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OAKLAND
2017 SEP -7 PM 4:42

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Claudia Cappio
Assistant City Administrator

SUBJECT: An Ordinance Declaring a Shelter
Crisis in the City of Oakland (Re-
enactment)

DATE: August 30, 2017

City Administrator Approval

Date:

9/7/17

RECOMMENDATION

STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT AN ORDINANCE DECLARING A SHELTER CRISIS IN THE CITY OF OAKLAND; MAKING FINDINGS THAT A SIGNIFICANT NUMBER OF PERSONS ARE WITHOUT THE ABILITY TO OBTAIN SHELTER, AND THAT THE SITUATION HAS RESULTED IN A THREAT TO THE HEALTH AND SAFETY OF THOSE PERSONS; AND AUTHORIZING THE CITY ADMINISTRATOR TO SUSPEND PROVISIONS OF STATE OR LOCAL REGULATORY STATUTES, REGULATIONS, AND ORDINANCES PRESCRIBING STANDARDS OF HOUSING, HEALTH, OR SAFETY FOR ADDITIONAL SHELTER FACILITIES IF NEEDED.

EXECUTIVE SUMMARY

The California Government Code sections 8698, 8698.1, and 8698.2 allows a governing body of a city to declare a shelter crisis when a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety. In December, 2015, the City Council enacted such an ordinance and it was in effect for one year. With more resources now directed toward addressing homelessness for the 2017-19 budget year, along with the capital facilities financing from City Measure KK and County Measure A1, re-enacting this ordinance would provide additional tools and flexibility.

By declaring such a crisis, the City Council would authorize, without further Council action, the suspension of certain rules and regulations concerning housing, health and safety, as applied to specific public facilities, to the extent that strict compliance would hinder the mitigation of the shelter crisis, thus enabling a more flexible set of building, land use and other related requirements so a project could proceed in a more cost effective and expeditious manner. The proposed ordinance before the Council also allows the City to establish alternative minimum health and safety standards to such public facilities during the duration of the crisis. The authority under this ordinance only affects additional public facilities open to the homeless and needed to mitigate the shelter crisis. The declaration would be in effect for two years.

Item: _____
City Council
September 19, 2017

BACKGROUND / LEGISLATIVE HISTORY

Homelessness in Oakland and the Bay Area is an incessant problem, and has reached crisis proportions due to displacement and extreme upward pressure on rents. The number of homeless persons in Oakland as of the most recent 2017 point-in-time-count is over 2,700. Of those, on any given night there are an estimated 1902 persons who are unsheltered and in living spaces unfit for human habitation. Throughout Oakland, there are approximately 350 emergency shelter beds available on any given night. Of those, nearly half are funded by the City. In addition, there are approximately 110 beds during the winter months. The majority of homelessness persons unable to find shelter creates the crisis. The homelessness problem affects Oakland's population disproportionately: a majority of the homeless are African American and Latino. Often homelessness is accompanied by other challenges such as mental health difficulties, chronic physical illness, victims of domestic violence, and substance abuse.

An outgrowth of these limited shelter options is the growing number of unauthorized homelessness encampments throughout the City. These encampments present public health and safety threats to the persons who live in them in multiple ways: increased vulnerability to crime, lack of sanitation and debris collection facilities, weather exposure, traffic hazards and other risks.

In December, 2015, the City Council adopted an ordinance declaring a shelter crisis and allowing flexibility or suspension of certain state and local regulations as they apply to City facilities to address the homelessness problem, to the extent that strict compliance would prevent, hinder, or delay efforts to mitigate the shelter crisis. Unfortunately, during the one year period the ordinance was in effect, specific public facilities could not be secured.

Since that time, the City Council and staff have taken substantial steps to coordinate homelessness services, provide additional budget resources and designate staff to lead more focused efforts. A sanctioned encampment pilot program operated in West Oakland for nearly 7 months in late 2016-early 2017, and many lessons were learned about how to operate these facilities and what provisions are necessary. The City Council has established specific performance objectives in the 2017-19 adopted budget including developing an additional Henry Robinson facility for permanent supportive housing and establishing a sanctioned facility for cleaner and safer encampments until more permanent housing can be found.

In addition to more 2017-19 budget funds, in November, 2016, the voters in Oakland and in Alameda County both passed capital bond measures which will enable a variety of approaches to increase the supply of affordable housing during the next few years. A key priority for this year is the acquisition of a facility for permanent supportive housing, similar to the Henry Robinson.

ANALYSIS AND POLICY ALTERNATIVES

Proposed Re-enactment. The re-enactment of the shelter crisis declaration represents a set of tools that can be applied to a variety of facilities for the homelessness without further Council action. City staff is actively pursuing potential sites or facilities. The authority under the ordinance would enable a more flexible interpretation of standard building, planning and other requirements, potentially resulting in developing facilities that could not have been previously considered.

