



AGENDA REPORT

Meeting Date: November 13, 2007
Item Number: F-7
To: Honorable Mayor & City Council
From: Maria Rychlicki, Director of Human Services
Subject: AN ORDINANCE OF THE CITY OF BEVERLY HILLS PROHIBITING CERTAIN CONDUCT ON PUBLIC PROPERTY AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE

Attachments:

1. Ordinance
2. Staff report

RECOMMENDATION

Staff recommends adoption of the ordinance.

INTRODUCTION

For many years the City, and the region at large, has grappled with issues related to the causes and effects of homelessness. Complaints and concerns have been expressed by both the residential and business communities and include the impact of homeless people's behaviors and activities in public parks (including human waste and storage of personal property), public bathrooms (including public bathing), and City streets in commercial areas (including panhandling) that impair the quality of life for both the homeless and the community at large.

The Human Relations Commission and staff recommend that the City Council adopt the proposed ordinance as part of the City's CLASP program (Changing Lives and Sharing Places) summarized below and detailed in the attached staff report.

DISCUSSION Community concerns focus on safety, health and hygiene, impact on children, a sense of intimidation when panhandlers approach, and an overall concern about the degradation of the quality of life for all. Coupled with the concern, however, is a real sense of commitment to humanitarian approaches to

solutions to *assist* the homeless, rather than *penalize* them. The Human Relations Commission has grappled with the issues associated with homelessness in the community since the Commission's inception.

The Human Relations Commission struggled with how to balance the knowledge that many homeless are mentally ill, affordability of housing, the constitutional rights of individuals to choose alternative lifestyles, and quality of life issues of the community at large. The Commission also felt that the homeless needed viable alternatives to jail time or fines and directed staff to work on building a network of support services for the homeless to complement the ordinance prior to moving forward.

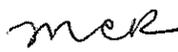
Staff developed an ordinance incorporating standards of conduct and behavior in local public places. In addition to addressing behaviors related to health and hygiene, the proposed ordinance includes components related to panhandling. The ordinance recognizes the right to panhandle, but manages the time, place and manner for panhandling, limiting this behavior in locations where a member of the community at large is in a compromised position such as at an automated teller, bus stop, parking structure or an outside dining area. The ordinance incorporates standards of conduct and behavior in local public places – but it is combined with an emphasis on humanitarian elements designed to encourage and provide incentives for the homeless to reclaim their lives.

Staff submitted it for comment to the ACLU and Public Counsel, the public interest law office of the Los Angeles and Beverly Hills Bar Associations. A division of Public Counsel specializes in homeless advocacy on legislation impacting the homeless in order to pre-empt legal challenges as experienced by other communities who have adopted similar ordinances.

Public Counsel recommended that the City consider incorporating a “homeless court,” or alternative sentencing as part of the program. This concept has gained success in the cities of Santa Monica, Irvine, Calabasas, Long Beach and Los Angeles by motivating homeless individuals to enter social service support programs. In these cities, an independent homeless or “community” court has been established separate from criminal court proceedings. In practice, when a homeless individual is cited for a quality of life violation, rather than a fine or jail sentence as generally applied when a criminal offense has occurred, an alternative sentencing option is offered that is tailored to the specific circumstances of the individual and is designed to help the individual transition back into mainstream society.

FISCAL IMPACT

There are no costs associated with the adoption of the ordinance.



Maria Rychlicki
Approved By

Attachment 1

Ordinance

ORDINANCE NO. 07-0-

AN ORDINANCE OF THE CITY OF BEVERLY HILLS PROHIBITING CERTAIN CONDUCT ON PUBLIC PROPERTY AND AMENDING THE BEVERLY HILLS MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES ORDAIN AS FOLLOWS:

Section 1. The City of Beverly Hills is committed to taking a holistic approach to addressing the causes of, as well as deterring, certain public conduct on public property. The City has made arrangements with shelter facilities to make such facilities available for homeless persons in Beverly Hills who wish to avail themselves of such facilities. For those who wish to avail themselves of these facilities, transportation will also be made available. The City has engaged in, and will continue to engage in, outreach efforts to communicate with homeless individuals regarding facilities available to address their basic needs and avoid violating the provisions of this ordinance. Finally, in adopting the following provisions into its Municipal Code, the City Council also directs that members of the police department or other appropriate officials offer those alternatives to any person who appears to be homeless before arresting or citing that person for a violation of these provisions.

Section 2. Article 13 of Chapter 6 of Title 5 of the Beverly Hills Municipal Code is hereby amended by adding new Sections 5-6-1307, 5-6-1308 and 5-6-1309 to read as follows:

“5-6-1307: **HUMAN WASTE:** No person shall urinate or defecate on public property except in a facility intended for accepting human waste located in a public restroom.

