Staff Report Details (With Text)

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Type:	Minute Order			**Status:**	Action Item
File created:	5/25/2022			**In control:**	City Council Meeting Agenda
On agenda:	6/13/2022			**Final action:**	
Title:	CC - ACTION ITEM: (1) Presentation and Discussion of Creating a System of Reparations Designed to Narrow the Racial Income and Housing Gap in the City, Per the Recommendation from the City Council Ad Hoc Equity Subcommittee; and (2) Direction to the City Manager as Deemed Appropriate.				
Sponsors:					
Indexes:					
Code sections:					
Attachments:	1. Attachment 1 City of Evanston Resolution 58-R-19, 2. Attachment 2 Evanston Historical Context Study, 3. Attachment 3 City of San Luis Obispo DEI Recommendations, 4. Attachment 4 AB 3121 Interim Reports, 5. Attachment 5 RESO 2021-R066 - Acknowledging Racial History of Culver City				

Date	Ver.	Action By	Action	Result

CC - ACTION ITEM: (1) Presentation and Discussion of Creating a System of Reparations Designed to Narrow the Racial Income and Housing Gap in the City, Per the Recommendation from the City Council Ad Hoc Equity Subcommittee; and (2) Direction to the City Manager as Deemed Appropriate.

Meeting Date: June 13, 2022

Contact Person/Dept: Onyx Jones/City Manager's Office

Phone Number: (310) 253-6023

Fiscal Impact: Yes [] No [X] **General Fund:** Yes [] No [X]

Attachments: Yes [X] No []

Commission Action Required: Yes [] No [X]

Public Notification: (E-Mail) Meetings and Agendas - City Council (06/08/2022);

Department Approval: John M. Nachbar, City Manager (06/08/2022)

RECOMMENDATION

Staff recommends the City Council (1) discuss creating a system of reparations designed to narrow

the racial income and housing gap in the City, per the recommendation from the City Council Ad Hoc Equity Subcommittee ("Subcommittee") (Mayor Daniel Lee and Council Member Yasmine-Imani McMorrin); and (2) provide direction to the City Manager as deemed appropriate.

BACKGROUND

On June 14, 2021, City Council expressed a commitment to making Culver City a welcoming and inclusive community by voting to adopt Resolution 2021-R066 acknowledging the racial history of Culver City (Attachment 5). The Resolution's recitals contain the following statement:

> "Whereas, the City commits to developing and enforcing policies and practices to make amends for the past, including creating a system of reparations designed to narrow the racial and income housing gap in the City, through:
>
> 1. Creating a fund which sets aside a specific percentage of tax revenue received from cannabis businesses operating in the City to be used to correct racial disparities in the unequal enforcement of marijuana laws; and
> 2. Providing financial assistance for housing to low-income residents and prospective residents, including people of color, the unhoused, people employed in Culver City and within the Culver City Unified School District, veterans, seniors, and the disabled; and
> 3. Developing affordable housing sufficient for all those among the City's workforce, including the employees of the Culver City unified School District, who wish to live in Culver City; and
> 4. Enlisting the help of local historians and other volunteers to find people of color and those of non-Christian religious faiths, or their descendants, who have been prevented from either buying or renting, or were forced out of housing, in Culver City since its founding, with the intent of identifying programs that offer direct housing assistance, equitable access to City employment, or other reparations."

In the Resolution, the City Council resolved as follows:

A. The City acknowledges, apologizes for, and condemns all racially motivated, discriminatory, or exclusionary aspects of the City's history, and deeply regrets the pain, hurt, and suffering such policies have caused;

B. City Council and staff will continue to engage in individual and collective work to understand bias;

C. The City will continue to examine the historical role that racism has played in Culver City by committing resources to draft a Racial Equity Action Plan and will review and revise its policies, procedures, ordinances, values; goals, and missions through an anti-racism lens to foster an unbiased and inclusive environment that is free of discrimination and harassment toward any person or group;

D. The City will continue to promote diversity, equity, and inclusion in its access to City services, programs, and facilities, and will stand up to bigotry, hatred, intolerance, racism, and violence; and

E. The City equivocality rejects racism in all its forms and is committed to working towards building an antiracist Culver City where people of all races and cultural backgrounds

are welcome to live and prosper

Based on the direction given by the City Council Subcommittee, staff researched four cities (City of Evanston (Illinois), City of San Luis Obispo, City of West Hollywood, and the City of Santa Monica) to get more details and information regarding reparation programs that were either developed or being developed in their agencies.

