



City of Sunnyvale

Agenda Item-No Attachments (PDF)

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REPORT TO COUNCIL

SUBJECT

Cold Weather Shelter Update (Information Only)

BACKGROUND

For decades the Sunnyvale Armory - leased to the National Guard by the City, and in turn subleased by the National Guard to the County - served as an emergency cold weather shelter for Northern Santa Clara County for a four-month season each year. When it became clear to the City that the National Guard did not intend to continue leasing this site for an Armory, and in support of the County's strategy to combat homelessness (focus less on shelters and more on permanent housing), the City of Sunnyvale sought to repurpose the property in question. Once completed, this project will provide 115 units of permanent, supportive rental housing for very low and extremely low income families, of which 47 will be reserved for homeless applicants. While the Armory site remains dedicated to helping solve the problem of homelessness in the County, however, it is no longer available to serve as a temporary cold weather shelter.

On May 19, 2014, staff received a letter dated May 15 from the County of Santa Clara requesting assistance in its attempt to identify a replacement facility and funding options for the Cold Weather Shelter Program in North County (see Attachment 1).

On May 22, 2014, during its annual budget workshop, City Council discussed the issue of homelessness and directed staff to take two actions:

- Identify for Council the value of the subsidy provided by the City for operation of the homeless shelter at the Sunnyvale Armory in recent years so that Council could consider including this amount as a contribution toward the County's efforts to establish a cold weather shelter to serve Northern Santa Clara County; and,
- Identify issues associated with the concept of allowing Sunnyvale's Community Center gymnasium (i.e., Indoor Sports Center) to serve as a temporary cold weather shelter for four months this coming winter.

On May 30, 2014, staff responded to the County's letter (Attachment 2) and, in support of Council's interest in exploring the possibility of using the Community Center gymnasium as a temporary cold weather shelter, invited the County to tour that facility with City staff.

On June 10, 2014, staff provided an initial response to Council's May 22, 2014 direction via Report to Council 14-0323 (Attachment 3).

On June 18, 2014, City staff hosted a tour of the Community Center, including both the gymnasium

and the ballroom. In attendance were staff from both the County and its operator of cold weather shelters, HomeFirst (formerly EHC LifeBuilders). The County and HomeFirst also toured other locations in Sunnyvale, as noted in the County's follow-up letter to the City dated June 26, 2014 (Attachment 4).

On June 20, 2014, Chief Operating Officer for the County, Gary Graves, distributed a memo to the County Board of Supervisors regarding the "North County Cold Weather Shelter Program Facility Search." (Attachment 5)

On June 24, 2014, Council adopted the City's 2014/2015 budget, which provides HomeFirst with a human services grant of \$15,217 in Community Development Block Grant funds to assist with the operation of a North County cold weather shelter or other services for homeless Sunnyvale residents.

On June 26, 2014, the County's Director of Homeless Systems, Ky G. Le, who was in attendance during staff's tour of the Community Center facilities, sent the City a follow-up letter addressing the suitability of the gymnasium as a temporary shelter, as well as feedback and questions concerning other City sites (Attachment 4).

NEXT STEPS

The County's June 26, 2014 letter provides a good deal of insight into what a temporary cold weather shelter at the City's Community Center gymnasium (or ballroom) would look like. While it does not constitute a formal proposal, City staff believes it provides sufficient detail for Council to determine whether it wishes to further pursue this option.

