



Cheryl Davila
Councilmember
District 2

REVISED AGENDA MATERIAL for Supplemental Packet 1

Meeting Date: December 10, 2019

Item Number: 25

Item Description: Support Non-Violent Activists Who Attempt to Expose the Conditions of Animals in Factory Farms

Submitted by: Councilmember Cheryl Davila

Updated resolution with latest information to be part of companion agenda item 25

RESOLUTION NO. XXXX

RESOLUTION OF THE COUNCIL OF THE CITY OF BERKELEY IN SUPPORT OF THE NON-VIOLENT ACTIVISTS WHO ATTEMPT TO EXPOSE THE CONDITIONS OF ANIMALS IN FACTORY FARMS

WHEREAS, it is a well-established scientific fact, as supported by 2,500 studies exploring animal cognition, that nonhuman animals have emotions, personalities, and the ability to feel pain, fear, and stress^[1]; and

WHEREAS, an international group of prominent neurological scientists issued the Cambridge Declaration of Consciousness in 2012, stating that nonhuman animals are conscious beings capable of feeling emotional states such as pain, stating:

“The weight of evidence indicates that humans are not unique in possessing the neurological substrates that generate consciousness. Nonhuman animals, including all mammals and birds, and many other creatures, including octopuses, also possess these neurological substrates^[2]; and

WHEREAS, the public in California cares deeply about nonhuman animals raised in commercial operations, as evidenced by, among other things, the passage by 62.66% of voters of Proposition 12 in 2018, which established new standards for confinement of farm animals and banned noncomplying products^[3]; and

WHEREAS, California’s animal cruelty statute, California Penal Code Section 597 et seq., does not contain an animal husbandry exemption and thus covers cruelty inflicted on nonhuman animals raised in commercial operations; and

WHEREAS, California Penal Code Section 597(b) makes it a crime to torture, torment, deprive of necessary sustenance, drink, or shelter any animal, or cause any animal to be so tortured, tormented, deprived of necessary sustenance, drink, or shelter,^[4] where the words “torment” and “torture” include “every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted”^[5]; and

WHEREAS, California Penal Code Section 597e makes it a crime to hold a domestic animal in confinement without providing the animal with sufficient food and water, and also 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^[6]; and

WHEREAS, the massive scale and industrialization of modern commercial animal operations leads to increasing numbers of animals suffering from starvation or dehydration, including piglets, turkey chicks, and egg-laying hens^[7]; and

WHEREAS, notwithstanding the fact that leaving nonhuman animals to starve to death violates industry standards^[8] and California law, commercial animal operations routinely allow nonhuman animals to die of thirst or hunger when they are too sick or injured to reach food or water^[9]; and

WHEREAS, consumers care deeply about nonhuman animals and are often willing to pay ---a significant premium to purchase animal products from suppliers they believe have treated animals humanely; and

WHEREAS, companies that supply animal products routinely portray their treatment of nonhuman animals in a substantially more favorable light than the reality; and

WHEREAS, little or no enforcement of California’s animal cruelty statute occurs with respect to nonhuman animals raised in commercial operations; and

WHEREAS, peaceful activists have attempted to bring violations by commercial animal operations 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 animals who had died of thirst, starvation, injury, or illness whose bodies were lying among the living; and

WHEREAS, 148 activists have been arrested in Sonoma County while trying to document the conditions of commercial animal operations and rescue nonhuman animals therein from thirst, starvation, injury, and illness; and

WHEREAS, six of those activists, including five Berkeley residents, currently face felony charges in Sonoma County in connection with those investigations and rescues, and an additional 15 activists face misdemeanor charges for the same; and

WHEREAS, the act of investigating the conditions of commercial animal operations and exposing abuses to the public and to law enforcement, and rescuing 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.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Mayor and City Council hereby declare that the 21 individuals being prosecuted in Sonoma County are non-violent activists who were investigating and attempting to expose the abuses of nonhuman animals in commercial animal operations.

BE IT FUTHER RESOLVED that the Mayor and City Council encourage the Sonoma County District Attorney to dismiss such 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.

