



City of Sacramento City Council

915 I Street, Sacramento, CA, 95814

www.CityofSacramento.org

Meeting Date: 10/18/2011

Report Type: Staff/Discussion

Title: Staff Report: Occupy Sacramento Update

Report ID: 2011-00925

Location: Citywide

Recommendation: Receive and provide direction.

Contact: Rick Braziel, Chief of Police, (916) 808-0800, Police Department.

Presenter: Rick Braziel, Chief of Police, (916) 808-0800, Police Department.

Department: Police / Parks & Recreation - Special Attention Jim Combs & Teresa Parker

Division: Office of The Chief-Admin

Dept ID: 11001011

Attachments:

1-Description/Analysis

2- Background.doc

City Attorney Review

Approved as to Form

Brett Witter Via Email

10-18-11 @3:59

Approvals/Acknowledgements

Department Director or Designee: Rick Braziel, Chief of Police

10-18-11 @ 4:26 p.m.

Description/Analysis

Issue: Chief Braziel was asked by the City Manager to provide a staff report on the Police Department's response to the Occupy Sacramento movement. While the exact target of the protesters' concerns varies from city to city, there is strong evidence of a growing current of global unrest toward economic and social injustice. Many large cities in the United States are experiencing some form of an Occupy protest within their boundaries.

Between Thursday, October 6, 2011 and Monday October 17, 2011, a total of 57 Occupy protester arrests have been made at Cesar Chavez Plaza. All of these arrests were peaceful and none of these arrests resulted in any injuries to the officers or protesters. The Police Department has worked in conjunction with the protesters to ensure that the protesters may exercise their freedom of speech in a safe environment. The Police Department has facilitated protest marches through the city. The Police Department has also communicated openly and honestly with the protesters regarding the enforcement of the Sacramento City Code and California law.

Cesar Chavez Plaza has signage which states that the park is closed from "dusk to dawn." The City has allowed the Occupy protesters to remain in the park until 11:00 PM from Sundays through Thursdays, and midnight on Fridays and Saturdays. Although the protest varies in size on a day-to-day basis, the daily number of protesters is estimated at a minimum of 40 to a maximum of 350.

At the City Council meeting on Tuesday, October 11, 2011, Occupy Sacramento speakers requested an exemption to the Sacramento City Code, which would allow them to remain in the park overnight without restrictions.

Policy Considerations: Relevant to a discussion regarding the Occupy Sacramento demonstration are Sacramento City Code Chapters 12.52 (Camping) and Chapter 12.72 (Park Use).

Chapter 12.52 provides that it is unlawful and a public nuisance for any person to camp on public or private property. To "camp" is defined by the code as placing, pitching or occupying camping facilities, or to live temporarily in a camp facility outdoors. Storing personal property, including camping paraphernalia, is also illegal on public property.

Chapter 12.52 authorizes the City Manager to issue a temporary permit for camping on public property in connection with a special event. In determining whether to issue the permit, the City Manager may consider factors that bear upon the "sanitary, health, safety and welfare conditions on or surrounding the area of the proposed camp." The City Manager is also empowered to condition the grant of a camping permit.

Chapter 12.72 provides rules for park use. Section 12.72.090 prohibits remaining or loitering in parks from 11:00 PM until 5:00 AM on weeknights, and from 12:00 PM until 5:00 AM on Friday and Saturday nights. These restrictions do not apply to individuals that have a park use permit that authorizes a use inconsistent with these time restrictions. Applications for park use permits are made to the Director of Parks and Recreation. In addition, the Director of Parks and Recreation with the concurrence of the Chief of Police can agree to extend park hours where such extensions of hours

are consistent with the sound use of park resources, will enhance recreational activities in the city, and will not be detrimental to the public safety or welfare.

An extension of park hours and/or the granting of a camping permit to one group carries with it the possibility of establishing a precedent for future events. In addition, illegal camping often results in the creation of a public nuisance. The unsanitary conditions created by human waste and trash can create an unhealthy environment for both those who camp illegally and for members of the general public. Persons who camp illegally on public property may also interfere with the use of such property, and can hinder or obstruct free passage by members of the general public.