If Council does wish to further explore this option, prior to any public outreach or public hearing, staff would notify the County of the City Council's action and request a formal proposal with a more detailed operating plan and a project financing plan. If Council takes such an action, the City and County must work together to deploy a broad communications and engagement strategy to ensure that stakeholders are aware of the proposal and that an effective engagement strategy is put in place to receive input. Staff would work with the County for it to begin a public outreach and engagement process. With the County as the lead, the primary targets of that outreach would be surrounding residents and businesses, as well as users of the Community Center. From the City's perspective, the purpose of this engagement would be to share the County's proposal with the community, seek the community's feedback, and ensure that the feedback is integrated, to the extent possible, into the final program offered at the site. While staff would convene and attend those outreach meetings, as well as convey Council's interest in exploring the possibility of a temporary shelter at the Community Center, the County and HomeFirst would need to present its proposal, receive input and determine how to best integrate the input into the proposed program, and discuss any related details. As this is not a City program, City staff would be on hand to respond to community impacts relative to existing programs provided at the facility and other impacts related to the proposed program and within the City's purview. If a broader role is desired for City staff, based on Council's determination, additional resources may be required to absorb this unexpected workload. Following those efforts to engage the community, staff would schedule a public hearing for Council to consider the County's proposal and the community's input. The County's public engagement process would serve as a mechanism to maintain ongoing communication with the community as issues may arise that require resolution, and to ensure regular dialogue between the County and the impacted stakeholders. A well-developed engagement process on the part of the County, HomeFirst and City is needed before, during, and after this effort given the unconventional use for the gymnasium and the need to

maximize compatibility between the proposed use and existing use of the entire facility.

Issues to be further explored and addressed would include the following:

Physical Suitability of the Site: During its tour of the site, City and County staff discussed a wide array of physical issues, from ingress/egress to gymnasium floor protection. While a complete review of the site's suitability would depend on a more detailed operating plan, the County's position is that the Community Center gymnasium is physically well-suited to serve as a temporary shelter. In fact, as noted in the County's June 26 letter, the County believes that it has several significant advantages over the previous Armory site, including a larger floor plan, separate restroom and shower facilities for men and women, more restroom stalls, and greater parking and storage capacity. Identified physical shortcomings and/or possible concerns appear at this point to be relatively minor in nature (i.e., if not resolved, would not deter the City or County).

Permitting/Noticing Requirements/Environmental Review: It appears that the use of the Community Center property would not require any rezoning or discretionary planning approvals (i.e., use permit). The property is currently zoned "Public Facilities (PF)", which permits facilities to be used for governmental purposes. Operation of an emergency shelter, even though it involves a residential use, is a County program and likely considered a governmental purpose. Additionally, the Government Code allows public agencies to make use of or develop their own public properties for "governmental uses" without going through permitting processes of the local agency in whose jurisdiction the site is located. If the County were to use its own two-acre property located on E. California for a shelter use, it likely would not have to seek City approval of such a use, or installation of any improvements such as modular housing units.

Even though a use permit or rezoning is not required, the City is not obligated to provide its property or facility to another public agency, such as the County, particularly when the facility is currently being used for the City's own "governmental purpose," i.e., recreation programs. The proposal to lease the gymnasium to the County and/or HomeFirst for a temporary shelter would require a lease agreement with the City, which is discretionary, and which would trigger the need for environmental review under the California Environmental Quality Act (CEQA), so that any environmental impacts reasonably anticipated by the project (such as parking, noise, traffic, safety, and related impacts) could be analyzed prior to the lease approval.

If any federal funds were proposed to be used to pay rent for the facility and/or any retrofits/renovations required, federal environmental review would also be required. The anticipated level of review would most likely be a Mitigated Negative Declaration under CEQA and a categorical exclusion under the National Environmental Policy Act (NEPA), but that would have to be verified following receipt of a more detailed proposal and funding plan from the County.

A certain level of public noticing would be required as part of the CEQA review, including a legal ad in the local paper and notices mailed to property owners and residents within 300 feet of the site, as well as signs posted on the site. NEPA review also generally requires at least publication of a legal ad and a public hearing before federal funds can be committed to the project. Assuming the federal funds for leasing and/or tenant improvements, if any, would be provided by the County, not the City, the County would be responsible for completing the NEPA review.

Indemnification: If the City were to proceed with a lease for a temporary shelter, it would need to

contain a broad indemnity provision to protect the City from liability and legal costs arising from the County's operation of the facility at the site. Potential sources of liability include third party claims for personal or property damage, claims from users of the shelter, and claims from workers or volunteers at the shelter.

