



City of Sebastopol  
**CITY COUNCIL SPECIAL  
 MEETING**  
**APPROVED MINUTES**

Mayor  
 Guy Wilson  
City Council  
 Michael Kyes, Vice Mayor  
 Kathleen Shaffer  
 Sarah Glade Gurney  
 Patrick Slayter

**APPROVED MINUTES OF THE November 9, 2011 SPECIAL CITY COUNCIL MEETING**

*As approved by the City Council at their meeting of December 6, 2011*

City Manager  
 Jack Griffin  
City Attorney  
 Larry McLaughlin  
City Clerk  
 Mary Gourley

**CONVENE SPECIAL CITY COUNCIL MEETING. Sebastopol Youth Annex, 425 Morris Street, Sebastopol, CA**

**CALL TO ORDER:** Mayor Wilson called the meeting to order at 1:00 pm

**ROLL CALL**

Present: Councilmembers Shaffer, Gurney, Vice Mayor Kyes and Mayor Wilson  
 Absent: Councilmember Slayter  
 Staff: City Manager Griffin, City Clerk Gourley, City Attorney McLaughlin, and Police Chief Weaver

**SALUTE TO THE FLAG:** Mayor Wilson led the salute to the flag.

**PUBLIC COMMENT(S)** (This is an opportunity for the public to address the City Council on items that are not listed on the agenda. This time is set aside to receive comments from the public regarding matters of general interest not on the agenda, but related to City Council business. Pursuant to the Brown Act, however, the City Council cannot consider any issues or take action on any requests during this comment period. Speakers are encouraged to limit their comments to 3 minutes maximum so that all speakers have an opportunity to address the City Council. It is the goal of the Council to conclude the public comments portion of the agenda within 30 minutes. The presiding officer, typically the Mayor, reserves the right to reduce the time per speaker or carry over public comments to after all business items are completed.

Colleen Fernald commented as follows:

- Discussed cease fire
- Discussed America Care and not undeclared world war III
- Discussed Occupy for Peace and urged people to attend the public comment portion of Council meetings to state the results wanted
- Urged people to show the solutions for the problems
- Stated the most important item of Occupy is ending undeclared war
- Urged co-creation of peace



## CITY COUNCIL SPECIAL MEETING MINUTES OF November 9, 2011

1. Discussion and action related to “Occupy Sebastopol” and the ongoing encampment in the Downtown Plaza.

Mayor Wilson discussed the 9th Circuit Court of Appeals Decision and requested information from the City Attorney on this item.

City Attorney McLaughlin provided information on the following:

- Discussed the legal opinion of the decision
- Discussed absolute rights except in the abuse of a City permit
- Discussed the nature of the plaza and stated it is a park and that it would fall under the park ordinance
- Discussed event venues and rights of permit holders
- Stated the town plaza is the town square and a public forum for political expression and stated the City has not prevented freedom of speech or freedom of political expression
- Stated there are no constitutional rights to occupy the plaza in abuse of a permit
- Stated enforcement is not protected by the First Amendment or Constitution
- Stated the parks ordinance prohibits camping without a permit in City parks and that this is an enforceable law

Police Chief Weaver commented as follows:

- Reiterated the comments of the City Attorney
- Stated the Police Department is in an awkward position of being asked by the Council to not enforce an ordinance in a specific location in the City and yet enforce the ordinance elsewhere
- Stated this is disparate for people that have been ticketed previously for the same violation and same conduct
- Stated it is not clear for officers operationally what they are to enforce and questioned the Council if the ordinance should be enforced

Councilmember Shaffer stated she has been part of political demonstrations for a limited period of time in the past where tables have been set up and flyers handed out and questioned if this is a spontaneous event for 2-3 hours or is a permit required.

City Attorney McLaughlin stated this is a grey area of what is spontaneous versus what is an organized event. He stated that if it is a few people with a couple of tables handing out political flyers he would consider this to be a spontaneous event as long as it does not affect other users of the park. He stated the rights of all the public have to be balanced. He stated that the City in the past has been tolerant of card tables as it is not a detriment to others and the City has taken a hands off position.

