



Board Report

File #: 17-1259, **Version:** 1

Consider adopting a Resolution to:

- a. Rescind the Board of Supervisors' action of December 5, 2017 adopting a resolution declaring a Shelter Crisis in Monterey County through December 31, 2018;
- b. Declare the Board of Supervisors' unconditional commitment to cease, desist from, and not repeat the past action that is alleged to violate the Brown Act, and authorize the Chair of the Board to execute and transmit to Marina Community Partners a letter stating that unconditional commitment;
- c. Find 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;
- d. Find that the Declaration of Shelter Crisis is statutorily exempt under CEQA; and,
- e. Declare 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. (ADDED VIA ADDENDA)

RECOMMENDATION:

It is recommended that the Board of Supervisors consider:

- a. Rescinding its action of December 5, 2017 adopting a resolution declaring a Shelter Crisis in Monterey County through December 31, 2018;
- b. 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;
- c 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;
- d. Finding that the Declaration of Shelter Crisis is statutorily exempt under CEQA; and,
- e. 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.

SUMMARY/DISCUSSION:

Homelessness is a serious and ongoing problem within the County of Monterey which requires immediate action by the Board of Supervisors for the preservation of the public peace, health, and safety. 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. According to the 2017 Monterey County Homeless Census and Survey, the population experiencing homelessness within the County of Monterey was 2,837 - an increase of 23% since 2015, with a 57% increase being experienced in the City of Salinas. Thirty-two percent (32%) of homeless individuals were sleeping in vehicles.

The presence of homeless encampments and individuals living in vehicles along the side of the road without appropriate services has resulted in serious health and safety problems, including crime and dumping of trash and refuse. Additionally, in many communities across the State, including San Diego and Santa Cruz counties

there have been outbreaks of hepatitis A among populations experiencing homelessness, with at least one such infection occurring in Monterey County. As a result, the inability to obtain shelter results in a threat to the health and safety of such persons, particularly during times of inclement weather.

One such encampment, is 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 of Monterey where homeless individuals have been living in vehicles, including motor homes, cars, and trailers, for an extended period of time. The uncontrolled use of Lapis Road without appropriate services has resulted in serious health and safety problems, crime, and dumping of trash and refuse.

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.

Government Code Sections 8698 through 8698.2 provides that the County “shall be immune from liability for ordinary negligence in the provision of emergency housing pursuant to Section 8698.2. This limitation of liability shall apply only to conditions, acts, or omissions directly related to, and which would not occur but for, the provision of emergency housing. This section does not limit liability for grossly negligent, reckless, or intentional conduct which causes injury.” It also provides that “the provisions of any state or local regulatory statute, regulation, or ordinance prescribing standards of housing, health, or safety 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. Political subdivisions may, in place of such standards, enact municipal health and safety standards to be operative during the housing emergency consistent with ensuring minimal public health and safety. The provisions of this section apply only to additional public facilities open to the homeless pursuant to this chapter.”

Over the past six (6) months, 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 people experiencing homelessness 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.”

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. On December 5, 2017, County staff filed a Notice of Exemption for that action. 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 (BRP), 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.” Additionally, pursuant to Government Code sections 53090 and 53091, County use of the County-owned parking lot is not subject to City of Marina zoning.

However, a letter from Miller Starr Regalia dated December 8, 2017, Marina Community Partners (MCP) alleges 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. While there was not 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, to avoid unnecessary litigation and ensure transparency and public notice, it is recommended that the Board of Supervisors 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. 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, 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.

With this declaration of a shelter crisis the County is able to allow homeless individuals and families to utilize public facilities for housing during the duration of the state of emergency.

OTHER AGENCY INVOLVEMENT:

The recommended declaration of shelter crisis in Monterey County has been reviewed and approved as to form

by County Counsel.

FINANCING:

There is no impact to the County General Fund from this report.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Homelessness is an issue that has compounding effects on those experiencing it and the average life expectancy for individuals experiencing homelessness is 25 years less than those in stable housing.

Mark a check to the related Board of Supervisors Strategic Initiatives

- ☐ Economic Development
- ☐ Administration
- ☒ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

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Attachments: Resolution