DISCUSSION

City of Evanston

In the Summer of 2019, the City Council for the City of Evanston passed Resolution 58-R-19 (Attachment 1), "Commitment to End Structural Racism and Achieve Racial Equity". The City also paid a consultant to conduct a Historical Context Study. The study included an in-depth analysis of the history of the area (back to the 1800's) and it researched cultural, and racial segregation and discriminatory policies that were previously in place (Attachment 2). In July 2019, Evanston began holding community meetings; affordable housing and economic development were the top priorities identified during those meetings. The strongest case for reparations was in the area of housing, where there was sufficient evidence showing the City's part in housing discrimination as a result of early City zoning ordinances in place between 1919 and 1969, when the City banned housing discrimination.

On November 14, 2019, the Evanston City Council Approved Resolution 126-R-19 which established the City of Evanston Reparations Fund and formed the Reparations Subcommittee.

- The resolution diverted all adult use cannabis funds received by the Illinois Department of Revenue for sales of adult use cannabis to a separate fund in a City account for local reparations (up to $10M). It was later stated on a June 2, 2022 memorandum from the Members of the Reparations Committees "that any tax used to fund Reparations have some nexus with restorative justice".
- The City also allowed donations to this fund from separate organizations and/or corporations.

The City of Evanston formed a restorative housing program which provided $25K of assistance to each applicant. The funds could be used for the following:

- Home Ownership: Provides down payment/closing cost assistance to purchase real property located within the City.
- Home Improvement: Provides funds to repair, improve, or modernize real property located within the City.
- Mortgage Assistance: Provide funds to pay down mortgage principal, interest, and/or late penalties for real property located within the City.

The Reparations Committee approved 122 applicants qualifying as "Ancestors" for the City's Local Reparations Restorative Housing Program. The 122 Ancestor applicants were randomly ordered. At the direction of their Reparations Committee, funds currently available for the Restorative Housing Program will be prioritized for Ancestors - defined as an African American or Black individual, at least

18 years old at the time, who was an Evanston resident between 1919 and 1969. Some challenges with awarding the funds included:

- Some recipients were renters
- Some renters would lose their federal housing subsidy if they purchased a home, and they felt they could not afford a mortgage payment with limited income (i.e., Social Security).
- Some recipients wanted to pass their funds onto their children through a will
- Home improvement needs exceeded $25K
- Homeowners did not feel comfortable hiring and overseeing a contractor for the home improvements
- Some recipients wanted the cash but there were IRS tax implications.
- It was stated in the March 3, 2022, Members of the Reparations Committee Memo that the Evanston law department retained a Black-owned tax firm to opine on the potential consequences of the City's current program; any program that may provide a direct cash payment; and finally, any implication on entitlement aid/benefits that the City needed to be aware of legal implications for the method used to distribute the funds.

<https://www.cityofevanston.org/government/city-council/reparations>

City of San Luis Obispo

On July 7, 2020, the City of San Luis Obispo adopted a Resolution to create a Diversity, Equity, and Inclusion Task Force (DE& I-TF). Their City Council expressed a commitment to making San Luis Obispo a welcoming, inclusive, and safe community for everyone, and to promoting free thought and speech, while condemning racism, hate speech, bigotry, violence, and prejudice. The purpose of the DE& I-TF was to advise the City in developing recommendations to further the advancement of Diversity, Equity, and Inclusion (DEI) in the City of San Luis Obispo.

On January 12, 2021, the DE&I-TF made recommendations to City Council for advancing diversity, equity, and inclusion in the City of San Luis Obispo (Attachment 3). Their recommendations were categorized within the following informal "focus areas": city structure and organization, policies & practices, minority business support & attraction, San Luis Obispo Police Department & community, development of the multicultural center, the City - CalPoly - Cuesta Partnerships, the City as an Influencer (i.e., strategize, collaborate, and use position to advance DEI efforts in the County and beyond). A brief summary of the recommendations are listed below:

- Recommendation #1 Adopt a Diversity, Equity & Inclusion Major City Goal for FY21-23.
  - Designation of DEI as a Major City Goal will allocate resources, specific work plans, and identify outcomes that will move the community towards the desired broader, lasting change rooted in diversity, equity, and inclusion.

- Recommendation #2 Establish Office for DEI within the City

- The DEI office would support the City's comprehensive approach to improving DEI, and would work with all departments to improve policies, processes, standard operating procedures, and cultivate a shared responsibility for diversity, equity, and inclusion.