5-6-1308: **ACCESS TO CITY-OWNED PARKING STRUCTURES:**

A. No person may be present in a City-owned parking structure unless he or she is engaged in one of the following activities or accompanying someone who is so engaged:

1. Parking or unparking a vehicle or riding in a vehicle that is being parked or unparked.
2. Departing from or returning to a vehicle that is parked in the parking structure.
3. Using or going to or from a public restroom located in the parking structure.
4. Operating or maintaining the parking structure as an employee or contractor of the City.

B. The term “City-owned parking structure” means the following structures, excepting retail or commercial space:

1. Beverly North, located at 345 N. Beverly Drive, Beverly Hills.
2. Beverly South, located at 216 S. Beverly Drive, Beverly Hills.
3. Beverly-Canon, located at 439 N. Beverly Drive and 438 N. Canon Drive, Beverly Hills.
4. Brighton, located at 9510 Brighton Way, Beverly Hills.
5. Camden, located at 440 N. Camden Drive, Beverly Hills.
6. Bedford, located at 461 N. Bedford Drive, Beverly Hills.
7. Rexford, located at 450 N. Rexford Drive, Beverly Hills.
8. Beverly Hills Gardens, located at 241 N. Canon Drive, Beverly Hills and 240 N. Beverly Drive, Beverly Hills.
9. La Cienega, located at 321 S. La Cienega Boulevard, Beverly Hills.
10. Crescent North, located at 333 N. Crescent Drive, Beverly Hills.
11. Crescent South, located at 221 N. Crescent Drive, Beverly Hills.
12. Dayton, located at 9361 Dayton Way, Beverly Hills.
13. SM-1, located at 485 N. Beverly Drive, Beverly Hills.
14. SM-2, located at 485 N. Rodeo Drive, Beverly Hills.
15. SM-3, located at 485 N. Camden Drive, Beverly Hills.
16. SM-4, located at 485 N. Bedford Drive, Beverly Hills.
17. SM-5, located at 485 N. Roxbury Drive, Beverly Hills.

5-6-1309: **OCCUPANCY OF PUBLIC RESTROOM:** No person shall occupy a City-owned public restroom more than 20 minutes per hour, and no person shall occupy a City-owned public restroom at any time such facility has been closed to the public. This provision shall not apply to persons maintaining a City-owned public restroom as an employee or contractor of the City.”

5-6-1310: **BATHING IN PUBLIC FOUNTAIN OR PUBLIC RESTROOM:** No person shall bathe, wash or make other contact with the water in a public fountain, other than a drinking fountain. No person shall use any city-owned

public restroom to wash any portion of their body other than their arms, neck and face.

Section 3. Section 5-6-1404 of Article 14 of Chapter 6 of Title 5 of the Beverly Hills Municipal Code is hereby amended to read as follows:

“5-6-1404: **UNLAWFUL SOLICITATION; LOCATION:** No person shall solicit in any of the following places:

- A. Within fifteen feet (15’) of any automated teller machine or parking pay station;
- B. Within fifteen feet (15’) of any designated bus stop, taxi stand or similar location;
- C. In any public bus or similar public transportation vehicle;
- D. At the pedestrian entrance/exit or elevator lobby of a City-owned parking structure. For purposes of this provision, “City-owned parking structure” shall have the meaning set forth in Section 5-6-1308(B) of this Code.
- E. Within fifteen feet (15’) of an open air dining area.”

Section 4. Chapter 6 of Title 5 of the Beverly Hills Municipal Code is hereby amended by adding a new Article 15 to read as follows:

“ARTICLE 15. CAMPING OR STORING PERSONAL PROPERTY
ON PUBLIC PROPERTY

5-6-1501: **DEFINITIONS:** Unless the context otherwise requires, the definitions contained in this Section shall govern the meaning of words and phrases used in this Article.

CAMP: To pitch or occupy camp facilities; to use camp paraphernalia.

CAMP FACILITIES: Shall include, but not be limited to, tents, huts or temporary shelters.

CAMP PARAPHERNALIA: Shall include, but not be limited to, tarpaulins, cots, beds, sleeping bags, hammocks or non-City provided cooking facilities and similar equipment.

CITY-OWNED PARKING STRUCTURE: A City-owned parking structure designated in Section 5-6-1308(B) of this Code.

PARK: A public park designated in Section 8-1-01 of this Code.

STORE: To put aside for use when needed; to put for safekeeping; to leave in a location for later retrieval.

5-6-1502: **UNLAWFUL CAMPING:** No person shall camp, occupy camp facilities or use camp paraphernalia in the following areas:

- A. Any park.
- B. Any street.
- C. Any City-owned parking structure.
- D. Any other City owned or operated property.

5-6-1503: **UNLAWFUL STORAGE OF PERSONAL PROPERTY:** No person shall store personal property, including without limitation camp facilities and camp paraphernalia, in the following areas:

- A. Any park.
- B. Any street.
- C. Any City-owned parking structure.
- D. Any other City owned or operated property.

