



## Legislation Text

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**File #:** 22-0630, **Version:** 1

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Health and Human Services Agency (HHSA) recommending the Board:

- 1) Receive a presentation regarding potential shorter and longer term sites for a congregate Navigation Center with an emergency shelter component;
- 2) Adopt and Authorize the Chair to sign Resolution **061-2022** for a Homeless Shelter Crisis Declaration which would allow for a shorter term Navigation Center to be operational before Fall 2022;
- 3) Direct staff to pursue at least two (2) shorter-term project sites: 1970/1940 Broadway, Perks Ct, and 3057 Briw Rd for the County to move towards negotiation of a lease and/or purchase of one of the sites to operate as a temporary Navigation Center for a two to three-year term; and
- 4) Direct staff to pursue the two (2) longer-term project sites, 1970/1940 Broadway and 471 Pierroz, for the County to move towards negotiation of a lease and/or purchase of one of the sites to operate as a longer-term Navigation Center in future years.

**FUNDING:** 100% State and Federal Homeless Grants.

### **DISCUSSION / BACKGROUND**

On November 9, 2021, the Board of Supervisors directed HHSA to work with El Dorado Opportunity Knocks (EDOK) to assess potential sites for a Navigation Center with an emergency shelter component, or a Pallet community, to be run by a professional service provider. The Board also directed HHSA to return in February 2022 with recommendations on funding sources, purchase versus lease options, and other program details. In December 2021, as HHSA was still following prior Board direction to pursue the Homekey State grant, the February 2022 deadline was moved to May 2022 to ensure adequate time for community engagement relative to Homekey. Thereafter, as the Board directed the pursuit of Homekey to discontinue in early January 2022, HHSA shifted its staffing and resources to again prioritize the November 9<sup>th</sup> direction on Navigation Center site assessments.

HHSA staff are mindful of the concerns of the Board of Supervisors' and City of Placerville regarding fire danger from active encampments, particularly following the Caldor Fire and its devastation across our region in the Fall of 2021. Throughout a number of recent Board of Supervisors meetings and communications, there have been regular comments made regarding communities across California seemingly scaling shelter bed capacity quickly, highlighting certain communities as specific examples that we should consider mirroring to help address 'fire danger' through a similar process. To respond to those concerns as rapidly as legally possible, HHSA staff have researched the topic of what has allowed communities across California to move quickly to scale shelter bed capacity while also complying with legal precedent established through the 9<sup>th</sup> Circuit Court of Appeals decision (*Martin v. Boise*), as well as homeless funding requirements. The results of this research will be presented to the Board of Supervisors in conjunction with the follow-up information relative to the Board of Supervisor's November 9<sup>th</sup> direction.

### **Background:**

In the January 2019 Homeless Point in Time Count (PIT Count), California Counties and Continuums of Care (CoC) estimated that there were a total of 151,000 residents experiencing homelessness

across the State at that point in time. This amounted to an estimated 27% of the nation's homeless residents. An estimated 72% of those counted were living outdoors and unsheltered in California, at that time. As a result of the significant increase in California's homeless estimates since 2010, the State began focusing its efforts on a coordinated approach to distributing grant funds statewide to the 58 Counties, Big 13 Cities, and the 44 CoCs to help communities develop local, regionally coordinated capacity to both shelter and permanently house homeless residents while providing supportive services. In order to leverage the State's homelessness grant funding in 2019, the State required that communities with a Point in Time Count of over 1,000 individuals would need to declare a local "Shelter Crisis Declaration." This not only was required to leverage the funds, it also allowed for those communities to take advantage of emergency authorizations to more quickly address shelter capacity in their communities. At that time, at least 31 Counties declared a Shelter Crisis due to their PIT Count figures being over 1,000. Our local CoC in El Dorado County, known as EDOK, counted 613 individuals experiencing homelessness that year and, as such, El Dorado County did not fall in that required category.

