

CITY OF SEBASTOPOL CITY COUNCIL

AGENDA ITEM REPORT FOR MEETING OF: November 5, 2024

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**To:** Honorable Mayor and City Councilmembers  
**From:** Deborah Muchmore, Human Resources Consultant  
Assistant City Manager/City Clerk  
Responsible Department: City Manager’s Office  
**Subject:** **Appoint Retired Annuitant as Interim Police Chief and Certify Critical Need Prior to 180-Days From Date of Retirement**

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**RECOMMENDATION:**

Approve a resolution of the City Council of the City of Sebastopol appointing Ron Nelson, a retired annuitant, as interim Police Chief and certify the appointment is necessary to fill a critically needed position prior to 180 days from Ron Nelson’s retirement date, to prevent stoppage of public business and continue Municipal operations.

**EXECUTIVE SUMMARY:**

The City of Sebastopol Police Chief Ron Nelson has recently retired, creating an immediate and critical need for continuity of leadership in the Sebastopol Police Department. Ron Nelson has been retired less than 180 days constituting a bona-fide break in service required by the Public Employees Retirement Law. Under Government Code Section 21221(h), a CalPERS annuitant can provide temporary, specialized services during the recruitment process for a permanent appointment, up to 960 hours per fiscal year. Compensation for these services is based on the existing salary schedule for the position, adjusted to an hourly rate.

The City has an active recruitment for a new full-time Police Chief. In the interim, to provide continuity of leadership and appoint Ron Nelson as Interim Police Chief prior to 180 days, the City must certify that the appointment is to fill a critically needed position, to prevent stoppage of public business and continue Municipal operations.

**BACKGROUND:**

Ron Nelson retired on October 26, 2024. The City opened a recruitment and began marketing and accepting applications for Police Chief on October 10, 2024. In the interim, the City’s Police Captain has been serving as Acting Chief.

Staff recommends appointing Ron Nelson, who is an experienced individual as Chief of Police, on an interim basis in order to prevent stoppage of public business and continue Municipal operations during the recruitment for a permanent appointment.

**DISCUSSION:**

The Sebastopol Police Department provides many critical services including emergency dispatch, emergency response, well-fare checks, community safety, patrol, arrest, mental health support, evidence and personal property administration, parking, traffic, and oversight of animal control services which are critical to the City and the community. Staffing the department with an Acting Chief (currently Police Captain) is not sustainable. Continuity of leadership is critical. Appointing Ron Nelson as Interim Police Chief fills a critical position with experience and proven leadership skills needed to prevent stoppage of public business and continue Municipal operations

The Public Employees' Pension Reform Act of 2013 (PEPRA) generally requires retired annuitants to be separated from employment for at least 180 days before returning to work for an employer in the same retirement system from which they receive a pension. An exception to this requirement may be made when the employer's governing body certifies the nature of the employment and that the appointment is necessary to fill a critically needed position before 180 days have passed. The exception allows an employer to hire a retired annuitant to perform work of limited duration, such as to eliminate a backlog, work on limited term special projects, and perform work that is in excess of what regular staff can reasonably perform. PEPRA states that this appointment must be approved by the employer's governing body in a public meeting as an action item. To secure a 180-day wait period exception, the employer must submit the approved resolution to CalPERS before the first day of re-employment.

Ron Nelson is a Retired public employee whose retirement date was October 26, 2024, which is less than 180-days ago. Government Code 7522.56(f) specifies that a retired annuitant is not eligible to be employed for a period of 180-days following the date of retirement unless, as stated in Government Code Section 7522.56(f)(1), *"The employer certifies the nature of the employment, and that the appointment is necessary to fill a critically needed position before 180 days have passed and the appointment has been approved by the governing body of the employer in a public meeting. The appointment may not be placed on a consent calendar."*

This appointment is made pursuant to California Government Code 7522.56 which provides that a person who retires from a public employer may serve without reinstatement from retirement or loss or interruption of benefits provided by the retirement system upon appointment by the appointing authority of a public employer either during an emergency to prevent stoppage of public business or because the retired person has skills needed to perform work of limited duration.

This appointment is also made pursuant to California Government Code 21221 (h) which provides for interim appointment and requires that the appointment be made by the governing body for a position that requires specialized skills. The appointment may only be made once, the wage must not exceed the maximum monthly base salary of others performing the same work, along with any other retired annuitant positions worked may not exceed a combined total worked of 960 hours in a fiscal year, and may not include any benefits, incentives, compensation in lieu of benefits, or any other forms of compensation in addition to the hourly rate.

Ron Nelson is experienced in police leadership, serving as Police Chief for the City of Sebastopol since 2022 and Lieutenant before that for the cities of Sebastopol and Santa Rosa. He has skills required to fill the critically needed position of Police Chief during the Interim appointment while the City actively recruits for a new Police Chief.

To obtain an exception to the 180-day bona-fide separation from service rule, the City Council must find in an open session at a regular meeting on the regular calendar that the employment is for an Interim Police Chief, and that the appointment is necessary to fill a critically needed position before 180 days have passed.