Minimum health, safety and habitability standards will be maintained through the use of this authority. It does not mean a total suspension of standards but rather the ability to more flexibly apply standards or to establish alternative standards that meet minimum requirements. Unlike the prior 2015 ordinance, the City Council would not review and approve projects that used this approach prior to implementation. Another difference in the re-enactment is that instead of a one year period, staff is recommending a two-year period. In this way, the effective period will be commensurate with the two year budget cycle.

Tenancy Provisions. State Government Code Section 8698, et seq. allows the governing body of a city to declare a shelter crisis and suspend the provisions of any state or local regulatory statute, regulation, or ordinance prescribing standards of housing, health, or safety to the extent that strict compliance would prevent or delay the mitigation of the shelter crisis, in order to address the problem more urgently and expeditiously. The suspension of local regulatory ordinances may include suspension of provisions in Oakland Municipal Code Chapter 8.22 related to residential rent adjustments and evictions, or other such codes, for public facilities used as shelters pursuant to the proposed Ordinance.

Alternative Council Actions:

Staff Recommendation: Enact the shelter crisis ordinance with the two-year time period, and no further Council approval required to implement project subject to the ordinance.

Option 1: Enact the shelter crisis ordinance for a one year period or a different time period, subject to review of the projects and implementation by City Council. Staff does not recommend this approach given the urgency and scale of the problem. Staff will work with the Building, Fire and other departments to assure safety and minimum standards are met.

Option 2: Enact the shelter crisis ordinance with the requirement to report out to Council how the ordinance has been applied, perhaps on a quarterly basis. In this way, there is no delay in implementation but Council is informed.

Option 3: Take no action at this time.

Options 1 and 2 would require revisions to the proposed Ordinance such that it would need to be re-introduced at a subsequent meeting.

FISCAL IMPACT

The adoption of this ordinance does not, in and of itself, create a fiscal impact. Future projects using the authority provided under the ordinance, may involve additional funding in order to proceed.

PUBLIC OUTREACH / INTEREST

There is growing public concern regarding the multiple, unauthorized homelessness encampments and a call for a more comprehensive and sustainable approach to assist this vulnerable population.

COORDINATION

Preparation of the ordinance and this staff report included review and comments by the Planning and Building Department, Human Services and the Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic: This ordinance does not directly address economic opportunities.

Environmental: The authority under this ordinance would potentially result in cleaning up unauthorized homelessness encampments and provide facilities that more environmentally sustainable.

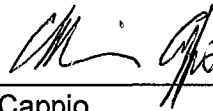
Social Equity: This ordinance enables a more flexible approach to be applied to potential public facilities to shelter homelessness persons, thereby removing barriers and assisting a vulnerable population.

ACTION REQUESTED OF THE CITY COUNCIL

To adopt an ordinance declaring a shelter crisis in the City of Oakland; making findings that a significant number of persons are without the ability to obtain shelter, and that the situation has resulted in a threat to the health and safety of those persons; and authorizing the City Administrator to suspend provisions of state or local regulatory statutes, regulations, and ordinances prescribing standards of housing, health, or safety for additional shelter facilities if needed.

For questions regarding this report, please contact Claudia Cappio, Assistant City Administrator at (510) 238-6654.

Respectfully submitted,



Claudia Cappio
Assistant City Administrator

2017 SEP -7 PM 4:42


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

ORDINANCE NO. _____ C.M.S.

ORDINANCE DECLARING A SHELTER CRISIS IN THE CITY OF OAKLAND; MAKING FINDINGS THAT A SIGNIFICANT NUMBER OF PERSONS ARE WITHOUT THE ABILITY TO OBTAIN SHELTER, AND THAT THE SITUATION HAS RESULTED IN A THREAT TO THE HEALTH AND SAFETY OF THOSE PERSONS; AND AUTHORIZING THE CITY ADMINISTRATOR TO SUSPEND PROVISIONS OF STATE OR LOCAL REGULATORY STATUTES, REGULATIONS, AND ORDINANCES PRESCRIBING STANDARDS OF HOUSING, HEALTH, OR SAFETY FOR ADDITIONAL SHELTER FACILITIES IF NEEDED

WHEREAS, the number of homeless persons in the City of Oakland continues to increase, with the latest 2017 point-in-time count of over 2,700, and this number is likely to increase given the substantial upward pressure of residential rents; and

WHEREAS, this shelter crisis affects Oakland's citizens disproportionately with more African American, Latino and elderly individuals experiencing homelessness; and

WHEREAS, the long term and recent decreases in Federal and State funding for housing programs has resulted in an erosion of shelter options for the most vulnerable populations including the elderly, youth, victims of domestic violence, sexually exploited minors and persons suffering from mental illness, HIV/AIDS, substance abuse and disabilities; and

WHEREAS, the current number of homeless individuals in Oakland far outpaces the number of existing shelter beds, transitional housing or permanent supportive housing units available; and

WHEREAS, unauthorized homelessness encampments have increased substantially across Oakland, within the public right of way, thus exposing homeless individuals to traffic hazards, increased vulnerability to crime, risk of death and injury, exposure to weather, lack of adequate sanitation and debris services and other conditions that are detrimental to their health and safety; and

