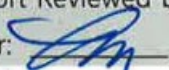


Agenda Report Reviewed by:
City Manager: 

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM

Meeting Date: April 18, 2023
To: Honorable Mayor and City Councilmembers
From: Councilmember Zollman
Subject: Resolution Supporting Activists Facing Felony Prosecution for Investigating Factory Farms and Rescuing Distressed Animals Therein
Recommendation: That the City Council approve the Resolution
Funding: Currently Budgeted: _____ Yes ___X*___ No _____ N/A
Net General Fund Cost: _____

Account Code/Costs authorized in City Approved Budget (if applicable) AK (verified by Administrative Services Department)

INTRODUCTION:

Tonight’s item is for City Council Discussion and Consideration of Approval of Resolution Supporting Activists Facing Felony Prosecution for Investigating Factory Farms and Rescuing Distressed Animals Therein.

BACKGROUND

Four animal rights activists who are members of the international grassroots activist network Direct Action Everywhere (DxE), will stand trial in a conspiracy and burglary case related to three protests that drew hundreds to Petaluma-area poultry and duck farms in 2018 and 2019. They each face felony or misdemeanor counts of conspiracy and burglary plus misdemeanor counts of trespassing, unlawful assembly and theft. They were among hundreds of protesters who gathered at three different times and locations in 2018 and 2019:

- The first demonstration took place May 29, 2018, at Sunrise Farms, northwest of Petaluma on Liberty Road. About 500 people participated and members rescued dozens of chickens.
- A second demonstration took place Sept. 29, 2018, at McCoy’s Poultry Services on Jewett Road and one chicken was rescued from the farm. About 58 people were arrested, including the four defendants.
- A third protest, which happened at Reichardt Duck Farm, west of Petaluma, took place on June 3, 2019, and had 600 demonstrators. Nearly 100 of them were arrested, mostly on suspicion of trespassing and conspiracy, officials said.

The defendants are scheduled to appear for an arraignment in April for exposing horrific conditions and for being present when others rescued sick, injured, and dying animals from inside California factory farms. Although preliminary hearings have wrapped up, they are facing years in prison for acts of kindness and compassion.

DISCUSSION:

California has one of the strongest animal cruelty laws in the United States. Penal Code (PC) Section 597 makes it a crime to intentionally and maliciously maim, mutilate, torture, wound, or kill an animal. Examples of punishable conduct are overworking, torturing, depriving of necessary food, water or shelter, and subjecting an animal to needless suffering. PC Section 599b clarifies that such cruelty includes “every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.” Unlike similar statutes in other states, PC Section 597 does not contain an animal husbandry exemption; therefore, the statute protects animals raised in commercial operations. Furthermore, PC Section 597e makes it a crime to hold a domestic animal in confinement without providing the animal with sufficient food and water. This same section provides a legal defense against the claim of trespass to anyone who enters the area where the domestic animal is confined for the purpose of providing food and water.

Also, the public in California cares deeply about nonhuman animals raised in commercial operations, as evidenced by, among other things, the overwhelming passage of Proposition 12 in 2018, which established new standards for confinement of farm animals and banned noncomplying products.

The activists’ actions raise fundamental questions regarding both the care of animals in commercial facilities and the enforcement (or lack thereof) of the state’s animal cruelty laws, the consideration of which such questions are clearly in the public’s interest.

The activists’ actions were entirely nonviolent and caused relatively nominal economic damage and they should not have to face felony charges and the possibility of significant harm to their futures to assert those defenses in court. These peaceful activists have attempted to bring violations by factory farms of California’s animal cruelty statute to the attention of the public as well as law and regulatory enforcement agencies, including video and photographic evidence of animals caught in wire cages and left with large, untreated sores and those activists have been arrested while trying to document the conditions of factory farms and rescue nonhuman animals therein from disease, thirst, and starvation.

Cases such as this draws attention to the significant animal cruelty in commercial operations; but this case also poses significant risks to the defendants’ freedom and professional futures.

It has been requested that the City Council consider passing a resolution disavowing the prosecution, or exercise leniency, and to devote the resources that could be saved from these actions to instead investigate and prosecute animal cruelty in commercial animal operations in Sonoma County.

CITY COUNCIL AND/OR GENERAL PLAN GOALS

Goal 5: Provide Open and Responsive Municipal Government Leadership

5.3.3. Encourage and increase public awareness of City Policies, decisions, programs, and all public processes and meetings, by investigating effective methods of communication and obtaining feedback from the community.

Action CHW 5c: Practice an open-door policy in City programs, and actively engage and encourage participation from all individuals regardless of ethnicity, race, religion, class, disability, sexual orientation, and gender.

ENVIRONMENTAL REVIEW

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment, according to CEQA Guideline section 15378.

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, if staff receives public comment from interested parties following the publication and distribution of this staff report such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the consent calendar.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours before the scheduled meeting date.

FISCAL IMPACT:

There is no fiscal impact associated with adoption of the Resolution.