Councilmember Shaffer stated she appreciates the behavior of the occupiers.

Councilmember Gurney questioned if a permit would address the concern of the conflict of enforcement and would allow the occupiers a right to be there.

City Attorney McLaughlin stated a permit would be the solution as it would allow the City to review the application and determine if there are any conflicts with other events in the plaza.

Councilmember Gurney questioned if the staff knew the facts or background of the City of Petaluma permit.

City Manager Griffin stated the City is not aware of the background of the permit.

Councilmember Gurney questioned if staff is aware of any issues with the camping or tents in the Plaza or of any interference with the Farmers Market. She stated that she has spoken with Paula Downing of the Farmers Market who is in full support of this event.

## CITY COUNCIL SPECIAL MEETING MINUTES OF November 9, 2011

Police Chief Weaver gave a brief overview of the events on Saturday. He stated a general assembly was held at noon with about 80-100 people attending. He stated that there were individuals who facilitated discussion among that group of various aspects of the event. He stated that later in the day, about 20 people marched to Wells Fargo Bank with no incidents. He stated approximately 7-8 people were there the first night and have ranged since then from seven people to about 3 people. He stated he has directed his officers to make contact with individuals to inform them that they are in violation of the City ordinance and to also provide them with a phone number for the police department rather than 9-1-1. He stated he has not heard of any incidents of interference with the Farmers Market.

Councilmember Gurney questioned if there was no overnight camping does staff see any issues with law enforcement for free speech access.

Police Chief Weaver stated that persons would need to follow the park ordinance requirements and leave when the parks are closed and not camp in the parks. He stated if there was a permit in place there would be no legal issues for enforcement of camping. He stated the police are there to protect the rights of free speech and is content neutral.

City Attorney McLaughlin stated he concurred and stated if there was a permit for camping there would be no legal issue. He stated; however, if there is a large organized activity that is happening, it could create other issues and may be a problem.

Vice Mayor Kyes questioned if the park is closed from 10:00 pm until 6:00 am. Chief Weaver stated yes.

Vice Mayor Kyes stated the City of Petaluma Permit is unclear as to whether or not insurance was provided and questioned if this was waived. He questioned if the City of Sebastopol permit would require insurance.

City Manager Griffin stated he did not know whether the City of Petaluma waived the insurance requirement and stated if the Council wanted to waive the insurance requirement for the City of Sebastopol permit, that would be a decision that would need to be made by the City Council. He stated that if the insurance was waived and something happened, the City's insurance would be on the hook and the risk transferred to the City, not to a permit holder.

Councilmember Shaffer questioned if the City of Petaluma had any issues with their camping.

Councilmember Gurney stated that the permit does not allow for camping so the tenting would be in violation of the permit.

City Manager Griffin stated the City of Petaluma permit allows for a limited number of tents in the park after park hours and is not aware of any incidents.

Police Chief Weaver discussed the City of Petaluma permit which allows for certain shelters and a certain number of personnel in the park. He stated he is not aware of any incidents.

Mayor Wilson opened for public comment.

Jonathan Greenberg commented as follows:

- Stated he is a parks advocate
- Stated he is a scholar who studied the Constitution and the First Amendment
- Discussed Thompson Square Park events and stated this went too far
- Discussed Occupy Sebastopol and stated this is a historical period which speaks of the First Amendment
- Stated it is not business as usual and speaks of important political changes
- Stated it is important how it is dealt with

## CITY COUNCIL SPECIAL MEETING MINUTES OF November 9, 2011

- Urged the Council not to curtail the usage of the space and to open the space to allow it to be used to its fullest exposure of the right to assemble
- Urged the continued presence and stated corruption is not acceptable

Thomas Morabito commented as follows:

