

August 15, 2024

AGENDA ITEM 3.C

RECOMMENDATION

Staff recommends the Tracy Homelessness Advisory Committee receive and discuss 1) an informational report regarding the decision rendered by the United States Supreme Court in *City of Grants Pass, Oregon V. Johnson et al* (200 U. S. 321) and its potential impacts on City homelessness efforts and 2) a status update on the Temporary Emergency Housing Facility and associated City-Wide efforts.

EXECUTIVE SUMMARY

Staff recommends that the Tracy Homelessness Advisory Committee (THAC) receive, discuss and accept this informational report regarding the decision of the US Supreme Court; and its impact on the efforts of the City of Tracy's Homeless Services, as well as an update on the current state of enforcement, diversion, shelter operations, construction of the TEHF, and associated policy questions that may arise.

BACKGROUND AND LEGISLATIVE HISTORY

In the western United States, public agency response to homelessness has been significantly shaped by The Ninth Circuit Court of Appeals decision in *Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019). In the *Martin* case, the Court of Appeals held that an ordinance adopted by the City of Boise, Idaho violated the Cruel and Unusual Punishments Clause articulated in the Eighth Amendment to the United States Constitution by imposing criminal sanctions against homeless individuals for sleeping outdoors on public property, when no alternative shelter was available to them. The decision was predicated on a legal precedent established by the Supreme Court of the United States (SCOTUS) back in 1962 in, *Robinson v. California* (370 U.S. 660), in which SCOTUS struck down a California law that made it illegal to be addicted to narcotics. In *Robinson*, the Court determined that the law violated the Eighth Amendment by criminalizing a status rather than misconduct. Similarly, in the *Martin* case, the Ninth Circuit determined that sleeping on public property constituted "involuntary conduct" by individuals who did not have access to shelter beds and the City of Boise's law criminalizing such "status" violated the Eighth Amendment.

Virtually overnight, the *Martin* case required many cities throughout the western United States to stay enforcement of similar ordinances until they could objectively demonstrate that they had sufficient shelter beds in their respective jurisdictions to meet or exceed the Point-In-Time (PIT) counts of homeless individuals determined biennially through separate legally mandated processes. As many cities were unable to provide adequate numbers of shelter beds, they began to struggle with how to address growing levels of camping and sleeping in public spaces. Several state and federal circuit court decisions soon followed with additional restrictions and controls that impacted cities regarding confiscation of personal property, encampment cleaning processes, and notice requirements. These subsequent decisions, while not controlling on the entire 9th Circuit jurisdiction, further informed and or directed how many western cities felt they could or should address the issue of homeless individuals.

Concurrently with these decisions, the City of Tracy was facing an increase in the number of homeless individuals camping or sleeping on public property or right of way. Mindful of the court decisions, the City adopted a Homeless Strategic Plan, which was, in 2020, amended and re-adopted (as amended, the Plan). The Plan outlines an ongoing comprehensive strategy to make homelessness rare, brief, and non-recurring in the City of Tracy. The direction and goals included in the Plan built on the progress that the City had made towards ending homelessness while also recognizing new practices, emerging challenges, and opportunities to develop a system that uses all available resources to house people experiencing homelessness.

The plan established four overarching goals with short-term, mid-term and long-term objectives, these are

GOAL 1: INCREASE HOUSING OPTIONS IN TRACY

GOAL 2: INCREASE ACCESS TO COORDINATED SUPPORT SERVICES FOR PEOPLE EXPERIENCING HOMELESSNESS

GOAL 3: DEVELOP ACTION PLANS FOR ENGAGING WITH PEOPLE EXPERIENCING HOMELESSNESS

GOAL 4: ENACT SPECIFIC STRATEGIES FOR VULNERABLE SUBPOPULATIONS EXPERIENCING HOMELESSNESS

Goal 3 Included the following objectives:

- (1) Establish “Law Enforcement Protocol” for initiating contact with people experiencing homelessness that complies with the recent *Martin* decision;
- (2) Establish “Crisis Response Protocol” for local service providers to render rapid crisis support — including after-hour services for people experiencing or at-risk of homelessness; and
- (3) Partner with county agencies (including the District Attorney’s Office and the San Joaquin County Jail) to evaluate opportunities for diversion programs or other alternatives to incarceration for people experiencing homelessness—including a warm “hand off” to service providers to render immediate crisis support services or emergency housing.