- Recommendation #3 Develop and Implement DEI Strategic Plan for the City
  - Create a strategic plan for a comprehensive DEI Initiative. Include assessment of City policies, practices, environments, and community needs. Key Elements included dedicating specialized resources (staffing, etc.), engage the community and creating a City/Community strategic planning steering committee.
- Recommendation #4 Commit to ongoing, annual funding of at least $150,000 for DEI High-Impact Grants
  - Continue the 20-21 grant allocation permanently as an annual program dedicated to funding nonprofit organizations that have a track record of operating high impact and relevant programs focused on improving the lives of members of marginalized communities in SLO.
- Recommendation #5 Charge the Human Relations Commission (HRC) to Designate Diversity, Equity and Inclusion as a Standing Priority
  - Grant the HRC authority and standing to influence the City's DEI efforts in the community, sustain the work of the DEI Task Force, administer the DEI Grants - as it does the GIA grants and advise on DEI strategic plan development, implementation, and accountability.

<https://www.slocity.org/home/showpublisheddocument/29101/637468139376530000>

City of Santa Monica

The City of Santa Monica performed a historical study and determined that by the late 1960s, well over 2,500 residents had been displaced in Santa Monica by the Civic Center and I-10 highway projects. In March 2019, while discussing proposed amendments to the Affordable Housing Production Program, the Santa Monica City Council asked their staff to explore what was called a "restorative justice" measure as a way to commemorate the Belmar Triangle neighborhood beyond naming recognition of the new sports field on the site at the Civic Center. The City Council directed staff to consider how to add a third priority to the Affordable Housing wait list for families displaced by the development of the Civic Center in the 1950s and went further to propose including households displaced by the construction of the I-10 freeway in the 1960s. Such a policy required amending guidelines of the Affordable Housing Production Program (AHPP) and the Housing Trust Fund Program (HTF).

At the July 13, 2021, Santa Monica City Council meeting, staff proposed two distinct revisions to the AHPP Guidelines and the HTF Guidelines:

- The first item is a proposal to establish a pilot program to prioritize households on the City's affordable housing waitlist who were displaced by the Civic Auditorium or I-10 Freeway projects.
- The second item is a proposal to incorporate changes related to Santa Monica worker priority in order to broaden diversity in the applicant pool for affordable housing

Santa Monica also took similar steps as the City of Evanston by forming committees, hosting community meetings, etc. They received community input from neighborhood groups, CCSM Residents, Human Services Grantee Agencies, City's Housing, Affordable Housing, and Rent Control lists, Cradle to Career and Early Childhood Task Force, SaMoNews, Cultural Affairs Community Group, and ArtSaMond.

On July 13, 2021, the Santa Monica City Council received a presentation on the implementation of a "Right to Return Pilot Program". The Right to Return Program provides a priority for up to 100 qualifying households (who can prove they are descendants of those families who lost their homes) on the City's Below Market Housing waitlist. The Pilot program approach was to allow staff the time to test and evaluate outreach strategies, applicant demand, the availability of historical documentation, verification process, compliance with governing legislation, and the administrative resources required to implement a broader program.

During the conclusion of the presentation to City Council, the staff of Santa Monica stated that within a year of implementation, staff would evaluate the estimated ongoing demand, best practices for documenting historical displacement, staff resources necessary to continue program implementation, and the program's overall success and/or challenges, including congruence with governing fair-housing legislation. Based on information provided on the City of Santa Monica's website the official start date of the pilot program was January 18, 2022.

Current and Proposed Prioritization:

- First priority (existing) - Santa Monica households who have been or will be displaced from their homes due to a natural disaster, a government action, removal permit eviction, owner occupancy, Ellis Act, or a mobile home park closure.

- Second priority (new) -- Households or descendants of households displaced from the Historic Belmar Neighborhood in what is today the Civic Center or along the I-10 Highway.

- Third priority (existing) - All other households who either live in Santa Monica or work at least 25 hours per week in Santa Monica. This includes persons in job training programs with a Santa Monica employer; or who lost their employment or had work hours reduced on or after March 1, 2020, due to COVID-19-related reasons; or who previously worked in Santa Monica and now receive retirement benefits, worker's compensation, unemployment benefits, disability benefits, or vocational rehabilitation benefits from the City of Santa Monica.

