



City of Huntington Beach

File #: 19-455

MEETING DATE: 4/18/2019

REQUEST FOR CITY COUNCIL ACTION

SUBMITTED TO: Honorable Mayor and City Council Members

SUBMITTED BY: Fred A. Wilson, City Manager

PREPARED BY: Kellee Fritzal, Deputy Director of Economic Development

Subject:

Adopt Resolution 2019-22 Declaring a Shelter Crisis Pursuant to SB 850 (Chapter 48, Statutes of 2018 and Government Code Section 8598.2), Declare the City's Intent to Proceed with Establishing a Homeless Navigation Center, Authorize Execution of a Purchase and Sale Agreement for 15311 Pipeline Lane, and Amend the FY 2018/19 Revised Budget by \$2,850,000

Statement of Issue:

Homelessness in Huntington Beach has created numerous issues regarding the health, safety and welfare of the City. Numerous lawsuits have been filed against the County of Orange and other cities' lack of emergency shelter beds that can house individuals and families that are homeless, including: Anaheim, Orange, Costa Mesa, Irvine, Aliso Viejo, Dana Point, San Juan Capistrano, and San Clemente. A majority of the lawsuits were consolidated and assigned to the United States District Court in Santa Ana. In order to provide shelter beds to Huntington Beach's homeless population, avoid litigation, and protect the City's right to enforce its laws, City Council action is requested to adopt a resolution declaring a shelter crisis, declare the City's intent to establish a Navigation Center, authorize a Purchase and Sale Agreement for the acquisition of the proposed Navigation Center site, and increase the FY 2018/19 Revised Budget by \$2,850,000 from one-time restricted sources.

Financial Impact:

The total estimated cost of site acquisition is \$2,850,000 for the purchase of the Pipeline Lane property (\$2,744,000) and to cover estimated closing costs (\$106,000). Authorization is requested to appropriate from one-time sources as follows: Redevelopment Dissolution Assignment (Fund 100) of \$1,080,000; Community Development Block Grant Rehabilitation Loans (Fund 215) \$766,000; Community Development Block Grant program reallocations and cumulative project savings of \$223,000 (Fund 239); and the Residual Receipts Fund (Fund 233) \$781,000. Declaration of a Shelter Crisis will also place the City in a better position to compete for the State's Homeless Emergency Aid Program (HEAP) funding in the State's next budget cycle.

Recommended Action:

1. Approve Resolution 2019-22 "A Resolution of the City Council of the City of Huntington Beach

Pursuant to SB850 (Chapter 48, Statutes of 2018 and Government Code Section 8698.2)" Declaring an Emergency Shelter Bed Crisis.

2. Declaration of City's intent to proceed with establishing a Homeless Navigation Center.
3. Approval and authorization for the Mayor and City Clerk to enter into the Purchase and Sale Agreement for 15311 Pipeline Lane (APN 145-537-06), Huntington Beach, CA.
4. Authorize the City Manager to execute any and all documents related to the Agreement to further this action.
5. Approve the appropriation of \$2,850,000 in the Fiscal Year 2018/19 Revised Budget from the following sources: Redevelopment Dissolution Assignment (100), Community Development Block Grant Funds (215 and 239), and Residual Receipts Fund (233) as needed.

Alternative Action(s):

Do not approve the Purchase of the Pipeline Lane site and direct staff accordingly.

Analysis:

Homelessness in Huntington Beach

The January 2017 Point-in-Time Count and Survey of the homeless identified 119 persons as unsheltered in the City of Huntington Beach. Of those, 73 were male and 46 were female. Since the last Point-in-Time Count, the number of unsheltered individuals in the County and in the City of Huntington Beach have likely increased. The County of Orange will soon be releasing the new Point-in-Time Count figures for each City based on surveys conducted in January 2019 and it is likely the City's figure for homeless individuals will increase from the 2017 numbers.

Legal Limitations on Enforcement of Local Anti-Camping Ordinances

Public agencies have seen their ability to enforce ordinances prohibiting sleeping in outdoor areas such as parks and public plazas limited by court decisions. Most recently, on September 4, 2018, the Ninth Circuit Court of Appeals in *Martin et al v City of Boise* (9th Cir. 9/24/2018) F. 4^t, Case No. 15-35845) held that enforcing a City ordinance that prohibits sleeping in public places violates the Constitution's ban on cruel and unusual punishment if there are no alternatives available to the individual within that same jurisdiction.

