CITY COUNCIL STAFF REPORT

DATE: NOVEMBER 18, 2021

NEW BUSINESS

SUBJECT: DISCUSSION OF REPARATIONS PROGRAM RELATED TO SECTION 14 EVICTIONS AND POSSIBLE DIRECTION TO STAFF

FROM: Justin Clifton, City Manager

SUMMARY:

This agenda item provides an opportunity for City Council to discuss a broad conceptual framework for a reparations program following the formal apology for Section 14 evictions and the decision to begin the process for removing the Frank Bogert statue from in front of City Hall.

RECOMMENDATION:

Direct Staff as appropriate.

BACKGROUND:

Section 14 is an approximately one square mile tract of land owned by members of the Agua Caliente Band of Cahuilla Indians. Between 1930 and 1965, Section 14 was home to many Black, Indigenous and other minority residents. Between the late 1950’s and mid-1960’s, the City of Palm Springs facilitated the eviction of Section 14 residents, including the destruction of homes and personal property, so that the Section 14 property could be developed commercially. Frank Bogert served as Mayor of Palm Springs during much of the Section 14 evictions, causing some Palm Springs residents to perceive him as a symbol of the evictions.

On September 29, 2021, City Council held a joint session with the Human Rights Commission regarding Section 14 and the Bogert statue located in front of City Hall. At the meeting, City Council gave direction to Staff to begin the process of removing the Bogert statue, issued an apology for the City’s role in evicting residents from Section 14, and directed Staff to return to City Council to discuss a possible reparations program.

STAFF ANALYSIS:

There are numerous key questions that need to be answered to make meaningful progress creating and implementing a reparations program. Reparations for slavery has been discussed in America for decades, but very few actual reparations have ever been
paid, in part because of the complicated questions that arise when trying to contemplate what a thoughtful and effective reparations programs should look like.

The questions and analysis below are not exhaustive and do not reflect thorough public policy research on reparations. Rather, this staff report contains broad areas of discussion identified through preliminary research that are intended to help frame the general parameters of a reparations program. Staff anticipates refinement and implementation of a reparations program to take place over many additional months and even years.

**Should the program be built on a settlement approach or an atonement approach?**

There have been myriad approaches to reparations put forth by a large variety of advocates. Two broad distinctions of reparations proposals include a “settlement approach” and an “atonement approach.” The settlement approach attempts to quantify what is owed, similar to the way damages would be calculated in a traditional settlement dispute. Accordingly, reparations for Section 14 evictions would likely attempt to calculate the value of residential and personal property destroyed, apply factors for interest or potential opportunity losses and derive at a number owed to each individual or household.

The advantage of the settlement approach is that it is likely the most thorough way to establish a true nexus with the economic damages associated with Section 14 evictions. Another advantage is that once economic damages are calculated and paid, the reparations can be considered complete.

One of the disadvantages of the settlement approach is that it can be difficult to determine a methodology for calculating damages that withstands scrutiny. It is unclear what records exist and what details those records can substantiate. The resolution adopted by City Council to issue a formal apology for Section 14 evictions states that, “The City of Palm Springs kept no official records of the persons displaced and the residences destroyed in Section 14....”

The atonement approach, by contrast, is focused less on a strict calculation of damages and more on the need to make things right. The advantage of this approach is that it doesn’t rely on economic calculations that can be difficult to establish and defend. Also, the atonement approach can be evaluated and adjusted over time as necessary to achieve the desired goal to make amends or to achieve the outcome of greater social equity.

The disadvantage of the atonement approach is that it may diminish the nexus with the economic damages associated with Section 14 evictions, and the more open-ended nature of the atonement approach may feel like less of a concrete commitment to the intended beneficiaries of reparations.
**Should reparations be limited to those with direct ties to Section 14?**

While Section 14 is the impetus for local reparations in Palm Springs, it remains a question whether reparations should be *limited* to those with direct ties to Section 14. The advantage of limiting reparations to those with direct ties to Section 14 is that it reinforces and accentuates the nexus between reparations and the particular historical circumstance for which the City is trying to make amends. Another advantage is that keeping the scope of reparations narrower constrains the potential financial impact of a reparations program.

One disadvantage of such limitation is that establishing thresholds and standards of proof for eligibility could be very difficult. For instance, even if there is a good historical record for proof of residency in Section 14, it may be difficult to substantiate which families resided at the time of evictions and the value of lost personal property. Perhaps more importantly, limiting reparations to those with direct ties to Section 14 could exclude Palm Springs residents who experience significant inequity from benefiting from a reparations program.

Reparations have long been discussed in the context of the history of slavery in America, the eviction of Indigenous People from their lands, and other historical examples of discrimination that have resulted in substantial inequity for minority populations. Expanding this program to address reparations for Section 14 and other instances of historic discrimination that have exacerbated inequity among Palm Springs residents would make program administration substantially easier and expand the benefit of such programs to other disadvantaged residents.

**Should reparations be limited to Palm Springs residents?**

The answer to this question may hinge somewhat on whether the program is built on an atonement approach or a settlement approach. Since the settlement approach is premised on calculating economic damages, it likely suggests directing reparations toward all those directly impacted by Section 14 evictions, regardless of whether they remained in Palm Springs.