RECOMMENDATION:

That the City Council Approve Resolution Supporting Activists Facing Felony Prosecution for Investigating Factory Farms and Rescuing Distressed Animals Therein

ATTACHMENT:

Resolution

Resolution Number XXXX-2023

City of Sebastopol
Resolution Supporting Activists Facing Felony Prosecution for Investigating Factory Farms and Rescuing
Distressed Animals Therein
In the City of Sebastopol, Sonoma County, California

WHEREAS, four individuals, Rachel Ziegler, Priya Sawhney, Wayne Hsiung, and Cassie King, (the “Defendants”), members of the animal rights and environmental organization Direct Action Everywhere (DxE), currently face felony or misdemeanor charges in Sonoma County in connection with broad-daylight investigations and open rescues of animals at two factory farms in Sonoma County: Sunrise Farms and Reichardt Duck Farm in May 2018 and June 2019, respectively; and

WHEREAS, the Defendants also previously faced charges in connection with an investigation and rescue at a third factory farm in Sonoma County, McCoy’s Poultry Services, in September 2018, the charges in relation to which were dropped by the Sonoma County District Attorney in late 2022 and early 2023; and WHEREAS, 148 nonviolent individuals in total, including the Defendants, were arrested in connection with those three investigations and rescues; and

WHEREAS, prior to participating in those investigations and rescues, associates of the Defendants had written to the Sonoma County District Attorney and the Sonoma County Sheriff, among others, to report animal cruelty violations in factory farms in Sonoma County and elsewhere, including video and photographic evidence of animals caught in wire cages and left with large, untreated sores, and animals who had died of thirst, starvation, injury, or illness whose bodies were lying among the living, and no action was taken by those authorities to address the same; and

WHEREAS, prior to participating in those investigations and rescues, DxE received an opinion from a legal scholar who reviewed footage from Sunrise Farms and opined that, in a situation such as the one captured in that footage, an open rescuer who removed sick animals from that facility should be able to successfully argue for a necessity defense; and

WHEREAS, during the investigation and rescue at McCoy’s Poultry Services, the Sheriff seized nine living chickens from the investigators’ possession and delivered them to Sonoma County Animal Services, which found that all nine were in poor health and in distress, including one with a lesion so large that his muscle tissue and bone were exposed;¹ and

WHEREAS, the Animal Services Case Report listed the owner of the farm, Robert Shawn McCoy, as a suspect for animal cruelty in violation of California Penal Code Section 597, indicating “Cruelty Against an Animal,” and “Not Providing Property [sic] Care and Attention to an Animal”;² and

WHEREAS, despite receiving that report, the District Attorney filed charges against the investigators, and shortly thereafter, a member of the District Attorney’s office appeared at an event titled, “Beyond the

¹ Sonoma County Animal Services, Case Report, Sept. 29, 2018, <https://www.dropbox.com/s/qzceqj4lnqzr2pb/Case%20Report%20SoCo%20Animal%20Services%20REDACTED%20%20%282%29.pdf?dl=0>.

² *Id.* at 1.

Fence Line,” hosted by the Sonoma County Farm Bureau, which purported to teach members how to “prepare for and manage activists”; and

WHEREAS, to date, Sonoma County authorities have taken no action to investigate or prosecute animal cruelty law violations in commercial facilities, and during the Defendants’ preliminary hearings, a number of Sheriff officers testified that they had no intention of doing so in response to the Defendants’ and other DxE members’ requests to do so when officers were present during those investigations and rescues; and

WHEREAS, the act of investigating the conditions of commercial animal operations and exposing abuses to the public and to law enforcement, and providing relief to nonhuman animals who are thirsty, starving, injured, or sick, is in the interests of both those individual animals and the public that cares about them. WHEREAS, the City of Berkeley (Resolution 69,232-N.S., December 10, 2019) and the City and County of San Francisco (Resolution No. 261-20, June 9, 2020) passed resolutions unanimously supporting the Defendants and urging the District Attorney to dismiss the charges and investigate animal cruelty; and WHEREAS, a recent opinion piece in *The New York Times* argued that rescuing animals from factory farms should be legal.³

NOW THEREFORE, BE IT RESOLVED that the City Council hereby supports the Defendants.

BE IT FURTHER RESOLVED that the City Council encourages the Sonoma County District Attorney to dismiss such prosecution, and to devote the resources that could be saved from these actions to instead investigate and prosecute potential violations of the law in commercial animal operations in Sonoma County.

BE IT FURTHER RESOLVED that the City Council encourages law and regulatory enforcement agencies in California, including the California Attorney General and the California Department of Food and Agriculture, to investigate and prosecute potential violations of the law in commercial animal operations throughout California.

BE IT FURTHER RESOLVED that the City Council urges the California State Legislature to pass laws expanding the protection of nonhuman animals raised in commercial animal operations.

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to Sonoma County Assistant Sheriff Jim Naugle, Sonoma County District Attorney Carla Rodriguez, Sonoma County Deputy District Attorney Robert Waner, Assemblymember Stephanie Nguyen, State Senator Mike McGuire, Representative Mike Thompson, Senator Diane Feinstein, and California Attorney General Rob Bonta.

IN COUNCIL DULY PASSED, APPROVED, and ADOPTED this 18th day of April 2023.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by the City of Sebastopol City Council by the following vote:

³ Farhad Manjoo, Opinion, *Rescuing Farm Animals from Cruelty Should be Legal*, N.Y. TIMES (Feb. 14, 2023), <https://www.nytimes.com/2023/02/14/opinion/foster-farms-chicken-slaughterhouse-animal-cruelty.html>.

VOTE:

Ayes:

Noes:

Absent:

Abstain:

APPROVED:

Neysa Hinton, Mayor

ATTEST:

Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM:

Larry McLaughlin, City Attorney