Based in part on the Boise decision, Federal lawsuits were filed last year when the County of Orange and City of Anaheim relocated several hundred homeless individuals from the flood control channel in Anaheim. A majority of those lawsuits were consolidated and assigned to Federal District Court Judge David Carter in Santa Ana. The City of Huntington Beach has not been sued as part of those lawsuits, at this time, however we have been informed that Huntington Beach will be sued. Judge Carter has made it clear that as part of the lawsuits, he would enjoin any City from enforcing its anti-camping and related ordinances against homeless individuals unless the City offers an immediately-available secular bed at the time of enforcement. As a result of the litigation, nearby cities including Santa Ana, Tustin, Orange, Costa Mesa, Placentia, Buena Park and Anaheim are building new and expanded shelters for homeless individuals that, when opened, will enable those cities to enforce their prohibitions on camping in public areas.

With the recent opening of new shelters, the cities of Santa Ana, Tustin, Costa Mesa and Anaheim have begun enforcement of their camping and related ordinances. As a result, Huntington Beach Police Officers have noted an influx of homeless individuals into the City who were not among

Huntington Beach's homeless population previously. Enforcement of camping ordinances in cities that have available shelter beds is likely to cause homeless individuals who are unwilling to accept those beds to migrate to cities without available shelter beds as those cities may lack the legal authority to enforce their anti-camping ordinances.

Taking immediate action will ensure there are adequate secular sleeping alternatives available to homeless and ensure that public areas like parks, the Civic Center, libraries, Pier Plaza and City sidewalks remain safe, attractive and well-maintained for the public at large. If the City lacks the ability to enforce its anti-camping ordinance the City's unsheltered population is likely to grow as a result.

Next Steps

The proposed location is under consideration for the establishment of a Navigation Center to house homeless individuals. The creation of a Navigation Center would provide immediately available secular beds for individuals that are homeless while also providing for the increased enforcement of the City's Municipal Codes against camping in public places.

The proposed site, located at 15311 Pipeline Lane, located in the northwest area of the City, north of McFadden Avenue, and west of Springdale Street, is proposed for the development of a Navigation Center. The building site is an approximately 3/4-acre property within the Industrial (IL) zoning district, which is the City's designated "SB 2 Zone." SB 2 (or Senate Bill 2) was enacted in 2008 and required cities and counties to identify a land use zone where emergency shelters are permitted with no conditional use permit or discretionary action. As such, in 2009, the City Council adopted amendments to the City's zoning ordinance to allow by right emergency or transitional and supportive housing in Industrial Zones including the development of emergency shelters.

City Staff has visited eight (8) shelters operated by various non-profits. The Staff has met with the County of Orange, Anaheim, Costa Mesa and Santa Ana regarding best-practices and lessons learned. The City will be sending out a Request for Proposals to obtain a highly qualified shelter operator with appropriate levels of security to ensure a safe and effective Shelter. A proposed shelter operator will be presented to the City Council for action at a later date. The agreement with the shelter operator will discuss in detail the safety and security provisions that must be adopted in order to maintain safety in the surrounding neighborhood. The Police Department will review and approve the proposed agreement as well to help ensure public safety. In addition, the City will need to hire a contractor to perform tenant improvements, and will also bring forth amendments to the Zoning Code.

It is recommended the City take the aforementioned actions for the establishment of a Navigation Center. Due to potential litigation regarding homelessness in Orange County, the creation of the Navigation Center will provide for the enhanced enforcement of City Municipal Codes while helping homeless individuals navigate to long term housing.

Environmental Status:

Not Applicable

Strategic Plan Goal:

Enhance and maintain high quality City services

Attachment(s):

1. Resolution 2019-22, "A Resolution of the City Council of the City of Huntington Beach declaring a shelter crisis pursuant to SB 850 (Chapter 48, Statutes of 2018 and Government Code Section 8698.2).
2. Purchase and Sale Agreement for 15311-15323 Pipeline Lane, Huntington Beach.
3. Ninth Circuit Court of Appeals Decision in Martin et al v City of Boise (9th Cir. 9/4/18) _ F.4th _, Case No. 15-35845