Goals 1-3 included objectives which led to the rapid development of the TEHF site. The TEHF site continues to be constructed but has been phased in development in such a way that it currently provides temporary housing and support services for up to 85 individuals. The TEHF Phase II construction of a sprung structure is anticipated to be completed in early 2025, while several components remain to be approved for contract pending funding and resource identification. Completion of Phase II and funding availability, or lack thereof, will present to the City of Tracy several options and decision points regarding the future operations and development of the site.

In addition to the Plan and TEHF, in 2022, the City Council amended the Tracy Municipal Code (TMC) to expressly prohibit certain activities, such as camping and sleeping, in City parks and open spaces. However, these restrictions were not enforced because of *Martin*. As issues with homelessness continued to escalate in certain areas of the City, in December 2023, the City Council further amended the TMC to identify public parks as “sensitive uses” in order to utilize police powers to enforce already established prohibitions in such areas.

The entirety of the actions taken by the City vis a vis the adoption of the Plan and enforcement ordinances were designed to provide the City with a framework of support and enforcement that

would allow of the City to enforce its anti-camping ordinances and to provide shelter and support services via the TEHF and wrap around services located therein. Since 2020 to date the City has been developing the TEHF site and successfully enforcing its anti-camping or sleeping ordinances.

On June 28, 2024, SCOTUS rendered its ruling in the long-awaited class action case of *City of Grants Pass, Oregon V. Johnson et Aa* (200 U. S. 321). This decision expressly overturned the Ninth Circuit's ruling in overturned *Martin*, by ruling that enforcement of anti-camping ordinances did not violate the Eighth Amendment regardless of the availability of shelter beds. So, as of today, public agencies may advance their enforcement actions regardless of PIT counts and available shelter beds.

Importantly, the *Grants' Pass* case only addressed the Eight Amendment issue as related to the enforcement of anti-camping ordinances. This case does not change existing law on confiscation of personal property or due process noticing requirements.

ANALYSIS

The SCOTUS decision in *Grant's Pass V* does not impact or require any change to the current programs and enforcement conducted by the City of Tracy. The decision does however result in an opportunity to review and discuss the status of enforcement programs, goals and outcomes; as well as an opportunity to update the THAC on the impacts of the Plan, current status of the TEHF construction, funding and operations. A review and discussion of all these elements is warranted by the recent decision because, although no change is required as a result of the decision, the decision and its impact on the *Martin* decision provides an opportunity for the City to determine if the current program is the appropriate direction for the City.

The net impact of the City's current Plan is that there has been a general improvement in the conditions found on public rights of way, infrastructure and support provided to homeless individuals. Now, as the City nears the final development and construction of PHASE II of the TEHF there will be a need to raise a series of policy decisions for which the THAC will need to consider and make recommendations to the City Council that will relate to the future operations and or funding of the TEHF. Staff has prepared a slide presentation to discuss the city-wide impacts that the Plan and current TEHF model have had on enforcement, city parks, services, and illegal dumping/bulky waste throughout the City, and the policy/service questions that will need to be taken up soon.

In addition to this report, staff will be presenting a Power Point presentation (see Attachment A) through which staff will provide an update on operational and construction activities related to the TEHF.

FISCAL IMPACT

There will be no fiscal impact associated with this informational item. Staff would note however that decisions regarding the TEHF, its funding and the development at the site will be forthcoming and many of them will carry financial considerations that will require THAC consideration and recommendations to the City Council for decisions.

PUBLIC OUTREACH/ INTEREST

Staff continues to work with their community and public entity partners to update, inform and deploy resources to support City of Tracy unhoused individuals.