WHEREAS, Oakland residents are being affected by the increasing number of unsheltered individuals with regard to traffic and pedestrian safety, lack of sanitation and debris services; and

WHEREAS, analysis and evidence has demonstrated that providing decent, safe and stable housing combined with crucial support services are two primary components of successful transition from homelessness to a safer and healthier way of living; and

WHEREAS, the City Council has committed more resources to addressing this homelessness crisis in the adopted FY 2017-19 City Budget and both the City of Oakland and Alameda County voters passed capital bonds devoted to housing, including providing more permanent supportive housing and transitional housing to serve the unsheltered population; and

WHEREAS, the City Council finds that urgent and expeditious efforts are necessary to develop additional shelter solutions that are safe and meet basic habitability standards, and that flexibility and broad-based approaches are essential to increase capacity, particularly given the funding and staff resources that have been committed; and

WHEREAS, California Government Code Section 8698, et seq., allows the governing body of a city to declare a shelter crisis when a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety; and

WHEREAS, California Government Code Section 8698.1 provides that, upon a declaration of a shelter crisis, the provisions of any state or local regulatory statute, regulation or ordinance prescribing standards of housing, health, or safety, as applied to public facilities, shall be suspended to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis; and

WHEREAS, the City Council finds that the suspension of local regulatory statutes within the meaning of California Government Code Section 8698.1 may include suspension of provisions in Oakland Municipal Code ("OMC") Chapter 8.22 related to residential rent adjustments and evictions, in order to provide appropriate shelter without establishing tenancy; and

WHEREAS, California Government Code Section 8698.2 provides that, upon a declaration of a shelter crisis, a city may allow persons unable to obtain housing to occupy designated public facilities (including facilities leased by the city) during the duration of the crisis;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

SECTION 2. The City Council hereby finds that a significant number of persons in Oakland are without the ability to obtain shelter, and that this situation has resulted in a threat to the health and safety of these persons, for the reasons set forth above and in the staff report accompanying this Ordinance. The Council therefore hereby declares a shelter crisis in the City of Oakland under the authority set forth in California Government Code Section 8698, et seq.

SECTION 3. The Council hereby authorizes the City Administrator or her designee to allow persons unable to obtain housing to occupy designated City facilities or facilities leased by the City as shelters during the period of this crisis.

SECTION 4. For the term of this Ordinance, the City Administrator is hereby authorized in her discretion to suspend the provisions of state and local regulatory statutes, regulations, or ordinances prescribing standards of housing, health, or safety as needed for the interim establishment of shelters for the homeless to the extent that strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis.

SECTION 5. The City Administrator is further authorized in her discretion to apply interim municipal health and safety provisions, land use controls and other housing requirements to interim shelter facilities in order to ensure minimal public health and safety standards.

SECTION 6. The suspension of provisions of state and local regulatory statutes, regulations, or ordinances prescribing standards of housing, health, or safety, and the interim standards established pursuant to this Ordinance shall only apply to additional public facilities open to the homeless.

SECTION 7. To the extent this Ordinance is inconsistent with any other provisions of the Oakland Municipal Code or the Oakland Planning Code, this Ordinance shall apply. This Ordinance suspends contrary regulations in the Oakland Municipal Code or Planning Code or requirements of the General Plan or implementing regulations.

SECTION 8. This Ordinance is enacted pursuant to the City of Oakland's general police powers, Section 106 of the Charter of the City of Oakland, and Article XI of the California Constitution, as well as the other provisions of state and local law otherwise cited herein.

SECTION 9. This Ordinance shall remain in place for a period of two years from the date of passage.

SECTION 10. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 11. This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL-WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLEN, KALB, KAPLAN, AND
PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Date of Attestation: _____

NOTICE AND DIGEST

ORDINANCE DECLARING A SHELTER CRISIS IN THE CITY OF OAKLAND; MAKING FINDINGS THAT A SIGNIFICANT NUMBER OF PERSONS ARE WITHOUT THE ABILITY TO OBTAIN SHELTER, AND THAT THE SITUATION HAS RESULTED IN A THREAT TO THE HEALTH AND SAFETY OF THOSE PERSONS; AND AUTHORIZING THE CITY ADMINISTRATOR TO SUSPEND PROVISIONS OF STATE OR LOCAL REGULATORY STATUTES, REGULATIONS, AND ORDINANCES PRESCRIBING STANDARDS OF HOUSING, HEALTH, OR SAFETY FOR ADDITIONAL SHELTER FACILITIES IF NEEDED

This ordinance would declare a shelter crisis in the City of Oakland pursuant to California Government Code section 8698 et seq. and authorize the City Administrator in her discretion to suspend provisions of state or local regulatory statutes, regulations, and ordinances prescribing standards of housing, health, or safety for additional public shelter facilities to the extent that strict compliance would prevent, hinder, or delay the mitigation of the effects of the shelter crisis. This ordinance would allow the City Administrator in her discretion to establish interim health and safety standards to ensure minimal public health and safety. This ordinance would also authorize the City Administrator in her discretion to allow persons unable to obtain housing to occupy designated public facilities, including facilities leased by the City, during the shelter crisis.