In 2020, Assembly Bill (AB) 2553 was signed into law by the Governor of California, and since that time, many more counties and cities across the state have declared a 'Shelter Crisis.' AB 2553 targets the specific need for local shelter beds, creating a legal option for County and City jurisdictions to quickly scale shelter capacity to help address unsheltered homelessness and encampment issues in the community. AB 2553 "authorizes a governing body of a political subdivision, as those terms are defined, to declare a shelter crisis if the governing body makes a specified finding" related to there not being enough shelter beds locally when compared to the number of unsheltered residents. Some more recent examples of communities that have made this declaration include the Counties of Santa Barbara and Sacramento, as well as the Cities of Sacramento and Chico. Specific to the required 'finding,' these communities identified having fairly robust numbers of shelter beds in their community, however the number of beds does not add up to the estimated number of homeless residents. For example, to authorize the declaration, the County of Sacramento made a 'finding' by identifying 1,785 year-round shelter beds available for the estimated 5,570 persons experiencing homelessness, with 3,899 individuals (70%) facing unsheltered homelessness. Specific to El Dorado County, as of March 2022, there were 520 active homeless persons being tracked/served on the 'By-Name List', which is captured in the Homeless Management Information System (HMIS), with 307 persons (59%) facing unsheltered homelessness (i.e. they are sleeping in a place not meant for human habitation). Additionally, El Dorado County does not have any year-round, low-barrier shelter beds available for this number of persons (as verified in statewide Homeless Management Information System data). As such, this constitutes a sufficient finding for El Dorado County to declare a 'Homeless Shelter Crisis.'

### **First Step:**

The resolution attached to this Board Item is the Homeless Shelter Crisis declaration. As HHSA is sensitive to community concerns around fire danger, particularly following the Caldor Fire and its devastation across our county, adoption of the proposed declaration is the recommended first step to allow staff to move with expediency to meet the Board's November 9<sup>th</sup> direction. Without the legal flexibilities afforded through this declaration, HHSA would most likely be unable to establish an emergency bed project prior to Fall 2022, most likely lining up sometime by mid to late-2023.

The primary purpose of the declaration is to facilitate public agencies quickly providing emergency housing to unsheltered individuals in public facilities. As defined by AB 2553, public facilities include any facility owned, operated, leased or maintained, or any combination thereof, by public tax dollars,

which also includes land or parking lots. There are various legal impacts resulting from a County proposed declaration of a shelter crisis. First, the County may allow unsheltered persons to occupy designated public facilities during the state of emergency. Second, provisions of state and local regulatory statutes, regulations, or ordinances establishing standards for housing, health, planning and zoning, or safety are suspended. For example, the requirement that homeless shelters be consistent with the general plan and local land use plans is suspended during a shelter crisis. The El Dorado County Zoning Code includes general provisions for emergency shelters and describes various Federal, State, and local government and private uses and ownership circumstances, however under a shelter crisis declaration, County-owned, leased, or operated facilities that are used to house the homeless will be exempt from these zoning regulations. Additionally, the declaration exempts certain actions relating to homeless shelters constructed or allowed during the crisis from the California Environmental Quality Act [CEQA](Section 21000 et seq. of the Public Resources Code).

Under AB 2553, codified in Government Code 8698.4, the State allows for alternative building standards for emergency shelters (Appendix "X" to the California Residential Building Code), which can be adopted by a jurisdiction "upon declaration of a shelter crisis." Public agencies may enact reasonable local health and safety standards effective during the crisis and only applicable to public facilities and homeless shelters open during the declaration. Any enacted local standard must, at a minimum, meet the requirements of the 2019 California Residential Code Appendix X, and California Building Code Appendix O, and any other standards adopted by the California Department of Housing and Community Development relating to emergency housing or emergency housing facilities. Should the Board choose to declare a Shelter Crisis, a subsequent follow-up item would come before the Board in May specific to the required ordinance that would adopt the required Residential and Building Codes per AB 2553 and only to be effective during the existence of the Shelter Crisis Declaration. Lastly, the declaration provides the County with immunity from ordinary negligence claims directly related to the provision of emergency housing in public facilities, and the proposed declaration would continue until terminated by the Board in recognition that strategies to reduce and prevent homelessness require multi-year efforts.