If property is placed in a location for such a length of time as to cause visible damage to grass or other landscaping, or to interfere with regular maintenance activities, then such damage or interference shall be evidence that the property has been stored in violation of this section.”

Section 5. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

Section 6. The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with California Government Code Section 36933, shall certify to the adoption of this Ordinance, and shall cause this Ordinance and his certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

Section 7. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

Adopted:

Effective:

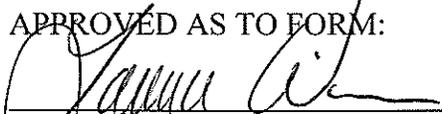
CITY OF BEVERLY HILLS
A Municipal Corporation

JIMMY DELSHAD
Mayor of the City of Beverly Hills,
California

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



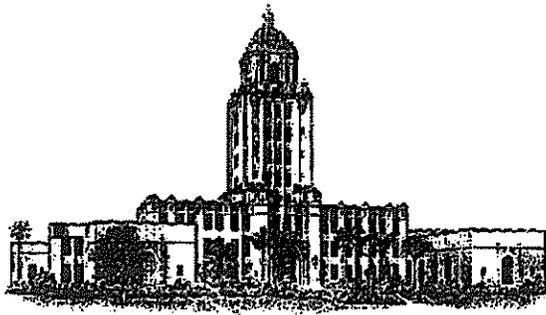
LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

RODERICK J. WOOD
City Manager

Attachment 2

Staff Report



CITY OF BEVERLY HILLS
STAFF REPORT

Meeting Date: November 13, 2007
To: Honorable Mayor & City Council
From: Maria Rychlicki, Director of Human Services
Subject: CLASP: Changing Lives and Sharing Places
A Program to Address Homeless Issues in the Community
Attachment: 1. Draft Ordinance

INTRODUCTION

For many years the City, and the region at large, has grappled with issues related to the causes and effects of homelessness. Complaints and concerns have been expressed by both the residential and business communities and include the impact of homeless people's behaviors and activities in public parks (including human waste and storage of personal property), public bathrooms (including public bathing), and City streets in commercial areas (including panhandling) that impair the quality of life for both the homeless and the community at large.

The Human Relations Commission and staff recommend that the City Council support the proposed CLASP program described below to address these compelling issues in a humanitarian manner.

DISCUSSION

Community concerns focus on safety, health and hygiene, impact on children, a sense of intimidation when panhandlers approach, and an overall concern about the degradation of the quality of life for all. Coupled with the concern, however, is a real sense of commitment to humanitarian approaches to solutions to *assist* the homeless, rather than *penalize* them.

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Addressing these issues has been a Human Relations Commission priority since the inception of the Commission. In 2004, a program was developed that focused on enjoyable and healthy environments in parks and City facilities. The program included an ordinance that would make it unlawful for individuals to camp or store personal property within any park, street, or City-owned or operated property. As part of the process, the Recreation and Parks Commission was asked to review the ordinance from a park-use perspective and recommended unanimously to go forward with the ordinance to the City Council.

The Human Relations Commission continued to review the program and struggled with how to balance the knowledge that many homeless are mentally ill, affordability of housing, the constitutional rights of individuals to choose alternative lifestyles, and quality of life issues of the community at large. The Commission also felt that the homeless needed viable alternatives to jail time or fines and directed staff to work on building a network of support services for the homeless to complement the ordinance prior to moving forward.

Staff set to work on building the social service network with an emphasis on meeting our local need within the context of the work being done throughout the region as a whole. Partnerships were established or strengthened with staff of the cities of Santa Monica and West Hollywood that work with their homeless populations, People Assisting the Homeless (PATH), Chrysalis, Step Up on Second and other organizations that work with the homeless.

In addition, staff adopted regional leadership roles focused on root cause and ultimate solution efforts to end homelessness by participation in the development of PATH's Nationwide Homeless Summit held in October, 2007, service on boards of community services organizations such as Meals on Wheels, and membership in Westside organizations such as the Westside Mental Health Network and Homeless Issues subcommittee of the Westside Council of Governments.

The City has hosted Human Services roundtables for the community's service providers and ecumenical institutions to assist in determining the community's needs and developing strategies tailored to them. In addition, community assistance grant funding to agencies providing services to the homeless has been augmented, including the implementation of a homeless case management program at All Saints Episcopal Church.

At this time, staff believes that our work to build sustainable relationships with County and non-profit agencies is at the point where the City can provide a feasible safety net of options for the community's homeless. Augmenting the existing outreach network with an outreach team dedicated to this community that is trained in connecting the mentally ill homeless to appropriate services would be a vital component of success.

