



CITY COUNCIL AGENDA REPORT

DATE: February 21, 2019

AGENDA OF: February 26, 2019

DEPARTMENT: City Manager's Office

SUBJECT: Homeless State of Emergency, Overnight Parking Restrictions on Portions of Delaware Avenue and Status of the Joint Plan for Emergency Shelter Provision and Encampment Management and Council Actions on Homelessness (CM)

RECOMMENDATION:

1. Discuss the Declaration of Shelter Crisis and Declaration of a Local Emergency and provide direction.
2. Motion directing the City Manager to end enforcement of overnight parking restrictions on Delaware Avenue between Swift Street and Shaffer Road.
3. Receive a report on implementation of the Joint Action Plan for Emergency Shelter Provision and Encampment Management and other policy and action items directed by the City Council on February 12, 2019 related to homelessness, and take action as appropriate.

BACKGROUND: At its February 12, 2019 meeting, the Santa Cruz City Council received a report on the proposed Joint Action Plan for Emergency Shelter Provision and Encampment Management, a jointly-crafted City and County of Santa Cruz plan to address the immediate public health and safety risks at the encampment behind the Gateway Center and to transition the encampment's occupants to safe sheltering opportunities. The Council approved this plan, and took additional actions related to homelessness, including direction for staff to prepare and return to the February 26, 2019 Council meeting two items for Council deliberation and action: a Declaration of a Local Homeless State of Emergency and removing overnight parking restrictions along a portion of Delaware Avenue, as well as updates on the remainder of the Council-directed items.

The February 12, 2019 Council action, in four motions, is summarized below.

Motion #1: Motion **carried** 4-3 (Ayes: Meyers, Mathews, Cummings, Watkins; Noes: Krohn, Glover, Brown) to:

1. Approve the principles of, and direct staff to implement, the County and City of Santa Cruz Joint Action Plan (Action Plan) for Emergency Shelter Provision and Encampment Management including:

a. In collaboration with the County of Santa Cruz, provide Gateway Plaza Encampment residents with alternative shelter options through concentrated outreach and navigation to begin February 13, 2019.

b. In collaboration with the County of Santa Cruz, fully evaluate the site and operational feasibility of, and implement when feasible, the temporary shelter options noted in the Action Plan including, but not limited to: new Laurel Street Salvation Army program, new 1220 River Street program, expansion of the Association of Faith Communities shelter program, initiation of a small-scale safe parking program, expansion of Warming Center capacity, and continuation of Veterans of Foreign Wars program in Live Oak.

c. In collaboration with the County of Santa Cruz, provide 30-day closure and shelter transition notice to the residents of the Gateway Plaza Encampment on February 13, 2019, with a planned full closure by March 15, 2019, and return to Council with a progress update at both upcoming Council meetings.

2. Fund the Warming Center in the amount of \$5,000.00 for the provision of bedding and supplies.

Motion #2: Motion **carried** 4-3 (Ayes: Krohn, Glover, Brown, Cummings; Noes: Meyers, Mathews, Watkins) to direct staff to agendize the following items:

- 1) Provide a resolution for the meeting of February 26th proclaiming a local homeless state of emergency.
- 2) Provide a report identifying all potential locations for a transitional encampment on City-owned property, and any identified opportunity sites on private property, within the City of Santa Cruz or City-owned property in unincorporated Santa Cruz County.
- 3) Provide an action item for the February 26th meeting to remove overnight parking restrictions on Delaware Avenue between Swift Street and Shaffer Road.
- 4) Provide a report and recommendation, based on the ordinance submitted this evening, on the establishment of transitional encampments for people experiencing homelessness as an interim use on publicly owned or private property within the City of Santa Cruz.
- 5) If necessary, a draft ordinance amending the Municipal Code to establish a permit process for such encampments.
- 6) Provide a report and timeline to enter into negotiations with UCSC with the intention of leasing the vacant parking lot at the rear of the UCSC Administration Building at 2300 Delaware Avenue for the establishment of a Safe Parking Program.