In summary, should the Board choose to declare a Shelter Crisis per AB 2553:

- 1) It would allow the County to use a County-owned or leased parcel to develop shelter bed capacity;
- 2) Regardless of how the County owned or leased site is zoned, the project could be developed to operate per the declaration;
- 3) It would only operate while the Shelter Crisis Declaration is in existence;
- 4) The project would be exempt from CEQA;
- 5) Alternative building standards for emergency shelters would need to be adopted by the jurisdiction in which the site will be operating, and those standards would apply only to the specific shelter site;
- 6) Should a site be selected in a County unincorporated area, a subsequent follow-up Board item would come before the BOS in May to adopt the required Building Standards per AB 2553;
- 7) Should a site be selected within the City of Placerville, the County would seek to work in conjunction with the Placerville City Council to adopt these standards;
- 8) Lastly, the County would be able to procure contracts needed to respond to the crisis without a competitive bid; in order to respond to the health and safety issues associated with the shelter crisis declaration, sole-source contracts are allowed to be issued without a competitive bid process when utilizing State funding.

The declaration of a shelter crisis would have negligible financial impact on the County. Existing staff

of the HHSA Housing and Homeless program would track and report to the State Senate Committee on Housing and Community Development annual data on the homeless population and bed capacity in the jurisdiction as required in Government Code Section 8698.4(a)(6). Over the past several years, the Board of Supervisors has approved the acceptance of homeless grant funding that has been awarded to HHSA and EDOK, and it is those dollars that would be considered for the proposed project(s). The intent of this effort would be to utilize no local General Fund dollars for the development and operations of sites developed under the shelter crisis. Lastly, depending on the Board's direction regarding any particular sites or projects, it should be anticipated that EDOK would need to authorize the use of CoC funding to afford the costs associated with the Board's desired project(s).

### **Second Step:**

The second step in meeting the Board's November 9<sup>th</sup> direction will be the presentation of multiple site options. Each option will include a description of the property being available for purchase or lease options, as well as program details for review and consideration. Site options will be presented in two parts:

- 1) Short-term, expedited interim options that can be scaled prior to Fall 2022 to address 'fire danger' concerns associated with encampments, under the assumption that a Shelter Crisis declaration is made; and
- 2) Longer-term options that will require an acquisition or long-term lease, tenant improvements, and that can be developed over an 18 - 36 month period before operating.

All sites will be presented to the Board for input on site appropriateness before initiating any action. In addition, staff will work with the Supervisor in whose district any selected site(s) are located in to develop a community-engagement plan specific to the site(s).

Consistent within all of the shorter-term and longer-term options, each will include full wraparound services that would be afforded by the use of State grant funding. Wraparound services would include the following:

- ☐ Between 12 and 22 staff to manage the project 24 hours a day/7 days a week;
- ☐ Supportive services provided by a professional Navigation Center operator aimed at transitioning people out of unsheltered homelessness;
- ☐ Restrooms, showers, sanitation, laundry services and food/beverage; and
- ☐ On-site security features;

The estimated operations cost will also afford: staff training and development; program supplies; mileage; janitorial and office supplies; telephones and computers; client transportation; pet kennels and pet food supplies; utility costs for the site; and an insurance policy for the facility.

### **Site Options (Short-Term):**

Should the Board choose to declare a local 'Shelter Crisis' to ensure that a project can be scaled and operating before Fall 2022, AB 2553 affords the County an opportunity to quickly develop a temporary, congregate Navigation Center on land that is owned or leased by the County. County Facilities and HHSA management conducted site visits and walk-throughs of the following sites:

- ☐ 1940 and 1970 Broadway
- ☐ 3057 Briw Rd (parking lot)
- ☐ Perks Ct (Owned by Road Fund)

Attached to the Board item within the Powerpoint Presentation are aerial shots of the properties. A Shelter Crisis declaration would allow the County to be precluded from standard procurement rules and processes, so long as the facility and its operation complies with the requirements of AB 2553. In order to efficiently develop a site while complying with all applicable legal requirements, HHSA would seek to develop an agreement with an experienced, Project Management Firm and General Contractor who have teamed up to support jurisdictions in quickly coordinating the development of interim Navigation Center or Emergency Shelter projects per AB 2553. This critical piece would ensure compliance with all requirements, and these two entities would be responsible for coordinating the selection of temporary structures, freight, delivery, and installation of shelter products that are optimally suited for the terrain and climate of El Dorado County (i.e. the products have an adequate snow load, they are insulated, they have a flexible foundation that can adjust to slope, etc). In compliance with AB 2553, anticipated and proposed purchases are assumed to include: a 100'x 40' large temporary dormitory and dining structure that would accommodate 60 homeless guests; restroom and shower facilities; and six private office structures. Based upon the anticipated products that are best suited for El Dorado's climate and that may most likely be recommended to be purchased by the Project Management firm, the estimated timeframe for having the purchases delivered and installed is approximately 12 to 14 weeks from the time of the purchase. In other words, if purchased on June 1<sup>st</sup>, the short-term interim project would be estimated to be operating by September 2022.