In compliance with the Government Code, this appointment in combination with all other employers in the CalPERS system will not exceed a cumulative total of 960 hours in a fiscal year and Ron Nelson's sole compensation be \$97.34 per hour with a not to exceed of \$16,872.00 per month which is not less than the minimum, nor more than the maximum, paid to other employees performing comparable duties and is calculated based on the publicly posted salary. Ron Nelson is not eligible to receive any additional compensation or benefits. Retired annuitants are allowed to receive reimbursement for reasonable expenses.

**STAFF ANALYSIS:**

Staff recommend the appointment of Ron Nelson as Interim Police Chief and further recommend that the City Council certify that the appointment of Interim Police Chief is necessary to fill a critically needed position before 180 days have passed and to prevent stoppage of public business and continue Municipal operations.

**PUBLIC COMMENT:**

As of the writing of this staff report, the City has not received any public comment on this item. 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.

**COMMUNITY OUTREACH:**

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

**FISCAL IMPACT:**

The Fiscal Impact of appointing Ron Nelson, a Retired Annuitant, as Interim Police Chief will be a not to exceed a monthly amount of \$16,872. This is included in the approved fiscal year 2025 budget. Staff is not asking for any additional appropriations to cover the cost of the interim position.

**RESTATED RECOMMENDATION:**

That the City Council Approve a resolution of the City Council of the City of Sebastopol appointing Ron Nelson, a retired annuitant, as interim Police Chief and certify the appointment is necessary to fill a critically needed position prior to 180 days from Ron Nelson’s retirement date, to prevent stoppage of public business and continue Municipal operations.

**OPTIONS:**

Council could not find that there is a critical need for this position and staff would look for other means to fill the Interim role.

**ATTACHMENTS:**

Resolution

APPROVALS:

Department Head Approval: Approval Date: 10-29-2024

CEQA Determination (Planning): Approval Date: \_\_N/A\_\_\_\_\_

The proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA)

Administrative Services/Financial Approval: Approval Date:10-29-2024

Costs authorized in City Approved Budget:  Yes  No  N/A

Account Code (f applicable) \_\_\_\_\_

City Attorney Approval: Approval Date: 10-29-2024

City Manager Approval: Approval Date: 10-29-2024

RESOLUTION NUMBER: XXXX-2024

CITY OF SEBASTOPOL

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL  
APPOINTING RON NELSON, A RETIRED ANNUITANT, AS INTERIM POLICE CHIEF AND CERTIFY THE APPOINTMENT IS  
NECESSARY TO FILL A CRITICALLY NEEDED POSITION PRIOR TO 180 DAYS FROM RON NELSON'S RETIREMENT DATE, AND  
TO PREVENT STOPPAGE OF PUBLIC BUSINESS AND CONTINUE MUNICIPAL OPERATIONS

WHEREAS, The City of Sebastopol Police Chief Ron Nelson has recently retired, creating an immediate and critical need for continuity of leadership in the Sebastopol Police Department; and

WHEREAS, to provide continuity of leadership and prevent stoppage of public business and continue Municipal operations the City Council desires to appoint an interim Chief of Police during the active recruitment of a new Police Chief; and

WHEREAS, Ron Nelson is experienced in police leadership, serving as Police Chief for the City of Sebastopol since 2022 and Lieutenant before that for the cities of Sebastopol and Santa Rosa; and

WHEREAS, Ron Nelson is retired less than 180 days, and the City Council of the City of Sebastopol finds that this appointment is necessary to fill a critically needed position before 180 days have passed from Mr. Nelson's retirement date of October 26, 2024; and

WHEREAS, Council makes this appointment at a public meeting on the Regular Calendar and not on the Consent Calendar and

WHEREAS, Government Code Section 7522.56 allows an exception to the 180-day wait period rule under the above conditions, and

WHEREAS, Government Code Section 21221(h) allows one interim appointment to a vacant position requiring specialized skills, during the active recruitment for the position, not to exceed 960 hours each fiscal year; and

WHEREAS, Mr. Nelson attests that he has not collected unemployment insurance compensation in the last twelve months and is being hired pursuant to the applicable provisions of 7522.56 for an interim appointment as Police Chief during the active recruitment for Police Chief not to exceed six months or 960 hours whichever is lessor and to fill a critically needed position to prevent stoppage of public business and continue Municipal operations, and

WHEREAS, Mr. Nelson will be compensated solely by \$97.34 an hour with a not to exceed of \$16,872.00 per month, which is not less than nor more than the salary paid to other employees performing comparable duties as listed on the City's publicly available pay schedule for the vacant position, and will not receive any additional compensation or benefits for his services.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sebastopol make this appointment of Retired Annuitant Ron Nelson in a regular public meeting to fill a vacant Police Chief position in the Police Department during the active recruitment for the position and certify that the nature of the employment is necessary to fill a critical need and prevent stoppage of public business and continue Municipal operations before 180 days have passed since Ron Nelson's retirement.

The above and foregoing Resolution was duly passed, approved, and adopted at a meeting by the City Council on the 5<sup>th</sup> day of November 2024.

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

**VOTE:**

Ayes:

Noes:

Absent:

Abstain:

APPROVED:

Diana Gardner Rich, Mayor

ATTEST:

Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM:

Alex Mog, City Attorney