- Thanked the Council for conducting this meeting and stated it has restored his faith in government
- Stated this is a chance to build a level of cooperation
- Stated the issue is the method of how to get the message across for change
- Stated if camping is the issue, the camps can be moved to another site
- Discussed a 24 hour presence without the camping
- Stated the costs incurred by the City can be reimbursed by Occupy Sebastopol
- Stated this is making a political statement for change that benefits the community
- Stated Occupy Sebastopol has brought forth the homeless issue and is providing free shelter and food

Colleen Fernald commented as follows:

- Discussed her personal experience at Occupy Santa Rosa with people being unruly and stated she was also shoved into the street during the Sebastopol March and did not receive help from the Sebastopol Police Department
- Stated she is advocating for not splitting the Occupy movement
- Urged the Occupy to get a permit
- Suggested holding vigils and not camping
- Stated these are extraordinary times that need extraordinary measures
- Discussed solidarity and free speech

Larry Robinson commented as follows:

- Stated the Council is in a difficult position and thanked the Council for addressing this issue
- Stated that historically for tactics to be effective they need to be appropriate in certain circumstances
- Stated camping close to the ground zero of corruption is appropriate and stated it is not appropriate in Sebastopol
- Stated the Town Plaza is the people's park and people may not like it if the park was abused
- Stated no camping will accomplish the goal of maintaining a presence of moral witness of what needs to happen

Chris commented as follows:

- Stated he is happy to be here, likes Sebastopol and hopes this goes well
- Stated the aim of Occupy Sebastopol is to be 100 percent cooperative and not interfere with the Farmers market
- Stated if the grass is the concern the tents can be moved
- Stated this is the platform for the First Amendment
- Stated the Occupy Sebastopol will not cooperate if the City does not cooperate with them and will do other things that would not end well
- Stated they would like to be the best Occupy in world history

Barbara Briggs Letson commented as follows:

- Stated she is grateful to be here
- Stated she wants the encampment and would like the structures to continue in a visible and cooperative way
- Urged the Council to spend tax money to make this happen

Tim Ryan commented as follows:

- Supports Occupy Sebastopol
- Thanked the Council and Police Chief and businesses for their support
- Stated Occupy Sebastopol is a community empowered movement which sees the depth of community support

## CITY COUNCIL SPECIAL MEETING MINUTES OF November 9, 2011

- Stated Occupy Sebastopol is a model movement that is deeply connected to the community
- Urged an open dialect with government
- Reaffirmed that this is a peaceful protest
- Stated the encampment in the town plaza is symbolic for freedom of speech and does fall under the Constitution

Aerial commented as follows:

- Stated she is inspired by what is happening but fears what could happen
- She stated she is amazed that people are being fed and housed in a comfortable and safe manner
- Stated she supports this in any way
- Is sorry that the City has to use resources

Anna, Burbank Heights, commented as follows:

- Stated she is a senior citizen on a low income
- Stated she appreciates the government and government structure
- Stated everything is breaking down and people are not connecting with their hearts
- Stated something new is happening that is sociological and this is a new way of relating
- Stated there are creative people in the community
- Stated this is unprecedented, is not a fad and will not go away
- Stated this is the juice of creation

Eric Olsen commented as follows:

- Stated this is a historical movement and disagree that this is not needed in Sebastopol
- Stated the movement is based on representatives of 99%
- Would like to see Occupy Sebastopol in every neighborhood
- Stated every city needs to build a broad based political based community
- Stated he is a professional designer and offered his services to Occupy Sebastopol
- Stated Occupy Sebastopol could be a creative model and representative of a world that people want to live in

Edward Eastland commend as follows:

- Thanked the Council and staff
- Stated this is a simple issue of breaking the law
- Stated it would be a compromise to ignore the law this time and that it would be negligence on the part of the City
- Stated it is on the City and Police Department to enforce the laws and no one has a right to break the laws

Sheppard Bliss commented as follows:

- Stated there is a lot of fear in the current generation
- Stated he is inspired by the young people who are doing their part in this democratic process
- Stated this is democracy in action and the first major American movement of the 21st century
- Stated this will get the juices going and create dialogue

Ross Mendenhall commented as follows:

- Sebastopol needs Occupy
- City Council can choose to go against the Design Review Board on the CVS proposal and accept large corporate development in the center of town despite what the people want
- Stated this is direct democracy
- Stated the police chief does not support free speech and turns people down for free speech
- Stated people have a voice and there needs to be public dialogue for new ideas to come forward

Linda Pickten commented as follows:

## CITY COUNCIL SPECIAL MEETING MINUTES OF November 9, 2011

- Stated she attended the Santa Rosa meeting last night and stated she is inspired and grateful that someone is doing something
- Stated issues such as mental health and homeless need to happen and stated it is great that Occupy is happening here as these issues can be addressed
- Stated homelessness is happening under our noses and is affecting all of us
- Stated there is inequity in society
- Discussed homeless people on the Joe Rodota trail and stated this movement is bringing attention to this issue

Marshall Akermann commented as follows:

- Stated Sebastopol does not have a work program and suggested a day labor program or a temporary employment service
- Stated there needs to be a way for people to find jobs in Sebastopol
- Stated there is nothing in Sebastopol to solve the issues of people not being able to find jobs
- Stated Sebastopol is a unique place

John Jenkel commented as follows:

- Stated his nine horses are missing their pasture
- Discussed his civil case with the County
- Stated this is reprisal from trying to hold Congress accountable for mass murder
- Discussed cease fire
- Stated the police chief does not believe in freedom of speech as he stopped him from going down the street with his cart and horses
- Thanked the Council for passing resolution to rescind Public Law 107.243

A young member of the audience stated Occupy Sebastopol needs to go higher.

Rose Luchessi provided a prepared statement to the Council opposing Occupy Sebastopol.

A member of the audience commented as follows:

- Stated her heart is upset
- Stated this is about the children and the future generation
- Stated it is not us or them, but it is our town and our City and is a community that is coming together
- Urged the few who fear or have anger to open their hearts

A member of the audience commented as follows:

- Money does not bring happiness
- Stated she has experienced homelessness
- Discussed importance of family values and her personal sacrifices
- Stated this will make things better and urged the Council to work this out

Mary Maxwell read the prepared statement from Rose Luchessi voicing her opposition to Occupy Sebastopol.

A member of the audience commented as follows:

- Stated he would hang out for hours on the town plaza and stated the only difference is that they are tents there now
- Stated this movement is acting as a community who teach each other, feed each other, house each other, etc
- Urged the tents to remain as a freedom of speech but suggested no camping
- Stated these are silly laws and that we should all work together

Andrew commented as follows:

- Urged comprehensive dialogue

## CITY COUNCIL SPECIAL MEETING MINUTES OF November 9, 2011

- Urged people to open their ears and minds
- Stated this is the forefront of the revolution
- Stated this goes to a deeper level
- Stated this is a new forum of idea making
- Urged people not to be fearful and accept this as beautiful

Linda Berg commented as follows:

- Stated she is happy this is being done
- Urged conversation and dialogue
- Stated this is an opportunity to let people know about fraud especially the telecom industry
- Stated cell phones are life threatening but the cell phone companies are making money off of these devices
- Discussed cell phones causing cancer
- Urged people to turn off their cell phones during meetings
- Urged people to be respectful of others

Councilmember Shaffer questioned if any person of the Occupy group has applied for or asked about a permit.

City Manager Griffin stated no.

Mayor Wilson stated he has had conversations with the Occupy group and also the businesses and stated they have been respectful, thoughtful and have created a level of civil respect. He stated he would like to see an application for a permit be submitted to the City to define the issues of the permit so that staff can evaluate the permit in a timely and efficient manner. He stated if the group did not like the decision of staff, it can be appealed to the City Council. He discussed upcoming events in the plaza and stated he would like to know more about the Occupy group and parameters and is hopeful that the group will apply for a permit. He discussed sustainable City governance and stated the City has limited resources. He stated the City Council is content neutral and is responding to dealing with this situation.