#### **Site Options (Long-Term):**

County Facilities worked with the County's contracted realtor, Turton Commercial Real Estate, to conduct a scan on the western slope of all available properties for sale or lease. Turton Commercial Real Estate also reached out to properties that were not listed for sale but that could be a consideration for purchase or lease if the owners were interested in discussing this. All properties that were considered were deemed to meet the space needs to serve at least 60 homeless residents. After five (5) separate attempts by Turton Commercial Real Estate to reach out to all available properties that were listed for sale or lease, as well as those that were not listed but that were deemed to be the size and scope of interest (capacity of 60 homeless residents), County Facilities, HHSA management, and Turton Commercial Real Estate staff conducted site visits and walkthroughs. HHSA is recommending the following sites:

- ☐ 1940 and 1970 Broadway
- ☐ 471 Pierroz Road

**300 Forni Rd Review:** This site is located directly next to the County Jail, was the most complicated site for consideration, and is not being recommended for a project. This understanding is based upon feedback from experienced Navigation Center providers, feedback from local and regional subject matter experts, communicating with peer jurisdictional staff from outside Counties who have been exposed to litigation, reviewing the locations of navigation centers in a number of California Counties that have not faced related litigation, and receiving direct feedback from homeless residents.

- 1) Feedback has been consistent that having a project at this site is likely to be threatening or

intimidating to homeless residents, thereby acting as a barrier to trusting outreach workers and accepting the shelter beds at the site. It is anticipated that far fewer homeless residents would be willing to go to a site next to a jail when compared to other sites that are being recommended as part of this item. This would defeat the purpose and intent of paying for Navigation Center Services with the goal of exiting residents from homelessness.

- 2) Through discussions with professional service providers that operate Navigation Center programs with Federal and State funding and subsequent requirements, it is anticipated that the County would be incredibly challenged to locate a qualified and experienced provider that would be willing to operate a project at this location. In essence, a project next to a jail is not considered a 'best practice,' and professional providers would not likely be willing to operate a site that they deem wouldn't be successful, particularly with professional and business reputations built through implementing successful programs. Should the County choose to operate a project at this site, it is anticipated that the highest performing providers would not likely be willing to operate it. As such, any interested providers (if any) would be anticipated to be less experienced and most likely less qualified, resulting in the project being far less successful at exiting folks from homelessness at best, and at worst it may also raise additional legal issues by serving the site with less experienced operators.
- 3) It is anticipated that developing a project with Federal and State funding at this location may be challenged, which could result in General Fund costs to operate at this location.
- 4) Lastly, should this site be utilized, it could be challenged by individuals who question if developing a project next to the jail is consistent with the spirit of the 2018 decision by the U.S. Court of Appeals for the Ninth Circuit in response to a homeless related lawsuit (Martin v. Boise).

### **In Summary:**

After reviewing each of the available sites, their space and features, the cost to operate, some potential tenant improvement needs, the interest and ability of a professional provider to operate at each site, and more, HHSA recommends that the Board:

- 1) Declare a 'Shelter Crisis' in order to legally and most quickly address 'fire danger.' The finding that authorizes that declaration is that as of March 2022, there are 520 active homeless persons being tracked/served on the CoC's 'By-Name List' as captured in HMIS, with 307 persons (59%) facing unsheltered homelessness. El Dorado County does not have adequate shelter capacity to accommodate those 307 persons, as no year-round, low-barrier shelter beds exist;
- 2) Direct Staff to pursue the two (2) longer term sites of 1970/1940 Broadway and 471 Pierroz; (closed session item would be scheduled as follow up to appoint a negotiator);
- 3) Direct Staff to pursue at least two (2) shorter term sites (1970/1940 Broadway; Perks Ct; Briw Rd); (closed session item scheduled as follow up to appoint a negotiator)