- 7) A first draft of an ordinance, based off of the framework submitted this evening, to come back for a first reading at the next City Council meeting to hear community input and response.
- 8) A report from Parks and Recreation regarding the reopening of public facilities and bathrooms based on the materials submitted this evening.
- 9) Direct the City Attorney to coordinate City staff efforts to examine specific City ordinances concerning the disproportionate effect on residents without homes and to examine the potential conflicts with both the specific law and the spirit of the U.S. Constitution as interpreted by the Boise Decision, and report back within 90 days:
 - a) Camping/Sleeping Ordinance: 6.36.010
 - b) Trespass: 9.62.010, 9.60.010, 9.64.030
 - c) Urination/Defecation: 9.50.016
- 10) Direct staff to make data available within 90 days in an organized format on the following ordinances to allow the Council and the community to monitor the potentially disproportionate impact on residents without homes. This data shall include the address and the race and gender of the persons cited, the charges, the location, date, and arresting officer or ranger. Concerning stay-away orders, the length of the stay-away order shall also be included.
 - a) Conduct in Parks: 13.08.090
 - b) Obstructing Sidewalks and Benches: 9.50.010, 15.32
 - c) Obstructing Sidewalks and Benches after dark: 5.32.040
 - d) Sitting: 9.50.021, 9.50.013
 - e) Lying: 9.50.011
 - f) 24-hour stay-away orders: 13.04, 13.08.100
 - g) Smoking bans in public places 6.04.060(1)(b,s,u,w,x)
 - h) Dogs downtown and elsewhere: 8.14.200, 8.14.201, 8.14.205
 - i) Arrest 3 infractions without a warrant: 4.04.010(4)
 - j) Authority of the City Attorney to reduce misdemeanors to infractions to avoid due process: MC4.04.010(3)
 - k) Open container: 9.12.030
 - l) Parking garage loitering: 9.64.010
 - m) Median loitering: 10.36.040
 - n) Safety enhancement zones: 9.02
 - o) Youth curfew laws: 9.04
 - p) Aggressive solicitation: 9.10
 - q) Vendor licensing required for handicrafts: 5.04.080, 5.04.090

Motion #3: Motion **carried** unanimously to add language regarding implementation of homeless services in the City:

- Provide security during hours of operation to minimize neighborhood impact.
- Move encampment fence to provide setback from levee pathway.
- Develop a proactive neighborhood outreach to ensure a strong connection between the operator and neighbors.

- Direct collection of basic data on clients served at City or County-funded programs and facilities to better understand the demographics and circumstances of those served.

Motion #4: Motion **carried** unanimously to include the National Guard Armory when considering a location and report back to Council on February 26th and direct staff to reach out to UCSC (University) to look into possible housing for homeless students, or allow students to sleep in their vehicles on campus (see attached University response).

DISCUSSION: The City Council directed staff to return with two actionable items and updates on a series of additional items.

Declaration of a Local Homeless State of Emergency

The first actionable item was to be a resolution to proclaim a local homeless state of emergency, with California Government Code § 8630 et seq (attached) cited as the authority for the declaration. Note that this Government Code Section sets for the procedures for declaring a local emergency; there is no specific reference in the Code for a homeless state of emergency.

Government Code § 8630 permits a governing body to proclaim a local emergency, which must be reviewed “at least once every 60 days until the governing body terminates the local emergency” with the local emergency to be terminated at the earliest possible date that conditions warrant. Under a declared local emergency, local and state mutual aid may be provided including personnel, equipment and other resources in accordance with local plans. Additionally, if approved by the Governor, the State may reimburse for local expenses incurred. Finally, orders and regulations for the protection of life and property, including a curfew if necessary to preserve the public order and safety may be ordered. The Government Code defines a local emergency as follows:

“Local emergency” means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic prediction, or an earthquake, *or other conditions, other than conditions resulting from a labor controversy, which are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat*, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the California Public Utilities Commission (§ 8558(c)) (emphasis added).

