



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Lee Wilcox
Jacky Morales-Ferrand

SUBJECT: AB 932 AUTHORITY FOR
THE CITY OF SAN JOSÉ

DATE: November 16, 2018

Approved

Date

11/16/18

RECOMMENDATION

Direct the Administration to include within the Council's 2019 Legislative Program the pursuit of state legislation to streamline building and zoning approval processes and other applicable standards and laws to allow the City of San José to establish and operate sanctioned encampments, consistent with the authority granted to other California jurisdictions through AB 932.

OUTCOME

AB 932 authority for the City of San José would allow the City to streamline the approval process for sanctioned encampments, and provide additional options for the City if Council chooses to pursue sanctioned encampments as a strategy to address homelessness.

BACKGROUND

On September 13, 2018 Councilmember Rocha issued a memo for the September 19, 2018 Rules and Open Government Committee meeting on the topic of Hope Village, a homeless tent encampment organized and run by volunteers associated with Casa de Clara. The memo recommended directing City staff to assist Hope Village in finding a site owned by the City or another public agency where Hope Village could relocate as a sanctioned encampment. A sanctioned encampment is a permitted homeless tent camp. At the time Councilmember Rocha issued his memo, Hope Village was facing eviction from its location on Ruff Drive.

On September 18, 2018 Councilmember Peralez also issued a memo for the September 19, 2018 Rules and Open Government Committee meeting. His memo made two recommendations: first, that the City send a letter to Santa Clara County offering to cooperatively explore sites owned by the City and County as potential locations for a sanctioned encampment, and second, that the Administration be directed to explore the expansion of AB 932 to include San José.

In 2016, the Governor signed AB 2176 (Campos), a City-sponsored bill. AB 2176 allowed the City of San José to adopt a local ordinance on the design, site development, and operation of emergency bridge housing in lieu of state and local building standards and laws during a shelter crisis. The legislation defines the type of structures that can be built under AB 2176 as emergency sleeping cabins with features including hard sides, light, heat, ventilation, a privacy lock on each door, and a smoke alarm. AB 2176 does not address structures like tents. This legislation allowed the City to pursue bridge housing communities, which at the time was Council's priority temporary homeless housing solution.

AB 932 (Ting, 2017) is State legislation that applies to seven California jurisdictions: Berkeley, Emeryville, Los Angeles, Oakland, San Diego, San Francisco, and the County of Santa Clara. It permits these jurisdictions, upon declaration of a shelter crisis, to allow homeless shelters on land owned or leased by the jurisdictions without complying with state and local building, housing, health, habitability, planning and zoning, or safety standards, procedures, and laws. In lieu of complying with these rules, the jurisdictions are authorized to adopt ordinances with their own reasonable local standards for homeless shelters, subject to the approval of the California Department of Housing and Community Development. Using these provisions, and subject to the standards adopted by the local jurisdiction and approved by the State, it is possible for the jurisdictions covered by the legislation to establish sanctioned homeless encampments. AB 932 is set to expire on January 1, 2021.

On September 18, 2018 the City Council directed the City Manager to send a letter to Santa Clara County offering to lease a City-owned property at 1039 Ruff Drive to the County to establish Hope Village as a sanctioned encampment on the site. The letter also proposed that City and County staff "work jointly, and collaboratively, to assess whether the Hope Village model is effective and can be replicated under the collective benchmarks set by the local Continuum of Care's (CoC) strategic plan."

On September 19, 2018 the Rules and Open Government Committee considered the memos from Councilmembers Rocha and Peralez. With the Council's action the previous day to send a letter to the County, most of the recommendations in their memos had already been accomplished, but the Committee discussed Councilmember Peralez's recommendation to explore expansion of AB 932 to include San José. The Committee approved Councilmember Peralez's memo and directed staff to come to Council on the issue of AB 932 in November 2018.

On September 21, 2018 the City and County signed a property use agreement that granted the County temporary use of the City's property on Ruff Drive to provide temporary housing for up to 14 homeless individuals. The agreement will expire on March 30, 2019. Hope Village has since been relocated to the site; ten homeless individuals currently reside there. The County has executed a six-month agreement with Casa de Clara to manage the encampment. City and county staff are meeting to review both County and City sites that could provide a longer-term location for Hope Village and to evaluate the Hope Village model.

ANALYSIS

Currently, the City is not one of the jurisdictions covered by AB 932, and does not have the streamlining provisions provided in AB 932 for sanctioned encampments. Legislation that would add the City of San José as one of the jurisdictions in AB 932 would provide the City with an additional tool in providing a safer place for homeless individuals to stay by streamlining building approval procedures and state housing laws, and allowing local flexibility.

Adding AB 932 legislation for the City of San José to the 2019 Legislative Program will give the Administration direction to work with our state delegation members and other stakeholders on a bill. Providing local tools to address homelessness is a priority for several of San José's state representatives, including Senator Jim Beall, the Chair of the Senate Housing and Transportation Committee. The City is also talking to the jurisdictions included in AB 932 about lessons learned as they implement AB 932. Other cities, like Los Angeles, are experiencing challenges with the California Environmental Quality Act for AB 932 sites. These challenges are similar to San José's challenges around bridge housing communities. These lessons learned can help inform any future legislation for AB 932 authority for the City of San José.

Hope Village provides an opportunity for the City to evaluate the sanctioned encampment model. The result of this evaluation can help the City decide whether it wants to pursue sanctioned encampments as a crisis intervention strategy. Having the authority provided in AB 932 would provide the City with significant exemptions to state law requirements for homeless tent and other shelters, if the Council were to decide to pursue sanctioned encampments. In the event that the City does pursue sanctioned encampments, additional future considerations would include deciding on a model for the encampment (for example, whether it should be self-governed or supported) and identifying funding to support the encampment.

EVALUATION AND FOLLOW-UP

The Administration will provide updates on the legislative program on a quarterly basis to Council.

On September 21, 2018, the City of San Jose entered into a Lease Agreement with the County of Santa Clara for property located at 1039 Ruff Drive, San Jose, CA to locate Hope Village, a pilot homeless encampment assisting 10 homeless residents. The Lease Agreement was intended to be short-term, 180 days, given the limitations of the site. These include the location in the "Inner Safety Zone," near the San Jose Mineta International Airport and Federal Aviation Administration (FAA) guidelines.

As part of this joint effort with the County of Santa Clara both parties were directed to work collaboratively to identify County, City, and State of California parcels for the long-term location for Hope Village. This work is underway; however, the County of Santa Clara has requested two modifications to the Lease Agreement. First, that the term be extended to

February 29, 2020, and second increase the number of homeless residents from 14 to 30. The Administration is reviewing this request. If the collaborative process between the County and City requires additional time beyond the 180 days, the Administration may extend the Lease Agreement by another 180 days. However, given the limitations of this location a long-term solution is still desired. Any modifications to the Lease Agreement will be discussed with the Council prior to any formal actions.

PUBLIC OUTREACH

Staff will post this memorandum on the City's Council Agenda website for the November 27, 2018 Council Meeting.

COORDINATION

The Administration coordinated this memorandum with the Airport Department, the City Attorney's Office and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

The recommended action does not have a Commission Recommendation.

CEQA

Not a Project, File No. PP17-010, City Organizational & Administrative Activities resulting in no changes to the physical environment.

/s/
LEE WILCOX
Chief of Staff
City Manager's Office

/s/
JACKY MORALES-FERRAND
Director
Housing Department

For questions, please contact Bena Chang, Director of Intergovernmental Relations, 408-975-3240.