Under the atonement approach, the premise could be that Section 14 created substantial inequity within the community of Palm Springs and the goal of reparations is to address the inequity within Palm Springs. The disadvantage of narrowing reparations to current residents of Palm Springs is that it may leave out families that were impacted by Section 14 but who moved away from the area.

**Should reparations be made in the form of payments or programs?**

The advantage of issuing reparations in the form of monetary payments is that it allows those impacted by the Section 14 evictions the ability to use funds for whatever purpose they deem most appropriate. Payments are also sometimes viewed as the only way to concentrate the benefit of reparations in the hands of the intended beneficiaries. Monetary payments are well aligned with a settlement approach to reparations.
The disadvantage of monetary payments is that it can be difficult to establish a clear nexus between Section 14 evictions and the amount of payment, making the program vulnerable to criticism and potentially state laws that prohibit the gift of public funds. One of the advantages of making reparations in the form of programs is that it is easier to substantiate public benefit, thereby avoiding a potential gift of public funds arguments. Another advantage is that programs can be designed to grow targeted attainment in social conditions known to create greater equity. For instance, greater attainment of education, income, housing, healthcare and the like are associated with myriad benefits that impact socioeconomic status and wellbeing. Making reparations in the form of programs enables the City Council to ensure reparations are directed at these socioeconomic conditions.

How much should be allocated?

City Council had a very brief conversation about the amount of funds that would be allocated to a reparations program. Currently, the City’s General Fund Balance is healthy, due in part to the dramatic cuts to operations during the pandemic and the Federal Funds distributed to cities through the American Recover and Reinvestment Act (ARPA). While the City’s General Fund Balance is relatively healthy, it should be noted that these are not on-going resources. For that reason, funds allocated from Fund Balance should favor one-time expenditures. It should also be noted that there are substantial unidentified priorities that could be addressed with surplus fund balances.

City Council briefly discussed making an allocation of $5 million for a reparations program. This amount could be safely allocated from existing fund balance, enabled by ARPA funding. Council could also direct Staff to allocate any other amount that our current financial condition allows.

What kind of programs should be considered?

City Council could consider countless programs. Assuming Council favors programs that are designed to close the attainment gap in education, income, healthcare and housing, Council could consider:

- Leveraging funds for a Universal Basic Income Pilot Program
- Expanding the City’s existing Housing Fund for weatherization / façade and landscaping improvements
- Down payment assistance / home equity partnership to promote home ownership
- Investment in JOJ and other neighborhood facilities that promote health and wellness
- Equity grants for service providers for existing and new programs
- Job Training
- Youth programs
- School scholarships
What have other communities done?

While there are countless examples of social programs designed to address the inequities among disadvantaged groups, there appear to be only a small handful of local governments that have had earnest conversations about reparations, per se. And among those communities that have discussed or committed to reparations, even fewer have actually dedicated funding and begun administering programs. Accordingly, Palm Springs would appear to be among the very first communities in the U.S. to administer a robust reparations program. Preliminary research reveals the following examples of reparations efforts in other U.S. communities:

- Thirteen Mayors have signed onto to MORE: Mayors Organized for Reparations and Equity, an organization dedicated to the pursuit of reparations for Black Americans due to the history of slavery. Mayors signing on represent: Los Angeles, CA; Sacramento, CA; Stockton, CA; Denver, CO; St. Louis, MO; Tallahassee, OK; Providence, RI; Austin, TX; Asheville, NC; Carrboro, NC; Kansas City, MO; Durham, NC; and Saint Paul, MN.
- Evanston, IL committed $25,000 per household for down payment assistance as a form of reparations. The initial program includes an initial investment of $400K, but the City is expected to commit as much as $10M over a period of years from cannabis tax proceeds.
- Asheville, NC committed $2.1M for reparations for Black communities focused on programs to create greater access to education, jobs, healthcare and housing. The program was created in 2020 and it is unclear if any funds have been expended.
- Providence, RI issued a 200-page report outlining racial injustices perpetrated on Black and Indigenous persons as phase I to a three-phased approach to addressing reparations. Phase II is expected to be a public “reconciliation” about the details of the report. Phase III is intended to include actual reparations.
- Culver City, CA issued a resolution formally apologizing for racial history and will consider a reparations program.

Other considerations:

- One common criticism about the few reparations programs that exist is that they can be slow to deliver. For this reason, Council could consider a blend of programs that include some that could be deployed rapidly and others that may take more time to develop.
- Council may wish to also create a blend of programs that concentrate benefit directly at the individual/family scale, such as down payment assistance or home repair assistance, and those with broader public benefit, such as investment in neighborhood parks.
- Council could consider further analysis that would analyze programs by cost, benefit to recipients and ease of administration.
- Council could consider dedicating future one-time or on-going revenue sources to support reparations programs.
Discussion of Reparations Program

- Some or all of the reparations programs could be vetted by the Human Rights Commission, Equity and Social Justice Committee and/or other stakeholder/resident groups.
- While reparations focus primarily on compensation, there remains lingering segregation, discrimination, prejudice, and unconscious biases that hamper progress toward a more just, equitable and inclusive community. Council could consider including in a reparations program an attempt to facilitate community dialogue to address and attempt to improve these dynamics.

FISCAL IMPACT:

Fiscal impact is determined by the funds City Council directs to be allocated to these programs.

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ATTACHMENTS:

None.