The City last declared local emergencies for the winter storms of 2017 and the tsunami of 2011.

On January 23, 2018 the City Council adopted a Resolution Declaring a Homeless Shelter Crisis (attached). California Government Code Sections 8698 allow for the legislative body of a city to formally declare a shelter crisis within the city when a situation exists “where a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety” (attached). Declaring a Homeless Shelter Crisis enables the City to suspend any state or local regulatory statute, regulation, or ordinance prescribing standards of housing, health, or

safety to the extent that strict compliance “would in any way prevent, hinder, or delay mitigation of the effects of the shelter crisis.” The declaration enables the City to enact alternative health and safety standards to be operative during the shelter crisis, consistent with ensuring minimal public health and safety. The declaration also grants immunity from liability for ordinary negligence in the provision of emergency shelter. The Shelter Crisis Declaration is operative still, there are no renewal requirements. Having this declaration in place will allow the City to access some of the \$10.6 million in State homeless funding that will be administered in the coming months.

A completed draft resolution to declare a local homeless state of emergency was not ready by the publication deadline for the Council’s February 26th agenda. The Council may receive a draft prior to or at the Council meeting and can also have an in depth discussion of the mechanisms possible for local homelessness relief under the Government Code. The attached summary from the National Health Care for the Homeless Council provides context for the use of these mechanisms across the nation.

Removal of Overnight Parking Restrictions on Delaware Avenue

A second item from the February 12, 2019 meeting is the removal of overnight parking restrictions from Delaware Avenue from Swift Street to Shaffer Road (vicinity map attached). The current regulations prohibit parking from midnight to 6 a.m. and are posted on signs along the street, which were installed in 2004. The Council can end enforcement of the overnight parking restriction with a motion directing the City Manager; no ordinance or resolution is needed. Upon receiving the direction, staff can bag the signs or remove them, upon the Council’s preference.

Implementation of the Joint Action Plan for Emergency Shelter Provision and Encampment Management and Other Policy and Action Items

As directed by Council, City staff noticed the encampment on February 13, 2019 of the March 15, 2019 encampment closure. The additional shelter beds at the Salvation Army on Laurel Street opened on February 13th, and City and County staff are actively outreaching to the encampment with shelter and service options. Additional and up-to-date reporting on implementation of the Joint Plan will occur as part of the staff presentation on February 26th.

Finally, there were a number of other policy and action items directed by the Council. Work on these items will be ongoing and will be returned to the Council for deliberation and action as they are ready. For the Council’s information are project charters for two of the directed issue areas: transitional encampments and hours of public facilities. City staff also reached out to the University in response to Council direction regarding possible housing for homeless students who sleep in vehicles, as well as the possible use of parking lot at 2300 Delaware as a viable option for a safe parking program. Please see attached response from the University.

This report is submitted by the City Manager’s Office on behalf of City staff from the Public Works, Fire, Police, Economic Development, Parks and Recreation, Planning and Community Development, City Attorney’s Office and City Manager’s Office who contributed significant and continuing effort to advance the direction provided by the Council.

FISCAL IMPACT: There is no significant fiscal impact anticipated with removal of the overnight parking restrictions and an unknown fiscal impact of declaring a local emergency, should Council take these actions.

Submitted by:

Approved by:

Tina Shull
Assistant City Manager

Martín Bernal
City Manager

- Attachments:
1. Government Code Sections on Local Emergencies
 2. Government Code Sections on Shelter Crises
 3. January 23, 2018 City Council Resolution Declaring a Shelter Crisis
 4. National Health Care for the Homeless Council Paper
 5. Map of Proposed Overnight Parking Restriction Removal
 6. Initial Project Charter for the Transitional Encampments
 7. Initial Project Charter for the Hours of Public Facilities
 8. UCSC Official Statement regarding Housing Support for Students and Response to Questions