Environmental Considerations:

California Environmental Quality Act (CEQA): This action is not subject to the California Environmental Quality Act (CEQA) because it does not constitute a “project” as defined in section 15378 of the CEQA Guidelines, and is otherwise exempt pursuant to section 15061(b)(3) (no significant effect on the environment) of the CEQA Guidelines.

Sustainability Considerations: There are no sustainability considerations associated with this report.

Commission/Committee Action: Not Applicable.

Rationale for Recommendation: Receive and file.

Financial Considerations:

The Sacramento Police Department is currently tracking all hours and costs associated with the Occupy Sacramento protest. It is estimated that the protest has resulted in excess of 335 hours of police overtime costs in the amount of \$19,000.

In an effort to keep overtime costs at an absolute minimum, the Police Department has utilized existing “on duty” patrol resources whenever possible. It should be noted that in doing so, these officers are unable to complete their regular duties and responsibilities within their assigned areas. It is currently estimated that the Police Department has used a minimum of 2,000 personnel hours in addition to the above-referenced overtime hours.

Emerging Small Business Development (ESBD): Not applicable.

Background

Background Information on the Occupy Movement

On September 17, 2011 the “Occupy Wall Street” protests began in the City of New York. The protesters set up a camp inside Zuccotti Park, a privately-owned park that is open to the public in Lower Manhattan. The protesters, a self-described leaderless group, are protesting what they term “social and economic inequality and corporate greed” and have rallied around the statement that, “We are the 99% that no longer tolerate the greed and corruption of the 1%.” As the protest movement grew in size, those who occupied Zuccotti Park renamed it “Liberty Park” in support of their message.

As the Occupy Wall Street movement grew in the City of New York and became embedded in Zuccotti/Liberty Park, supporters utilized social media vehicles such as Facebook and Twitter to spread their message, gather support and solicit resources. Through social media, web-based blogs and chat rooms, supporters began to organize Occupy movements in cities across the country to support the New York movement.

On Saturday, October 15, 2011, 70 protesters associated with the Occupy movement were arrested in the City of New York, including 45 in Times Square. Three of those arrested included protesters who attempted to take down police barriers. Two police officers were injured during the protest and both required hospitalization. One police officer suffered a head injury while the other sustained a foot injury.

Since its inception, more than 900 cities throughout the world have experienced protests affiliated with the Occupy cause. While the exact target of the protesters’ concerns varies from city to city, there is strong evidence of a growing current of global upset toward economic and social injustice. Many large cities in the United States have some form of an Occupy protest underway. Several of these cities are now experiencing difficulties as the Occupy protesters are refusing to vacate. The City of New York recently asked an Occupy group to vacate a city park for park cleanup purposes. The group has refused to vacate and is currently in negotiations with the City of New York.

Summary of Occupy Protests in the City of Sacramento

The Sacramento Police Department received information that an Occupy protest would begin in the City of Sacramento on Thursday, October 6, 2011 and conclude on Saturday, October 15, 2011. Police department employees contacted the organizers of the Occupy Sacramento protest to discuss their plans and to advise them of the process for obtaining a park permit. The organizers have not applied for a park permit.

On the morning of October 6, 2011, an estimated group of approximately 250 people arrived at Cesar Chavez Plaza and began setting up tents and shade structures. The

protesters held open air “general assembly” meetings to discuss what their course of action. Throughout the day, hundreds of protesters conducted unpermitted marches on city streets and sidewalks as they protested in front of various businesses and federal buildings. At one point, some of the marchers attempted to enter a Bank of America building and a Wells Fargo building on Capitol Mall. Both banks refused to allow the protesters to enter the premises.