Impacts to Existing Facility Users, and Adjacent Residents and Businesses: This was a topic of some discussion amongst City staff, County staff and HomeFirst during the tour of the Community Center complex. At issue are both the very real impacts of a cold weather shelter on existing facility users and the surrounding community, as well as the perceptions of those groups. As noted in the County staff's June 20, 2014 memo to the County Board of Supervisors, "besides some operational challenges, we anticipate that the biggest challenge will be overcoming the concerns of nearby residents, co-located programs, theater patrons, and residents who utilize the recreational programs at the center." HomeFirst representatives indicated that they are experienced in dealing with related concerns from nearby residents, but that they are not experienced in dealing with the concerns of co-located programs and/or displaced user groups. Should the gymnasium be used as a cold weather shelter this coming winter, those co-located groups (i.e., groups continuing to use the Community Center while the shelter is in operation) would include Senior Center participants, theater-goers, and a variety of class participants enrolled in Community Center activities.

Groups that would be displaced by the shelter during the four-month season of operation would include the California Sports Center gymnastics program, Sunnyvale Youth Basketball, as well as City-operated volleyball, badminton and basketball leagues. In some cases, existing contracts would need to be cancelled. In addition, the gymnasium would no longer be available for private youth and adult rentals. Should Council direct staff to further explore this concept, these impacted residents and groups would be invited to outreach meetings as well as any public hearing at which Council intended to take formal action.

Public Health/Safety/Security: Staff anticipates a similar level of public safety and security concerns as was experienced during those hours a temporary shelter was in operation at the Armory. Many of those service calls were for medical attention required by program participants. While the County has experienced occasional undesirable and unlawful behavior by participants, they do provide a private security guard from 5:30 p.m. to 10:30 p.m. each day. Staff is equally concerned with public safety and security issues associated with shelter users before the shelter opens and after it closes each day. Participants leaving the shelter each morning may be motivated to remain on site at the Community Center due to a lack of alternative places to go, a first-come, first-served policy for serving shelter participants that evening, and public transportation costs. This could further impact a broader range of Community Center users.

Staff is also concerned with related issues following permanent closure of the temporary shelter in the spring (see "'Temporary' Nature" below), as shelter users may continue to occupy the park areas of the campus for some time after the shelter closes, as has been somewhat typical at Fair Oaks Park due to the proximity of the former cold weather shelter at the Armory.

Numerous reports and researchⁱ have been published in recent years about the steep increase in the incidence of homelessness among registered sex offenders, due to state and federal laws such as Jessica's Law in California, which prohibit such offenders from living within certain distances of schools, parks, and certain other types of public facilities. These restrictions make many residential areas off-limits for offenders seeking housing after being released from incarceration. Many sex

offenders register on the state registries with an address of “transient” or “homeless.” At county-wide meetings held in the last several years regarding the homeless encampments, most of which are in San Jose and South County, those working to try to house those living in encampments quoted estimates that as many as possibly 8 percent of the chronically homeless, unsheltered population are registered sex offenders who are often unable to secure housing due to newer laws such as Jessica’s Lawⁱⁱ.

Although not all users of the shelter are chronically homeless, a County presentation from January 2012 indicated that in the three prior shelter seasons (2009, 2010, and 2011) 74 percent of the users of the Sunnyvale Armory shelter “had been homeless for more than one year or have had multiple episodes of homelessness,” which would indicate a large portion of those users may be chronically homeless.

According to the National Alliance to End Homelessness, “chronically homeless people are among the most vulnerable people in the homeless population. They tend to have high rates of behavioral health problems, including severe mental illness and substance abuse disorders, conditions that may be exacerbated by physical illness, injury or trauma. Consequently, they are frequent users of emergency services, crisis response, and public safety systems.” The Alliance also notes:

“Research shows that, for chronically homeless individuals, stable housing is an essential component of successful recovery. The solution to the problem of chronic homelessness is permanent supportive housing, which is housing coupled with supportive services. With appropriate supports, permanent housing can serve as a foundation for rehabilitation, therapy, and improved health.[...] Chronically homeless individuals living in permanent supportive housing are far less likely to draw on expensive public services [...] and] are also less likely to end up in homeless shelters, emergency rooms, or jails, none of which are effective interventions for chronic homelessness. Public costs - whether local, state or federal - are therefore reduced.”ⁱⁱⁱ

While the Department of Public Safety could potentially address issues related to the concerns associated with the users of the shelter as they arise, staff’s related concern is heightened by the proximity of the possible shelter to sensitive populations such as seniors and young children, and the fact that the Community Center campus is also technically a park, which may raise issues related to compliance with Jessica’s law.

