will not shorten the timeline, and we thus recommend that Council take no further action at this time.

BACKGROUND

On February 8, 2018, the Peace and Justice Commission passed a motion recommending as follows:

Action: M/S/C Lippman/Meola recommending that City Manager propose Berkeley-specific minimum health and safety standards for outdoor homeless shelter, designate location(s) for certain encampments, and immediately implement already-approved storage facilities.

Vote: Ayes: Agrawal, Erickson, Gorrocino, Lippman, Meola, Rodriguez

Noes: None. *Abstain:* Mabanta, Maran. *Absent:* Bohn, Hariri, Marchesini, Watson.

This three-part recommendation follows several recent developments at the State and City level.

First, on October 14, 2017, Governor Jerry Brown signed AB 932 ("Shelter crisis: homeless shelters"). This bill would allow certain jurisdictions (including the City of Berkeley) to develop reasonable local standards, subject to approval by the State Department of Housing and Community Development, for homeless shelters that would supersede existing state and local laws, regulations, and ordinances.

Second, on January 14, 2018, Mayor Jesse Arreguin released a proposed homeless encampment policy specifying the conditions under which encampments would be allowed to remain in Berkeley and the conditions under which they would be subject to removal. As of this writing, the Council has taken no action on this policy.

Third, as part of its mid-year budget process, Berkeley's City Council allocated \$50,000 on 12/5/17 for a Downtown Storage Pilot Program. On March 2, 2018, HHCS circulated a Request for Information to a number of Bay Area homeless service providers (including all current Berkeley homeless providers). Bids are due by March 30 (as of this writing, on 3/29/18, one bid has been received). A panel consisting of city staff and a representative from the Homeless Commission will review and score the proposals and submit a recommendation to Council on a preferred operator.

RATIONALE FOR RECOMMENDATION

As noted above, AB 932 allows jurisdictions such as Berkeley a legal mechanism to provide more flexibility to suspend laws or procedures that interfere with or slow down the planning and construction of new homeless shelters and supportive long-term housing. Should city property and funds be located to construct shelters, council should at that time consider using AB 932 to streamline and expedite the process.

Council has not affirmatively declared whether they believe a sanctioned encampment area is a desirable response to the city's shelter crisis. Therefore, the City Manager does not recommend pre-emptively developing local standards for a program that has not yet been decided upon.

City staff are currently implementing the homeless storage pilot program and are on pace to implement it by or before the end of the summer. This resolution will not shorten the timeline.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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