CEQA DETERMINATION

Review under the California Environmental Quality Act is not applicable for this report.

STRATEGIC PLAN

This agenda item is consistent with the City Council's adopted 2021-2023 Strategic Priorities, Public Safety Strategy Plan, Goal No. 2, Implementation of the Adopted Homelessness Strategic Plan, Item No. 3, to partner and contract with shelter service provider to operate the facility.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends the Tracy Homelessness Advisory Committee receive and discuss 1) an informational report regarding the decision rendered by the United States Supreme Court in *City of Grants Pass, Oregon V. Johnson et al* (200 U. S. 321) and its potential impacts on City homelessness efforts and 2) a status update on the Temporary Emergency Housing Facility and associated City-Wide efforts.

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ATTACHMENTS:

Attachment A-Homeless Services Division- PowerPoint Presentation



Homeless Services Division

OVERVIEW

- City Attorney SCOTUS Summary
- Tracy Police Department Overview
- Public Works-Community Preservations Unit
- Parks, Recreation & Community Services Department
- Construction Summary
- Phase III and Phase IV
- Shelter Operations Update
- Navigation Center – Campus Concept
- Homeless Services Division Discussion



Legal Framework

- *Martin v. City of Boise, 920 F.3d 584 (9th Cir. 2019)*
- *City of Grants Pass, Oregon V. Johnson et al, 200 U. S. 321 (Supreme Court, 2024)*



Tracy Police Department Overview

Familiar Faces January 2023- July 2024:



Patrol Activities June 2023- July 2024:

Activities	
	New Clients Enrolled to National HMIS Database 316
	Outreach Contacts 613
	Case Management Sessions 549
	Service Transports 232

Accomplishments	
	Housing Obtained 20
	Shelter Enrollments 76
	Vital Documents Obtained 21
	Obtained Mental Health Services 18

Police Responses	
	Security Checks Initiated by Officers 423
	Calls Received from the Public 73
	Requests for Assistance/ 911 12
	Total Law Enforcement Responses 920

Dispositions	
	Citations Issued 34
	Arrests with Booking 41
	Mental Health / 5150 Transports 28
	Medical Response 4

Tracy Police Department Highlights

- The Tracy Municipal Codes have been updated regarding Unlawful Camping and Storage of Personal Property in designated public spaces, including parks. The Supreme Court decision on Grant Pass vs. Johnson validated our update to the Tracy Municipal Code. This means that the Tracy Police Department was ahead of the curve and the actions we took, as well as the citations issued during that period, would all be upheld if challenged.
- Between November and December of 2023, El Pescadero Park, Detention Basin 4, and Plasencia Fields were all vacated and restored to their original purpose. The restoration of El Pescadero Park is making way for the construction of the Multi-Generational Recreation Center.
- The City Attorney's Office has recently pursued over 90% of the Municipal code violation cases that the Tracy PD has issued through the courts.
- In 2022 through 2024, the Tracy PD received \$643,250 in grants to initially implement Familiar Faces in partnership with San Joaquin County Behavioral Health. As a result of the programs success, the police department will be able to hire an Administrative Assistant and add an additional Homeless Outreach Coordinator focused on the Mobile Evaluation Team (MET) for mental health.
- The Tracy Police Department has partnered with the California Highway Patrol, CalTrans, and Union Pacific Railroad to proactively respond to unincorporated areas of Tracy, focusing on homeless outreach and ensuring public safety related to the unhoused, debris, and crime.
- Updated No-trespassing letters were received from private property owners, CalTrans and Union Pacific Railroad to enhance enforcement efforts.
- Bi-weekly meetings are held at the police department with agency partners, service providers, Homeless Services division, Familiar Faces, Tracy Community Connections Center, Fire, Code Enforcement, and Public Works to effectively respond and provide services to the unhoused population in unincorporated areas within or adjacent to city limits.
- We conduct daily checks of parks and public spaces to ensure that there are no violations of our Tracy Municipal Codes. To date, there have been no instances of unhoused individuals reestablishing encampments in parks and public spaces. When unhoused individuals are found setting up tents, they are immediately offered services and cleared from the area.