Fiscal Impact: As previously noted, Council has already adopted a budget that includes a CDBG human services grant of approximately \$15,000 to HomeFirst for its use in homeless shelter operations (at any North County location), and/or other homeless services to benefit Sunnyvale clients. Prior to authorizing the use of any City facility as a cold weather shelter, staff would want to see a detailed operating plan (see below) as well as a corresponding funding plan to ensure that all costs are covered by identified funding sources. This should include: the cost of any tenant improvements, reimbursement for any unusual wear and tear on the City’s facilities and/or landscaping around the Community Center campus, loss of parking spaces needed for other users, and loss of revenues otherwise anticipated from recreational uses of the facility, as projected in the current City budget for the Department of Library and Community Services.

According to a memo from County Board of Supervisors S. Joseph Simitian and Dave Cortese, “in the past, about \$200,000 has been allocated annually out of the County’s General Fund to pay an

operator to provide cold weather shelter services at the Sunnyvale Armory.” While Chief Operating Officer for the County, Gary Graves, has indicated “the Administration is prepared to recommend funding be taken from reserves in order to establish an adequate Cold Weather Shelter Program in FY2015”, to date no County funding has been appropriated for a temporary shelter in Sunnyvale to replace those services previously provided by the Armory.

Council should also consider how to offset anticipated revenue losses. Staff estimates that the displacement of existing activities at the Community Center by a temporary shelter would result in the loss of approximately \$160,000. How a temporary shelter might impact ongoing activities (programs not displaced by the shelter) and their related revenue streams is not known.

Shelter Service and Management Plan: Without a more detailed service and management plan and funding commitments approved by the County Supervisors, City staff is unable to determine whether all operational concerns and issues have been identified and addressed.

“Temporary” Nature: Despite the clear intent that the Community Center serve as a shelter for only four months, staff has serious reservations about longer-lasting, unintended impacts. Staff does not believe that the formal closure of a temporary facility will necessarily result in the cessation of related impacts felt by adjacent residents or users of the Community Center. Similar to the manner in which Fair Oaks Park continues to be challenged following closure of the Armory shelter, the Community Center may continue to be challenged following closure of a temporary cold weather shelter. In addition, advocates for the homeless will likely advocate for the facility to operate for additional winter seasons, should an alternate facility not be operational by the following winter. Council may wish to weigh these possible long-term impacts against the benefits of locating a cold weather shelter in this particular location. Additionally, any management plan for this proposed use must include a commitment to support transitional efforts as the facility returns back to its proposed use and the transitional needs for those that used the shelter - to further mitigate community impacts.

Given the Council’s interest in exploring a temporary shelter that would open this coming December, time is of the essence. All of the steps outlined above would need to happen very quickly in order for a shelter to open in that time frame. Significant, focused effort by staff would be required; therefore, if Council decides to move forward it should also anticipate some delays to existing City projects and agenda items.

This report is informational only. Staff intends to take no further action regarding the possibility of a temporary cold weather shelter at the Community Center (or any other City site) unless directed to do so by the City Council.

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ATTACHMENTS

1. County of Santa Clara Letter to the City, dated May 15, 2014.
2. Sunnyvale response letter to the County dated May 30, 2014.
3. Staff’s initial response to Council’s May 22, 2014 direction via Report to Council 14-0323, dated June 10, 2014.
4. County of Santa Clara follow-up letter to the City, dated June 26, 2014.

5. Memo to the County Board of Supervisors regarding the “North County Cold Weather Shelter Program Facility Search” From Chief Operating Officer for the County, Gary Graves, dated June 20, 2014.

ENDNOTES

- i. One example: *“Homelessness among California’s Registered Sex Offenders: An Update”* CA Sex Offender Management Board, September 2011, at: http://www.casomb.org/docs/Residence_Paper_Final.pdf
- ii. Proposition 83, (Jessica’s Law), passed by California voters in 2006.
- iii. From: http://www.endhomelessness.org/pages/chronic_homelessness, as published on July 3, 2014.