BE IT FUTHER RESOLVED that the Mayor and City Council encourage law and regulatory enforcement agencies in California, including the California Attorney General and the California Department of Food and Agriculture, to investigate and prosecute animal cruelty in commercial animal operations throughout California.

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

BE IT FURTHER RESOLVED that the Mayor and City Council affirm the commitment of the Berkeley City Council to the protection from all suffering and harm of all animals both within Berkeley and around the world.

BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to Sonoma County District Attorney Jill Ravitch, Assemblymember Buffy Wicks, State Senator Nancy Skinner, Congresswoman Barbara Lee, Senator Dianne Feinstein, Senator Kamala Harris, and California Attorney General Xavier Becerra.

^[1] Mark Bekoff, *After 2,500 Studies, It's Time to Declare Animal Sentience Proven (Op-Ed)*, Livescience (Sept. 6, 2013), <https://www.livescience.com/39481-time-to-declare-animal-sentience.html>.

^[2] Philip Low, et al., *The Cambridge Declaration of Consciousness* (2012), <http://fcmconference.org/img/CambridgeDeclarationOnConsciousness.pdf>.

^[3] *California Proposition 12, Farm Animal Confinement Initiative (2018)*, Ballotpedia, [https://ballotpedia.org/California_Proposition_12,_Farm_Animal_Confinement_Initiative_\(2018\)#Election_results](https://ballotpedia.org/California_Proposition_12,_Farm_Animal_Confinement_Initiative_(2018)#Election_results).

^[4] Cal. Penal Code § 597(b).

^[5] Cal. Penal Code § 599b.

^[6] Cal. Penal Code § 597e (“Any person who impounds, or causes to be impounded in any pound, any domestic animal, shall supply it during such confinement with a sufficient quantity of good and wholesome food and water, and in default thereof, is guilty of a misdemeanor.”).

^[7] A 2015 Coalition for a Sustainable Egg Supply report found that up to 50% of mortality at a modern egg farm was caused by the birds being “emaciated” or “dehydrated.” The Center for Food Integrity, *Coalition for Sustainable Egg Supply Final Research Results*, 8 (2001), https://www2.sustainableeggcoalition.org/document_center/download/final-results/ResearchResultsReportAppendix.pdf. A 2001 turkey industry study found “starveout” to be a growing problem and noted that this problem should not be considered “normal.” Tasheez Aziz, *Early Mortality and Starveout in Poult Can Be Reduced*, 17 *World Poultry* 12 (2001), <https://www.dropbox.com/s/vzik3fs5pcjxvzb/poult%20mortality.pdf?dl=0>. Finally, a 2014 pig industry study found that starvation was becoming a major cause of piglet mortality. S. A. Edwards & E. M. Baxter, *Piglet Mortality: Causes and Prevention, in The Gestating and Lactating Sow* (Chantal Farmer, Wageningen Academic Publishers, 2015), https://www.wageningenacademic.com/doi/abs/10.3920/978-90-8686-803-2_11.

^[8] The Global Animal Partnership’s lowest standard (Step 1) for egg farms, for example, indicates that “sick or injured hens must be treated promptly” or “euthanized.” Global Animal Partnership, *5-Step® Animal Welfare Rating Pilot Standards for Laying Hens v1.0*, 13, (2017), <https://globalanimalpartnership.org/wp-content/uploads/2017/07/5%E2%80%90Step%C2%AE-Animal-Welfare-Rating-Pilot-Standards-for-Laying-Hens-v1.0.pdf>. The standards expressly indicate that hens who are “lame and unable to easily reach food and water” are included in this category.

^[9] See, e.g., 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> (“There are nine living chickens . . . [n]one are able to stand on their own and all are wet and soiled. All of these 9 birds appear stressed and are panting. . . . All of living birds are in poor health and are in distress.”). This report was produced in response to the activists’ attempted removal of nine birds from a commercial facility, which such birds were subsequently confiscated by the Sonoma County Sheriff and delivered to, and examined and ultimately euthanized by, Sonoma County Animal Services. The report listed an individual associated with the commercial facility as a suspect in violation of California Penal Code Section 597.