



COUNCIL AGENDA: 3-11-14  
ITEM: 4.2

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Toni J. Taber, CMC  
City Clerk

**SUBJECT:** SEE BELOW

**DATE:** 2-26-2014

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**SUBJECT: USE OF UNDERUTILIZED HOTELS/MOTELS TO HOUSE THE HOMELESS**

## RECOMMENDATION

As referred by the Community and Economic Development Committee on February 24, 2014 and outlined in the attached memo previously submitted by the Community and Economic Development Committee:

- (a) Discuss the options in the memorandum previously submitted to the Community and Economic Development Committee; and
- (b) Direct staff to develop a master-lease program with changes to the Municipal Code to allow hotel/motel owners to lease guest rooms to the homeless.



# Memorandum

**TO:** COMMUNITY AND ECONOMIC  
DEVELOPMENT COMMITTEE

**FROM:** Leslye Corsiglia

**SUBJECT:** SEE BELOW

**DATE:** February 13, 2014

Approved

Date

Feb 13, 2014

**SUBJECT: THE USE OF UNDERUTILIZED HOTELS/MOTELS TO HOUSE THE HOMELESS**

## **RECOMMENDATION**

It is recommended that the Community and Economic Development Committee (CEDC):

1. Provide input on the options discussed in this memorandum, and
2. Direct staff to develop a master-lease program and return to the City Council with changes to the Municipal Code to allow hotel/motel owners to lease guest rooms to the homeless.

## **BACKGROUND**

During the 2013 biennial homeless census and survey conducted in January, census workers found 4,770 homeless individuals in San José. For the City, this represents a 16% increase from the number identified in the 2011 census, when 4,034 individuals were counted. Out of the total 4,770 persons, 77% were living in creeks, riverbeds, in cars or other vehicles, or on the street. On a per capita basis, this gives San José one of the largest unsheltered populations of any major city in the United States.

Surveyors counted 1,230 unsheltered individuals living in encampments, representing 26% of the total homeless population. The encampment subpopulation exhibits a unique set of demographics from the rest of the homeless community: they are older, have been homeless for a longer period of time, and are more likely to have been San José residents before becoming homeless. In fact, 91% of the encampment homeless reported living in the City at the time they lost their housing. Moreover, 96% of those surveyed also stated that they would willingly accept permanent housing over encampment living, if resources were made available.

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Prior to these new statistical findings and in response to growing general concerns about the need to house the City's homeless residents, the Mayor and City Council added the review of hotel and motel conversions, as well as the potential reuse of vacant buildings, to the City's FY 12-13 Work Plan.

On March 25, 2013, staff provided the CEDC with initial research and information on hotel and motel conversions. Following the Committee's discussion, staff agreed to conduct further research, develop relevant case studies, and present its findings at an upcoming meeting.

At the September 10, 2013 Priority Setting Study Session, the Council reiterated its interest in these topics, and included them in the City's "Top Ten" priorities.

On September 23, 2013, staff returned to the CEDC to present detailed information on the challenges and opportunities associated with utilizing hotels and motels to house the homeless. The Housing Department provided information on hotel/motel conversions and a potential master-leasing program where the City could partner with a nonprofit service provider, which in turn would master-lease rooms from the owner and manage the lease with each subtenant. Staff noted that the cost, length of time, lack of funding, Envision San José 2040 General Plan (General Plan), and zoning considerations are the most significant challenges to converting hotels/motels to residential use and that this approach would be more of a long-term strategy.

A master-leasing program may be a viable option to house the homeless more quickly. However, similar to longer-term hotel/motel conversions, zoning requirements make it difficult to establish a master-leasing program on sites that have commercial land use designations. (See the case studies in Exhibit A.)

At the conclusion of the meeting, the Committee accepted staff's report and directed staff to further explore options (including General Plan and zoning issues) to make hotels/motels available for housing the homeless in the City, and to return to the Committee with recommendations. This memorandum provides a description of a master-lease program and outlines the needed changes to Municipal Code to implement the program. Staff will return next month with a report on the conversion of unoccupied and underutilized motels/hotels and commercial buildings for permanent supportive housing for the homeless.

### **Proposed Master-Leasing Program**

Under a proposed master-leasing program:

1. The City or another public entity would provide grants to qualified nonprofits to enable them to lease multiple rooms from a motel/hotel owner and sublease the rooms to homeless people.
2. The proposed priority target population for the program would be homeless individuals with a high potential for economic self-sufficiency and a sustained history of residency in San Jose, but who have been unable able to secure market rate housing due to lack of available rental apartments, poor credit, lack of rental history or lack of sufficient income.

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3. The selected nonprofit would be responsible for tenant selection, property management, security, and collection of tenant rents. Additionally, the nonprofit would provide supportive services, including case management and third party rent payments.
4. The motel/hotel owner would receive a certain monthly lease payment whether or not the room is occupied.

A master-leasing program provides benefits to the owner, nonprofit, and renter. In the short-term, it provides a quick housing alternative for homeless people who have housing subsidies but cannot find a market-rate apartment to rent. As of January 2014, there are 97 homeless people who have housing subsidies but remain homeless because they are unable to find suitable housing. Additionally, the proposed program could also potentially reduce rental costs for the target population due to the length of the long-term lease. It also could help to address concerns with nuisance motel/hotels by providing additional property management at the site.

As noted below, the master leasing program is intended to be limited to no more than 49% percent of the rooms in any given hotel, maintaining the underlying commercial use.

### ANALYSIS

To ensure the success of the program and that the site is well managed and suitable for the target population all of the following conditions must be met before Housing Department staff would approve a request to participate in the master-lease program:

1. The site will be located near transit.
2. The rooms will meet the applicable Building, Fire, and other code requirements for motel rooms. Any code violations will be repaired prior to moving in a tenant.
3. A nonprofit service provider, approved by the City, will be assigned to each participating hotel to provide supportive services and address on-site tenant related issues.
4. Case management will be provided to the homeless individual or family.
5. The rooms will be inspected annually to ensure that all code requirements are met.

