

MEMORANDUM

TO: CITY COUNCIL

FROM: JAMES A. BERGMAN, CITY MANAGER

SUBJECT: CONSIDERATION OF A RESOLUTION DECLARING A SHELTER CRISIS IN THE CITY OF ARROYO GRANDE

DATE: SEPTEMBER 25, 2018

SUMMARY OF ACTION:

Consider declaring a homeless shelter crisis within the City of Arroyo Grande.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

By declaring a homeless shelter crisis, the City will be eligible for funding under the Homeless Emergency Aid Program (HEAP).

RECOMMENDATION:

It is recommended the City Council adopt a Resolution declaring a shelter crisis in the City of Arroyo Grande.

BACKGROUND:

At the August 28, 2018 City Council meeting, Council Member Barneich requested staff place this item on an upcoming agenda and her recommendation was supported unanimously by the Council.

ANALYSIS OF ISSUES:

According to the *2017 San Luis Obispo County Homeless Census & Survey Comprehensive Report* (aka Point in Time Count), there were 94 homeless people residing in the City of Arroyo Grande. During this 10-day period, 42 homeless people were sheltered and 52 were unsheltered.

Adopting a Resolution declaring a shelter crisis can afford the City the following opportunities:

1. Immunity from ordinary negligence liability and the ability to suspend strict compliance with housing, health, or safety requirements in the provision of emergency housing (CHAPTER 7.8. Shelter Crisis [8698 - 8698.4] of Title 2 of the California Government Code);
2. Eligibility to become a direct recipient of HEAP funds from the local Continuum of Care (COC); and

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3. If the City does not become a direct recipient of HEAP funds, funds can be spent by the COC within the City for capital projects finished before June 30, 2021, or for rental assistance or rental subsidies.

Immunity and Suspension of Strict Compliance

CHAPTER 7.8. Shelter Crisis [8698 - 8698.4] of Title 2 of the California Government Code states:

8698.1. Upon a declaration of a shelter crisis, the following provisions shall apply during the period of the emergency.

(a) The political subdivision 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.

(b) 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.

Although there are no current plans to utilize public buildings or to allow alternative living arrangements within the City, adopting a Resolution declaring a shelter crisis can place the City in the position of maximum flexibility if the need arises. Alternatively, a Resolution declaring a shelter crisis can be adopted by the Council at any future duly noticed Council meeting.

Homeless Emergency Aid Program (HEAP)

HEAP is a one-time \$500 million block grant program designed to provide direct assistance to cities, counties and Continuums of Care (CoCs) to address the homelessness crisis throughout California. HEAP is authorized by SB 850, which was signed into law by the Governor on June 27, 2018.

HEAP funds are intended to provide funding to Continuums of Care (COC's) and large cities (LC's) to provide immediate emergency assistance to people experiencing

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homelessness or are at imminent risk of homelessness. Eligible uses include, but are not limited to the following:

- a. Homelessness prevention activities;
- b. Criminal justice diversion programs for homeless individuals with mental health needs;
- c. Establishing or expanding services meeting the needs of homeless youth or youth at risk of homelessness; and
- d. Emergency aid

The parameters of the program are intentionally broad to allow local communities to be creative and craft programs that meet the specific needs they have identified. All activities must directly benefit the target population.

Based upon the HEAP formula, the San Luis Obispo COC will receive \$4,837,814. The HEAP statute mandates that 50 percent of the awarded funds must be contractually obligated by January 1, 2020. Additionally, 100% of the funds must be expended by June 30, 2021.

Although some funds from the HEAP program can be spent in jurisdictions that have not declared a shelter crisis, declaring a shelter crisis does significantly expand the programs available to receive support or allows the City to develop its own programs and become a direct recipient of HEAP funds. Expanded programs include using funds for capital construction projects or towards rental assistance and rental subsidies.