Public Works- Community Preservations Unit



- Our Community Preservation Unit(CPU)) removed 450 tons of debris from City property in 2023.
- Since the shelter has been opened, CPU has seen an approximate 50% decrease in overall illegal dump weights with a small uptick in localized small debris/clean up service requests which are handled with an average response time of <48 hours.



Parks, Recreation & Community Services Department

- Park signs updated
 - Park Closing Hours (T.M.C. 4.16.190)
- Significant decrease in encampments in City parks & community user complaints
- El Pescadero Park future location for New Multi-Generational Recreation Center (*anticipated completion Fall 2026*)



Plasencia Fields
May 2022



El Pescadero Park
December 2022



Think Inside the Triangle™

Parks, Recreation & Community Services Department

- As of July 2024
- El Pescadero Park future location for New Multi-Generational Recreation Center (*anticipated completion Fall 2026*)



Plasencia Fields



El Pescadero Park



Think Inside the Triangle™

Completed Improvements

Phase I - Demolition, Grading & Underground Utilities

- Removal of 1100 square foot building, 2500 tons, asphalt, recyclable metals, buried concrete, and other materials
- Installation of 1450 feet of 12" water pipe, 1000 feet of sewer pipe, and communications & data conduits

Phase III - Modular Buildings

Interim facility housing for 48 occupants, administration building, utilities, fire systems, temporary access road & parking, & site fencing

Phase IV – Custom Non-Congregate Container Dormitories

Individual rooms for 38 occupants, utilities, fire sprinkler & alarm systems, temporary restrooms & showers, temporary fencing

Improvements in Progress

Sewer Lift Station - Construction began in July 2024 and should be completed by October 31, 2024

Power Supply Installation - Construction anticipated to begin in August and be completed by October 31, 2024 - PG&E Activation approximately 2 months after final PG&E inspection

Phase II Contract - awarded by City Council and pending City execution

Sprung Contract - awarded by City Council and pending City execution



Phase III and Phase IV



Phase III and Phase IV

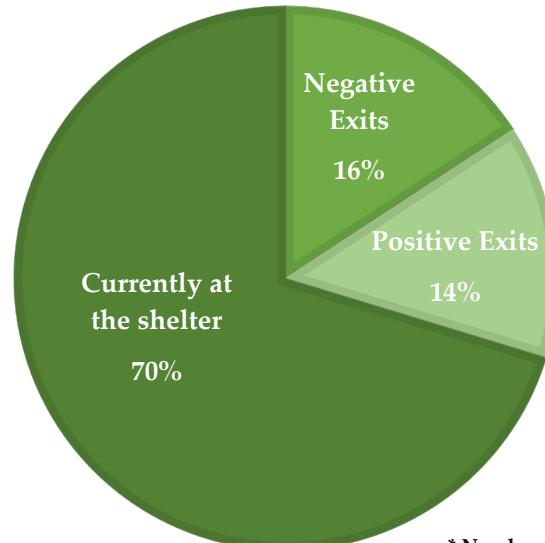
- Current services
 - 48 beds – Modular units, multi use, flexible with shelter needs
 - 37 beds – Container units, multi use, flexible with shelter needs
 - Service Gaps
 - Needs identified and not met
 - large sub populations with no support
 - medical needs
- Difficulties
 - Rule conformance
 - Length of stay
 - Engagement into supportive services
 - Housing pathways
 - Substance Use
 - Possessions



SHELTER OPERATIONS

- Since onboarding through July 31st, The Salvation Army has accomplished the following:
 - Served a total of 165 Unique Clients*
 - Total Number of Enrollments**: 203
 - Total of 23 Positive Exits
 - 11 into permanent housing
 - 12 into other positive destinations
 - Served a total of 49,027 Meals

UNIQUE CLIENTS SERVED*



* Numbers and stats are reflective from HMIS data collected effective 11/1/2023-7/31/2024

Shelter Services**	# of Services
ID Card Vouchers	34
Laundry Services	282
Mental Health Referrals	18
Substance Use Referrals	15
Case Management Services	897
Connect to Medical Provider	42
Employment Assistance	56
Housing Referrals	39

** Numbers are reflective from HMIS Service Summary data collected effective 11/1/2023-7/31/2024 in total enrollments which includes duplicated clients.