Councilmember Gurney questioned the amount of fees required for the permit.

City Manager Griffin read the list of fees for permits.

Councilmember Gurney questioned if the fees could be waived.

City Manager Griffin stated the decision would be a Council consideration but that fees have not typically been waived for larger events that demand services from the City.

Councilmember Gurney discussed the tree lighting ceremony and stated this is usually standing room only and if the Occupy continues, she would like the Occupy to do their event in a peaceful non violent way to avoid conflict with the ceremony. She stated it would be a shared space. She suggested a permit with a timeline with the possibility of re-applying for the permit.

Councilmember Shaffer stated Sebastopol is a small City with limited resources and urged Occupy to realize their goals without taxing the City.

Vice Mayor Kyes stated the camping overnight is a major issue and stated the City needs to maintain the camping regulations and to not enforce it makes it meaningless. He stated a permit is important and urged the group to apply for a permit. He stated that parts of the permit would be difficult to meet and urged the Council to remain open-minded on that. He stated that Occupy has kept the park clean and swept out the leaves, cleaned the restrooms, etc and has worked hard with the Farmers Market. He urged Occupy Sebastopol to work with the tree lighting ceremony applicants also.

## CITY COUNCIL SPECIAL MEETING MINUTES OF November 9, 2011

Mayor Wilson urged the group to apply for a permit and show the scope of use. He stated this will ensure the same level of consistency using the local government process irrespective of the political point of view. He stated the town plaza is the fruit of the labor of many years of effort on the part of the community. He stated he does not want to undervalue the position of the group and stated the Council is not talking the political message but talking about the use of City facilities. He stated this is a sound constitutional legal process which is in place, our local city ordinances, and does not take away from the First Amendment. He stated he would like to resolve this sooner than later and is a worthy issue worth considering and that there are no winners or losers. He stated the Council is fulfilling their obligation to the citizens of Sebastopol.

Councilmember Gurney concurred with the permit application process and stated the City of Petaluma material would be helpful to the applicant. She urged the group to pursue a vigil instead of overnight camping and would like the camping element removed from the circumstances. She suggested Petaluma's permit be a model. She stated she is not taking sides and suggested a resolution in support of the occupy movement. She urged the group to recognize the responsibility of behavior in the community and City facilities.

Councilmember Shaffer stated the City ordinances are what the citizens voted for of what Sebastopol wanted and that the Council has to take into account the considerations of everyone.

A member of the audience questioned if the police would harass the group while they are applying for the permit and questioned the time frame.

Mayor Wilson stated there would be a grace period to allow for the group to apply for the permit but does not mean that the law will not be applied for with other violations.

City Manager Griffin stated the City would continue status quo. He stated that barring other violations of other aspects, the camping issue will be held in abeyance.

Police Chief Weaver also stated that there is great sensitivity to word use and stated the police department exercises their professionalism to enforce the laws and hassling is mis-characterized.

Mayor Wilson stated that all officers if they see a crime or if a crime is reported need to respond to that crime and that this does not establish a law-less zone. He stated this is allowing for the temporary status quo of tents to be in the plaza area.

City Manager Griffin stated if the status quo changes, the Police Department will use their trusted judgement and if an urgency meeting is needed, staff will call that meeting. He stated this is not a sanctuary and that the Police Department will be obligated to deal with crimes if they arise.


**City Council Action: None Taken. Staff to provide an update on status of event. Staff to return on Tuesday, November 15th with update.**

**Reference Order #: 2011-168**

### ADJOURNMENT

Mayor Wilson adjourned the City Council Meeting at 3:00 p.m. to the Next City Council Meeting to be held on November 15, 2011 at 6:00 pm at the Sebastopol Youth Annex, 425 Morris Street.

Respectfully Submitted,

  
Mary E. Gourley  
City Clerk