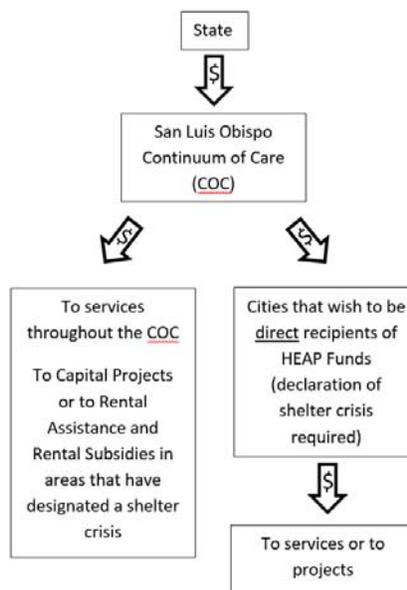


Figure 1. Flow of HEAP funds from the State to cities and counties.

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Early Stages of Fast Moving Program

SB 850 requires the Business, Consumer Services, and Housing Agency (Agency) to make a first round of awards by January 31, 2019, and a second round of awards by May 31, 2019. Any unallocated funds following the second round will revert to the State's General Fund. Due to this rapid timeline to disburse funds, the process to develop a system to review and select programs and services within the San Luis Obispo County COC or to individual cities as part of an application to the Agency has just begun. As part of this process, CoC's must demonstrate that a local collaborative effort has been conducted prior to application submission. A collaborative process may include, but is not limited to, a public meeting, regional homeless taskforce meeting, and letters of support with signatures of endorsement, an adopted homeless plan, and an adopted budget that includes HEAP funds. Proof of a public process may include sign-in sheets, meeting minutes and agendas, among other items. It is important that a wide enough range of participants are consulted as part of this process. Participants should include representatives of the local homeless population. Staff will return to Council after this collaborative process has concluded and present recommendations for programs and services within the City of Arroyo Grande.

ALTERNATIVES:

The following alternatives are provided for the Council's consideration:

1. Adopt a Resolution declaring a homeless shelter crisis;
2. Do not adopt a Resolution declaring a homeless shelter crisis; or
3. Provide direction to staff.

ADVANTAGES:

Declaring a homeless shelter crisis will provide the City with the maximum opportunity to provide aid to homeless individuals in the near future.

DISADVANTAGES:

Due to the recent ruling by the Ninth Circuit Court of Appeals in Martin v. City of Boise, declaring a homeless shelter crisis will, in most cases, provide prima facie evidence, which will prohibit enforcement of the City's Camping Ordinance (Arroyo Grande Municipal Code Chapter 9.22 – Camping)

ENVIRONMENTAL REVIEW:

No environmental review is required for this action.

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DECLARING A SHELTER CRISIS PURSUANT TO SB 850 (CHAPTER 48, STATUTES OF 2018 AND GOVERNMENT CODE SECTION 8698.2)

WHEREAS, California's Governor Edmund G. Brown, Jr. and the members of the California Legislature have recognized the urgent and immediate need for funding at the local level to combat homelessness; and

WHEREAS, the Governor and Legislature have provided funding to local governments under the Homeless Emergency Aid Program as part of SB 850 and the 2018-19 Budget Act (Chapter 48, Statutes of 2018); and

WHEREAS, the Governor and Legislature require jurisdictions seeking an allocation through the Homeless Emergency Aid Program to declare a Shelter Crisis pursuant to Government Code §8698.2; and

WHEREAS, the City of Arroyo Grande has developed a homelessness plan as part of the regional *San Luis Obispo Countywide 10-Year Plan to End Homelessness* and undertaken multiple efforts at the local level to combat homelessness; and

WHEREAS, the City Council finds that the 2017 Point in Time Count found a total of 52 homeless persons within the City of Arroyo Grande who were homeless and living without shelter at that time; and

WHEREAS, the City Council finds that a significant number of persons within the City of Arroyo Grande 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, the City Council affirms the City's commitment to combatting homelessness and creating or augmenting a continuum of shelter and service options for those living without shelter in our communities.

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby finds and adopts the recitals above as findings and determinations.

BE IT FURTHER RESOLVED that the City Council hereby finds and declares the existence of a shelter crisis, pursuant to Government Code §8698.2, in the City of Arroyo Grande, and authorizes the City of Arroyo Grande's participation in the Homeless Emergency Aid Program.

On motion by Council Member _____, seconded by Council Member _____, and by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

the foregoing Resolution was passed and adopted this ____ day of September, 2018.

JIM HILL, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

JAMES A. BERGMAN, CITY MANAGER

APPROVED AS TO FORM:

HEATHER K. WHITHAM, CITY ATTORNEY