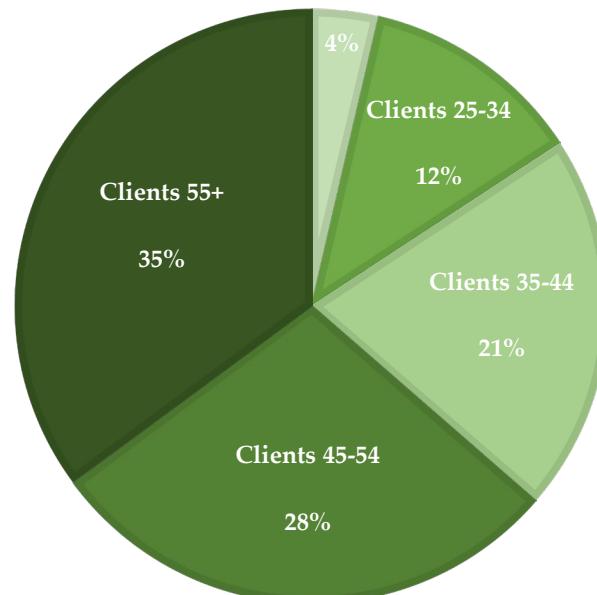


Shelter Operations cont.

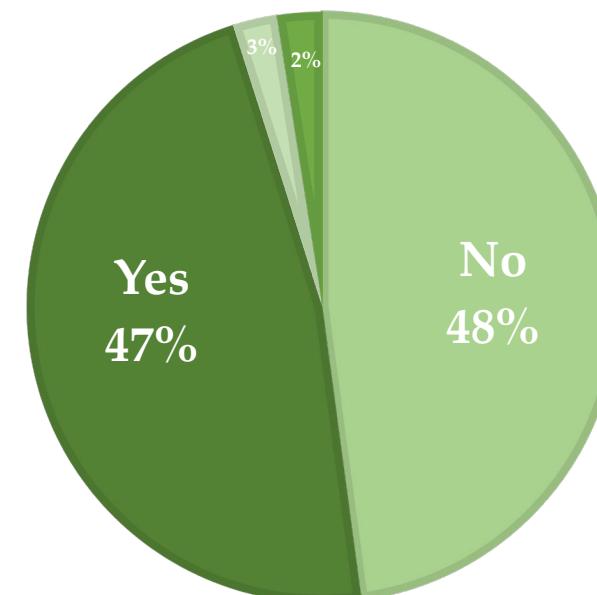
TEHF Demographics

- The largest age group at the shelter are 55+ at 35% and the second largest are between the ages of 45-54 at 28%.
- Additionally, 47% of the client population at the shelter are disabled.

AGE RANGE*



DISABLED ADULTS*



* Numbers and stats are reflective from HMIS data collected effective 11/1/2023-7/31/2024

Navigation Center – Campus Concept

Phase II

- Operations funding deficiencies – subsidize shelter operations budget with additional funding streams
- Capital funding deficiencies for kitchen, administration building and additional set of auxiliary buildings
- Upon completion of Sprung Structure City will be at Crossroad
 - Fund and Contract to Operate full site – ongoing annual expenditure
 - Find Private Entity to Fund and Operate at their expense
 - Additional considerations that impact either choice:
 - Exit lease – would reduce overall capacity
 - Maintain lease - seek revenue cost offsetting operations costs
 - Container Units – contract potential occupancy agreement
 - Fund Downtown Streets Team to enhance Familiar Faces and wraparound services
 - Partner with SJC Housing Authority to have Tracy dedicated voucher pool
 - Housing Initiative to solicit private owners





DISCUSSION