A General Plan amendment may be needed to ensure that the program is allowed in Commercial Zones. In addition, several changes to the Municipal Code would need to be made to allow for a successful master-lease program including:

1. *Modification to length of stay limitation* - Under current provisions of the Municipal Code, a resident cannot occupy a motel/hotel room for more than thirty days. To implement a master-lease program, the 30-day limitation would need to be modified.
2. *Modification of the definition of commercial use* - To ensure the motel/hotel continues to be a commercial use, the master-lease program would limit the number of rooms that could be leased to the nonprofit. The Municipal Code would need to be modified to allow

for master leasing if no more than 49% of the rooms are leased to the nonprofit for the site to maintain its commercial use.

3. *Modification of approval needed* - Currently, depending on the zoning of the site, the owner or long-term leaseholder might be required to obtain City approvals prior to moving forward with the master-lease of guest rooms to house the homeless in the City:
  - In the CP-Commercial Pedestrian, CN-Commercial Neighborhood, or CG-Commercial General Zoning Districts, the owner or long-term leaseholder would be required to obtain a Conditional Use Permit to lease a block of rooms if the rooms are in a Single Room Occupancy (SRO) facility. The criteria in the Zoning Code for SRO facilities would likely need to be revised to add more flexibility for size of units to make such projects viable.
  - In the Downtown Commercial Zoning Districts, a Special Use Permit would be required.

### **Options for Consideration**

1. *Modification of Approval Needed*— The Housing Department held initial conversations with a handful of hotel/motel owners asking them if they are willing to navigate the City's entitlement and approval processes for the purposes of leasing a number of guest rooms to homeless individuals in the City. Their response was they are not interested in setting hotel/motel rooms aside for the homeless if it requires them to obtain a Conditional Use Permit or another City issued entitlement. There are several options for approval, including:
  - a. By Right – A “by right” approach would involve code amendments to allow the described supportive housing use to be located in commercial districts without discretionary review of the proposed use. A supportive housing master-lease program for the homeless would be allowed to move forward without any Planning permit if it and the property meet the basic criteria described above. This would expedite the master-lease process and would ensure that people are housed quickly. It would also increase the number of motel/hotel owners interested in the process. The disadvantage of this approach is that there is no permit to revoke, so the City would have to rely on the grant agreements and enforcement terms of the “by right” qualifications in event that the nonprofit or motel/hotel owner stops complying with the basic criteria.
  - b. Require a Special Use Permit – Participating hotel/motel owners would be required to obtain a Special Use Permit prior to entering into a supportive housing master-lease program for the homeless. The Special Use Permit process requires the PBCE Director to approve the Permit and any appeal to be heard by the Planning Commission. The benefit to this approach is that the Special Use Permit would contain all the proposed requirements and conditions that both the owner and nonprofit would need to meet. If the requirements were not met, the Permit could be revoked. The disadvantage of this approach is that it will take longer and cost more than a by right approach and it may limit the number of owners willing to participate.

- c. Require a Conditional Use Permit – Participating hotel/motel owners would be required to obtain a Conditional Use Permit to participate in the program. This process requires that the Planning Commission approve the Permit and any appeal would be heard by the City Council. This permitting process requires the most time and cost to the applicant and it may limit the number of owners willing to participate.
2. *Length of Master-Lease Program* – To meet the needs of the homeless residents, the length of the program needs to be sufficient so that the household is stabilized and to prevent displacement. Because the use of the rooms would still be considered commercial, a key question is how long the master-lease program should be allowed to operate before it must convert back to a traditional hotel/motel use. Regardless of the length of time, if residents are still living in the hotel/motel, then a transition plan must be created to plan for the eventual move of the tenant into another apartment. Options for the program include:
1. Two years – A two-year minimum is necessary to stabilize the household. The majority of successful transitional housing programs are two-year programs. However, residents may be challenged to find affordable housing to transition into at the end of the two years, which may lead them back to homelessness. Ending the program after two years would decrease the overall housing options for the homeless during a time when limited housing options are available.
  2. Five years – A five-year program would allow the household to stabilize and provide sufficient time to transition the household into permanent housing. In addition, it would create more opportunity to provide housing to more than just one household per hotel room. If a typical household remained in the room for one to two years, then two to three households could benefit from each hotel room.
  3. Two or five years with an extension provision – A program that is allowed to extend after an evaluation of the first time period would allow the program to continue if needed and discontinued if it is determined to be either no longer needed or unsuccessful.

#### **NEXT STEPS / RECOMMENDED ACTIONS**

The following are the next steps for pursuing the actions discussed in this memorandum:

- Prepare a project scope and work program for the update of applicable sections of the General Plan and San Jose Municipal Code, including, but not limited to Title 20 of the Zoning Code, and completion of environmental clearance under the California Environmental Quality Act (CEQA). The goal would be to provide this in the next two months.
- Identify potential funding sources for rental subsidies in order to house homeless individuals and families in a hotel and/or motel.
- Conduct public outreach on proposed recommendations for changes to the Code.
- Present a proposed ordinance to the City Council in the Summer of 2014.

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**COORDINATION**

This report has been coordinated with the Planning, Building and Code Enforcement Department and the Office of the City Attorney.

We will be available at the CEDC meeting to discuss the information presented in this memo, and respond to any questions the Committee members may have.

/s/

LESLYE CORSIGLIA

Director of Housing

For questions, please contact Jacky Morales-Ferrand, Assistant Director at (408) 535-3855.

Attachment