

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No. _____

1. Rescinding its action of December 5, 2017 adopting a resolution declaring a Shelter Crisis in Monterey County through December 31, 2018;
2. Declaring its unconditional commitment to cease, desist from, and not repeat the past action that is alleged to violate the Brown Act, and authorizing the Chair of the Board to execute and transmit to Marina Community Partners a letter stating that unconditional commitment;
3. Finding that a significant number of persons within the County of Monterey are without the ability to obtain shelter and that the situation has resulted in a threat to the health and safety of those persons;
4. Finding that the Declaration of Shelter Crisis is statutorily exempt under CEQA; and\
5. Declaring pursuant to Government Code sections 8698 through 8698.2 that a shelter crisis exists, and will continue to exist, throughout the incorporated and unincorporated areas of Monterey County until December 31, 2018.

WHEREAS, throughout the incorporated and unincorporated area of Monterey County there is a housing shortage for low-income individuals and families that results in a significant number of such persons experiencing homelessness, living on the streets, in homeless encampments and/or dwelling in their vehicles without the ability to obtain affordable housing; and

WHEREAS, the 2017 Monterey County Homeless Census and Survey found that the population experiencing homelessness within the County of Monterey has increased by 23% since 2015, with a 57% increase being experienced in the City of Salinas; and

WHEREAS, in many communities across the State, including San Diego and Santa Cruz counties there have been outbreaks of hepatitis A among homeless populations, with at least one such infection occurring in Monterey County; and

WHEREAS, such inability to obtain shelter results in a threat to the health and safety of such persons, particularly during times of inclement weather; and

WHEREAS, the 2017 Monterey County Homeless Census and Survey found that 32% of homeless individuals were sleeping in vehicles; and

WHEREAS, homeless individuals have been living in vehicles, including motor homes, cars, and trailers, for an extended period of time throughout the County, including on the shoulder of Lapis Road, a County road located in the unincorporated area of Monterey County just north of the City of Marina and just west of Del Monte Boulevard and east of Highway 1 in the unincorporated area of the County, and the uncontrolled use of this road without appropriate services resulted in serious health and safety problems, crime, and dumping of trash and refuse; and

WHEREAS, Government Code sections 8698 through 8698.2 permit the Monterey County Board of Supervisors to declare a shelter crisis upon a finding that a significant number of persons within the County 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

WHEREAS, upon a Declaration of Shelter Crisis by the Monterey County Board of Supervisors, the foregoing statutes allow suspension “of any state or local regulatory statute, regulation or ordinance prescribing standards of housing, health, or safety to the extent strict compliance would in any way prevent, hinder, or delay the mitigation of the effects of the shelter crisis,” and allow the County to permit persons without the ability to obtain housing to occupy designated public facilities for the duration of the shelter crisis; and

WHEREAS, the Monterey County Board of Supervisors has taken a series of actions to address lack of shelter for the homeless and the urgent and immediate need ahead of the impending winter for safe parking for the homeless sleeping in their vehicles while solutions for shelter are being developed, including the following actions:

- On July 18, 2017, the Board approved 1220 Natividad Road as the approved site for a permanent year-round shelter and authorized entry into a lease agreement for a temporary shelter in the interim while finding a provider to run and build out the permanent site;
- On August 29, 2017, the Board adopted Resolution No. 17-294 granting permission for parking of certain types of vehicles along Lapis Road between 6:00 p.m. and 10:00 a.m. until the earlier of November 30, 2017 or the operational date of a Safe Parking Program by Monterey County;
- On September 19, 2017, the Board adopted an urgency ordinance to prohibit parking on Lapis Road from 10:00 a.m. to 6:00 p.m., until November 30, 2017, to implement the Board’s temporary grant of permission for nighttime only parking of vehicles along Lapis Road;
- On September 19, 2017, the Board authorized a temporary Winter Warming Shelter at 111 West Alisal Street, in Salinas for the period November 1, 2017 (or when the site becomes available, if later) through May 31, 2018;
- On November 14, 2017, the Board authorized the County Department of Social Services to create and implement a temporary Safe Parking Program and to enter into a contract with a service provider to manage and operate a Safe Parking Program at the Coastal Office Building, 2616 First Avenue, Marina, California, which is County-owned property located in the City of Marina at the former Fort Ord, to assist the homeless who are sleeping in their vehicles in a manner that reduces the threat to the public health and safety; and
- On December 5, 2017, the Board adopted a resolution declaring a shelter crisis in Monterey County through December 31, 2018 (item 30.1 on the agenda), but a potential ambiguity was created because the caption of the resolution declared “the existence of Local Safe Parking Emergency Need within Monterey County.”