Staff has revised the ordinance incorporating additional standards of conduct and behavior in local public places and submitted it for comment to the ACLU and

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Public Counsel, the public interest law office of the Los Angeles and Beverly Hills Bar Associations. A division of Public Counsel specializes in homeless advocacy on legislation impacting the homeless in order to pre-empt legal challenges as experienced by other communities who have adopted similar ordinances.

Public Counsel recommended that the City consider incorporating a "homeless court," or alternative sentencing as part of the program. This concept has gained success in the cities of Santa Monica, Irvine, Calabasas, Long Beach and Los Angeles by motivating homeless individuals to enter social service support programs. In these cities, an independent homeless or "community" court has been established separate from criminal court proceedings. In practice, when a homeless individual is cited for a quality of life violation, rather than a fine or jail sentence as generally applied when a criminal offense has occurred, an alternative sentencing option is offered that is tailored to the specific circumstances of the individual and is designed to help the individual transition back into mainstream society.

The reality is that criminal penalties do not address the underlying causes of many of the behaviors addressed in the proposed ordinance. Thus, they are rarely successful in deterring the prohibited conduct. Many homeless are in a revolving door situation with many visits to court followed by a return to the streets. Alternative sentencing programs such as agreeing to enter into transitional housing, a drug treatment program, or counseling are intended to motivate the homeless to make the choice of breaking the cycle. These sentencing alternatives offer an opportunity to reach this underserved population with a humanitarian hand up at the point when they are ready to make their move.

Our community's homeless population is significantly smaller than that of the above mentioned cities. The local faith community, police department and staff estimate that approximately 30-35 chronically homeless believed to be seriously mentally ill live in our parks, doorways, parking structures, alleys and shrubbery. It is recommended that given the relatively small scale of our population, the City test a pilot program of alternative sentencing rather than establishing an independent court. Implementation of such a program is timely as the Police Department has recently expanded its bicycle patrols in an effort to address quality of life issues in the community. It must also be noted that it is anticipated that the Step Up Outreach Team will be able to facilitate access to services by a segment of the homeless population prior to any violations. This approach is supported and encouraged by the Human Relations Commission and all City staff who have worked on the program.

In addition to addressing behaviors related to health and hygiene, the proposed ordinance includes components related to panhandling. The ordinance recognizes the right to panhandle, but manages the time, place and manner for panhandling, limiting this behavior in locations where a member of the community at large is in a compromised position such as at an automated teller,

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bus stop, parking structure or an outside dining area. The ordinance incorporates standards of conduct and behavior in local public places – but it is combined with an emphasis on humanitarian elements designed to encourage and provide incentives for the homeless to reclaim their lives.

The Human Relations and Recreation and Parks commissions reviewed the ordinance; the City Attorney and City Prosecutor met with the Presiding Judge of the Beverly Hills Superior Courthouse, public defenders, and district attorney staff to discuss and obtain feedback on the concept; staff of Police, Library, Parking, Economic Development and Recreation and Parks was consulted. There is consensus that putting mentally ill homeless people in jail does not serve this disabled population or the communities that surround them.

FISCAL IMPACT

The primary cost associated with the implementation of a six month pilot program is a contract with Step Up on Second, a nationally recognized treatment center that is committed to the long-term support of re-integration of mentally ill individuals. The contract would provide for an outreach/case management team trained to work with mentally ill homeless individuals who comprise the majority of the City's homeless. This team would augment PATH's outreach team which is trained to work with homeless individuals who are "agency-ready" as opposed to mentally ill and also assist All Saints Church's efforts.

These three outreach partners would work with the appropriate City staff to assist in tailoring alternatives to the criminal process that would be designed to the individual needs of each homeless person. Again, it must be emphasized that services can be identified and utilized by willing homeless individuals without the need for criminal prosecution.

If the City Council approved the pilot, the cost of the contract with Step Up on Second would be \$33,400. The City's Community Assistance Grant Funding program has a one time infusion of funds from the sale of Community Development Block Grant funds which would cover the term of the pilot program. However, since the program will benefit visitors and users of the City's parking structures, it is possible that Parking Enterprise funding may be allocated to offset some of the cost. If the program were extended beyond the pilot, funding from 2008/9 Community Assistance Grant Program could be allocated.

The indirect costs of implementing the alternative sentencing program would include intensive Human Services staff time at the onset, coordination of roles of the Police Department, City Attorney's Office, City Prosecutor and Court House staff, and professional case management for the mentally ill homeless. No additional funds are needed for Human Services staff time or coordination of the team roles.

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RECOMMENDATION

The Human Relations Commission and staff recommend that the City Council support the implementation of the CLASP program. Should the City Council support the program, at the request of the City Council Ad Hoc Human Relations Commission Liaison Subcommittee, the ordinance is on tonight's Formal Agenda for consideration. The contract with Step Up on Second will be scheduled for adoption in December.



Maria Rychicki

Approved By