These recommendations are deemed to be the most viable based upon a long list of factors, including reviewing Settlements from communities that have been exposed to litigation for a lack of compliance with precedent established in Martin v. Boise (example: City of Chico). The recommendation is comprised of a shorter-term interim Navigation Center that can operate prior to Fall 2022 in order to help address concerns with fire danger, with a longer-term option that could be

acquired or leased, with tenant improvements completed prior to its operation. Depending on the selected site, the longer-term options may take up to 2-3 years before the site is operational. The short-term, temporary options have been assumed to operate for a 2-3 year time frame, so that once the permanent location is available, the Board may stop operations of the temporary project at that time in order to transition to the new location. All referenced breakdowns of estimated costs, timelines, considerations, and other site specific factors were provided by HHSA, County Facilities, County Procurements, County Counsel, the IT Department, and the Planning and Building Department, and they will be referenced as a part of the presentation.

## **ALTERNATIVES**

- 1) The Board may choose not to declare a Shelter Crisis Declaration. In this scenario, the County would not establish a project by Fall 2022.
- 2) The Board may alternatively choose to select sites that HHSA does not recommend. In this scenario, the project may likely not be successful in achieving bringing unsheltered homeless residents into the project. The County could also face legal challenges regarding the sites. The County may also be unable to secure an experienced provider to operate the site. Other risks that are unique to each site would be anticipated, as well.
- 3) The Board may choose to select no sites that are being presented.

## **PRIOR BOARD ACTION**

- 1) 21-1668, November 9, 2021, Board Direction to HHSA to assess potential sites for a congregate Navigation Center with an emergency shelter component, or a pallet community run by a professional service provider.
- 2) 21-1954, December 7, 2021, Board Direction to HHSA to return on February 22, 2022 related to Navigation Center and pallet homes.
- 3) 22-0075, January 4, 2022, Board Direction to HHSA to discontinue pursuit of Homekey grant.
- 4) 22-0294, February 22, 2022, Board receive and file of EDOK presentation on the first draft of the 5-Year Countywide Homeless Strategic Plan.

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

County Counsel, CAO Facilities, CAO Procurements, Planning and Building, Information Technology, the Sheriff's Office.

## **CAO RECOMMENDATION / COMMENTS**

It is recommended that the Board approve the Resolution, declaring a shelter crisis declaration. The draft homeless strategic plan that was presented to the Board of Supervisors stated, "*Across the board, stakeholders identified emergency shelter as an immediate and dire need in El Dorado County.*" In addition, in the March 8, 2022, letter from the Board to the El Dorado Opportunity Knocks CoC, the Board stated that their "highest single priority is for an emergency shelter to be in place and operational by the beginning of this year's fire season."

In order for an emergency shelter to in place by the fall of 2022, the Board would need to declare a shelter crisis to suspend some local and state regulations in order to expedite the creation of an emergency shelter. It is also recommended that the Board receive the presentation and provide direction to staff on possible locations for shorter-term and longer-term navigation centers.

## **FINANCIAL IMPACT**

Funding for the proposed projects are generated through various homeless grant programs, including but may not be limited to Emergency Services Grants - Coronavirus (ESG-CV), and Homeless Housing, Assistance and Prevention (HHAP), Community Development Block Grant program - Coronavirus Response (CDBG-CV). These grants have been included in the Fiscal Year 2022-23 Budget request and will be included in future budgets for the term of the projects. HHSA will return to the Board with specific agreements related to these projects, and this item is to provide direction to HHSA.

## **CLERK OF THE BOARD FOLLOW UP ACTIONS**

1) Clerk of the Board to obtain Chair signature on one (1) original of the Resolution and return to Daniel Del Monte in HHSA.

## **STRATEGIC PLAN COMPONENT**

County Strategic Plan:

- 1) Goal #1 - "Public Safety: Protects the community, prevents crime, enforces the law, administers justice, provides rehabilitative services, and promptly responds to emergency and calls for service;" and
- 2) Goal #5 - "Healthy Communities: Improved health, well-being and self-sufficiency of El Dorado County communities, residents and visitors."

## **CONTACT**

Don Semon, Director