<http://santamonicacityca.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=1277&MediaPosition=&ID=4397&CssClass=>

City of Santa Monica Pilot Program <https://www.santamonica.gov/press/2022/01/06/applications-open-january-18-for-below-market-housing-for-historically-displaced-households-pilot> <https://www.santamonica.gov/press/2022/01/06/applications-open-january-18-for-below-market-

housing-for-historically-displaced-households-pilot>

City of West Hollywood

On December 7, 2020, the City of West Hollywood's City Council approved the formation of a Social Justice Task Force. The Social Justice Task Force was created to increase engagement and amplify the voices of Black, Indigenous, and People of Color (BIPOC) in West Hollywood, advise on social and racial equity issues, and provide policy recommendations to the City Council to address systemic racism for the City of West Hollywood.

On January 18, 2022, West Hollywood's City Council approved the issuance of a request for proposals for a historical context study. The Staff Report indicated that the findings of the study, as well as feedback from the Social Justice Task Force, will inform the City Council's next steps in establishing racial equity initiatives. The proposed study was estimated to cost approximately $100K.

City of West Hollywood Social Justice Task Force <https://www.weho.org/city-government/boards-commissions/committees-and-task-forces/social-justice-task-force> <https://www.weho.org/city-government/boards-commissions/committees-and-task-forces/social-justice-task-force>

State and Federal Efforts

Governor Newsom signed a bill in 2020 authorizing a statewide study of possible reparations in California. On June 1, 2022, the Task Force to Study and Develop Reparation Proposals for African Americans issued its interim report to the California Legislature. The interim report surveys the ongoing and compounding harms experienced by African Americans as a result of slavery and its lingering effects on American society today. The interim report also includes a set of preliminary recommendations for policies that the California Legislature could adopt to remedy those harms. A final report will be issued before July 1, 2023. (See Attachment 4)

In the United States Congress, a bill regarding studying slavery reparations has been in progress since 1989 (HR 40).

Legal Issues

If the City Council directs staff to begin the process of ultimately developing a reparations program, there are several legal issues that will need to be considered, including Proposition 209, which was adopted by California voters in 1996 and amended the California Constitution, the U.S. Constitution, and state and federal housing laws.

Proposition 209:

In 1996, Proposition 209 ("Prop 209"), a ballot measure amending Article I of the California Constitution to add Section 31, was adopted by California voters. Prop 209 provides in part that the state (which for the purposes of Section 31 includes cities and counties) "shall not discriminate against, or grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public

contracting."

The analysis of Prop 209 provided by the Legislative Analyst at the time, stated that "[t]his measure would eliminate state and local affirmative action programs in the areas of public employment, public education, and public contracting, to the extent these programs involve "preferential treatment" based on race, sex, color, ethnicity, or national origin. The specific programs affected by the measure, however, would depend on such factors as (1) court rulings on what types of activities are considered "preferential treatment" and (2) whether federal law requires the continuation of certain programs." It is unsettled whether affordable housing assistance falls within the purview of "public contracting" under Prop 209.

Fair Housing Law:

California and federal fair housing laws each prohibit discrimination based on protected categories, including race, color, national origin, religion, sex, familial status, and disability. In addition to intentional discrimination, fair housing laws prohibit housing programs from having an unintentionally discriminatory effect, also known as a disparate impact, on the basis of a protected category. As a result, some cities have adopted race-neutral housing programs that focus on geography or other criteria rather than the race of the intended recipient. Any housing program developed as part of a reparations program would need to abide by fair housing laws.

Equal Protection Clause:

The U.S. Constitution does not permit racial classifications. If a racial classification is employed, "strict scrutiny" review is triggered, and the policy is presumptively impermissible. If there is a compelling government interest, however, and it is "narrowly tailored", then the discrimination or preferential treatment will be permitted.

FISCAL ANALYSIS

There is no financial impact with the receipt of this report; future financial impact is dependent upon which, if any, programs, and policies are approved by City Council.

ATTACHMENTS

1. Attachment 1 The City of Evanston passed Resolution 58-R-19
2. Attachment 2 The City of Evanston Historical Context Study
3. Attachment 3 The City of San Luis Obispo Staff Report and DE&I-TF Recommendations
4. Attachment 4 AB 3121: Task Force to Study and Develop Reparation Proposals for African Americans Reports
5. Attachment 5 Culver City Resolution 2021-R066 Acknowledging the Racial History of Culver City

MOTION

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That the City Council:

1. Receive a presentation and discuss creating a system of reparations designed to narrow the racial income and housing gap in the city, per the recommendation from the City Council Ad Hoc Equity Subcommittee (Mayor Daniel Lee and Council Member Yasmine-Imani McMorrin); and

2. Provide direction to the City Manager, as deemed appropriate.

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