WHEREAS, as part of its action on November 14, 2017, the Board found that the Safe Parking Program is statutorily exempt pursuant to California Environmental Quality Act (CEQA) Guidelines section 15269(c) as an emergency action necessary to mitigate an immediate threat to public peace, health, and safety, and to address an immediate need for shelter for the homeless in the winter pending development of a longer-term solution, and on December 5, 2017, County staff filed a Notice of Exemption for that action; and

WHEREAS, prior to the Board’s approval of the Safe Parking Program on November 14, 2017, the Resource Management Agency Director testified at the November 14, 2017 hearing that the Safe Parking Program is consistent with the Fort Ord Base Reuse Plan, and subsequent correspondence from the Fort Ord Reuse Authority dated December 11, 2017 acknowledges that the Fort Ord Reuse Authority certified the County of Monterey’s 2001 General Plan Amendment as consistent with the Base Reuse Plan, and “to the extent the County considers the 2001 General

Plan amendment applicable to Fort Ord lands, it has been certified as consistent with the BRP and would be the controlling land use document for lands within the County of Monterey's land use authority"; and

WHEREAS, the Resource Management Agency Director has determined, as indicated in his testimony before the Board prior to its November 14, 2017 adoption of the Safe Parking Program, that parking vehicles in an existing public parking lot, which is what the Safe Parking Program allows, is not a "development entitlement," under the Fort Ord Reuse Authority Master Resolution.

WHEREAS, pursuant to Government Code sections 53090 and 53091, County use of the County-owned parking lot is not subject to City of Marina zoning; and

WHEREAS, by letter from Miller Starr Regalia dated December 8, 2017, Marina Community Partners (MCP) alleged that the Board of Supervisors "violated the Brown Act and other applicable law by hearing and acting on Item 30.1 [declaration of shelter crisis] without providing proper public notice" on December 5, 2017 based on an allegation about failure to post the agenda timely and an inference that the Board intended to finalize the Safe Parking Program through the Declaration of the Shelter Crisis, and MCP demanded that the Board cease and desist further violations of the Brown Act pursuant to Government Code section 54960.2; and

WHEREAS, the Board of Supervisors does not admit any violation of the Brown Act in that the agenda with Item 30.1 was posted on December 1, 2017, more than 72 hours ahead of the December 5, 2017 meeting of the Board of Supervisors, and the agenda provided specific notice of the action to be taken; however, to avoid unnecessary litigation and ensure transparency and public notice, the Board desires to respond to the cease and desist letter by stating its unconditional commitment to cease, desist from, and not repeat the past action challenged by Marina Community Partners and re-issue its Declaration of Shelter Crisis; and

WHEREAS, the Declaration of Shelter Crisis is a separate action independent of the approval of the Safe Parking Program; notwithstanding that it is a separate action, the Declaration provides additional legal authority for the County to allow persons unable to obtain housing to occupy public facilities during the duration of the emergency, including allowing the homeless to park in a County parking lot; and

WHEREAS, the Declaration of Shelter Crisis is statutorily exempt from CEQA pursuant to section 15269(c) of the CEQA Guidelines because it is a specific action necessary to mitigate the emergency caused by the prevalence of homelessness in Monterey County.

NOW, THEREFORE, the Board of Supervisors of the County of Monterey hereby resolves as follows:

1. The Board of Supervisors hereby certifies that the foregoing recitals are true and correct;
2. The Board, in response to the cease and desist demand, hereby rescinds its action of December 5, 2017 adopting a resolution declaring a Shelter Crisis in Monterey County through December 31, 2018;
3. The Board declares its unconditional commitment to cease, desist from, and not repeat the past action that is alleged to violate the Brown Act, and the Board authorizes the Chair of the Board to execute and transmit to Marina Community Partners a letter stating that unconditional commitment;
4. The Board finds that a significant number of persons within the County of Monterey are without the ability to obtain shelter and that the situation has resulted in a threat to the health and safety of those persons;

5. The Board finds that the Declaration of Shelter Crisis is statutorily exempt under CEQA; and
6. The Board hereby declares pursuant to Government Code sections 8698 through 8698.2 that a shelter crisis exists, and will continue to exist, throughout the incorporated and unincorporated areas of Monterey County until December 31, 2018.

PASSED AND ADOPTED on this _____, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original orders said Board of Supervisors duly made and entered in the minutes thereof of Minute Book _____ for the meeting on _____.

Dated:

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
,Deputy