Throughout the course of October 6, 2011, protesters were informed that per Sacramento City Code 12.72.090, Cesar Chavez Plaza would close at 11:00 PM and that they would have to vacate and remove their property at that time. The City Attorney’s Office was contacted by an attorney representing the Occupy group and advised that the protesters would be seeking a temporary restraining order that would prevent the Chief of Police from enforcing Sacramento City Code Sections 12.72.090 (Park Hours) and 12.52.030 (Camping). A hearing for the temporary restraining order petition was held via conference call at 8:30 PM that evening with Sacramento Superior Court Judge Lloyd Connelly. Judge Connelly denied the protestors’ petition.

At approximately 11:30 PM on October 6, 2011, the Occupy group was given several dispersal orders. The vast majority of the protesters exited Cesar Chavez Plaza and gathered on the sidewalk. Twenty individuals refused to exit the park and were subsequently arrested. These individuals were booked into the Sacramento County Main Jail.

Between Thursday, October 6, 2011 and Monday, October 17, 2011, a total of 57 arrests of participants in the Occupy demonstrations have been made. Thirteen individuals have been arrested more than once. All of these arrests were peaceful and none of these arrests resulted in any injuries to the officers or protesters.

Since October 6, 2011, the Police Department has worked in conjunction with the protesters and has ensured that the protesters may exercise their freedom of speech in a safe environment. The Police Department has facilitated protest marches through the City of Sacramento. The Police Department has also communicated openly and honestly with the protesters regarding the enforcement of the Sacramento City Code and California law.

Cesar Chavez Plaza has signage which states that the park is closed between “dusk to dawn.” The City has allowed the Occupy Sacramento protesters to remain in the park until 11:00 PM from Sundays through Thursdays, and midnight on Fridays and Saturdays. Although the protest varies in size on a day-to-day basis the number of protesters is estimated at a minimum of 40 to a maximum of 350 to date.

While the marches have discontinued, the protestors have refused to end their occupation of Cesar Chavez Plaza and begin each day by setting up tents and shade structures. To prevent them from camping in the park or remaining past the park’s 11:00 PM close time, officers continually advised the protesters that it is against the law and formally dispersed them. Those protestors who refuse to leave the park are

subsequently arrested. A local union is currently providing a truck for overnight storage of the protester's camping and other equipment and the City of Sacramento is providing parking space for this storage truck.

The Police Department has been advised that the Occupy Sacramento protest may continue until the Occupy Wall Street protest concludes in the City of New York. At this time it is unknown when the Occupy Watt Street protest may conclude.

Legal Considerations

Relevant to a discussion regarding the Occupy Sacramento demonstration are Sacramento City Code Chapters 12.52 (Camping) and Chapter 12.72 (Park Use).

Chapter 12.52 provides that it is unlawful and a public nuisance for any person to camp on public or private property. To "camp" is defined by the code as placing, pitching or occupying camping facilities, or to live temporarily in a camp facility outdoors. Storing personal property, including camping paraphernalia, is also illegal on public property.

Chapter 12.52 authorizes the City Manager to issue a temporary permit for camping on public property in connection with a special event. In determining whether to issue the permit, the City Manager may consider factors that bear upon the "sanitary, health, safety and welfare conditions on or surrounding the area of the proposed camp." The City Manager is also empowered to condition the grant of a camping permit.

Chapter 12.72 provides rules for park usage. Section 12.72.090 prohibits remaining or loitering in parks from 11:00 PM until 5:00 AM on weeknights, and from 12:00 PM until 5:00 AM on Friday and Saturday nights. These restrictions do not apply to individuals that have a park use permit that authorizes a use inconsistent with these time restrictions. Applications for park use permits are made to the Director of Parks and Recreation. In addition, the Director of Parks and Recreation with the concurrence of the Chief of Police can agree to extend park hours where such extensions of hours are consistent with the sound use of park resources, will enhance recreational activities in the city, and will not be detrimental to the public safety or welfare.

Policy Considerations

An extension of park hours and/or the granting of a camping permit to one group carries with it the possibility of establishing a precedent for future events. In addition, illegal camping often results in the creation of a public nuisance. The unsanitary conditions created by human waste and trash can create an unhealthy environment for both those who camp illegally and for members of the general public. Persons who camp illegally on public property may interfere with the use of such property, and can hinder or obstruct free passage by members of the general public.