

**MINUTES OF THE JOINT SAN JOSÉ CITY COUNCIL
AND REDEVELOPMENT AGENCY BOARD**

SAN JOSÉ, CALIFORNIA

TUESDAY, JANUARY 27, 2004

The Council of the City of San José convened at 2:28 p.m. to hear Item 7.1 in a Joint Session with the Redevelopment Agency Board in Council Chambers at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

JOINT REDEVELOPMENT AGENCY/CITY COUNCIL ITEM

7.1 Approval of Changes to City of San José and Redevelopment Agency Agreements to Enforce Prevailing Wage Law Requirements.

Recommendation:

- (a) Approval by the Agency Board of recommended changes to agreements regarding implementation of enforcement mechanisms for Prevailing Wage Law requirements in Agency contracts.
- (b) Approval by the City Council of recommended changes to agreements regarding implementation of enforcement mechanisms for Prevailing Wage Law requirements in housing development agreements and loans.

(Deferred 1/13/04, Item 2.5)

Documents Filed: Memorandum from Redevelopment Agency Interim Director Harry Mavrogenes, and City Manager Del Borgsdorf, dated January 27, 2004, recommending approval by the Agency Board and the City Council to the recommended changes stated above.

Discussion/Action: Vice Mayor Dando expressed concern that this proposal was formulated without talking to the development community, because within the City of San José when programs are put together that may have an economic impact on other organizations, this is generally done ahead of time, and asked what is Staff trying to accomplish. Redevelopment Agency Interim Director Harry Mavrogenes replied this has gone through the process with City Council committees, and this will help the Office of Equality Assurance with some tools to enforce the prevailing wage. He stated this is not changing the overall rules, this is setting the rules straight of what will be required if a developer does not comply. He remarked Staff plans to monitor this plan over the next few months, and will return to Council if there are any specific issues that arise in the development community, however this is consistent with other policies the City has.

7.1 (Cont'd.)

Vice Mayor Dando remarked the memorandum stated it is uncertain how the development community will respond to these additional requirements, and historically when the City has looked to add additional requirements or responsibilities, fees on any one organization or business, generally has tried to do it in more of a collaborative manner with talking to them prior to putting it together and implementing it. City Attorney Richard Doyle stated the primary purpose of this process was to come up with an enforcement mechanism that enforces the prevailing wage, and that was a concern from last year, which also went to the Making Government Work Better Committee (MGWB) a couple of times, with respect to City construction agreements. He stated it was at the MGWB Committee meeting that it was decided Staff should apply this to the Redevelopment Agency agreements as well. He added the City of San José has prevailing wage requirements acquired both by law, and by policy historically within the City for both Agency and City contracts. Vice Mayor Dando stated she understands the purpose, the principles and the policy, however in the past when additional responsibilities to business or to other organizations have been added, the City Staff generally tries to discuss it with them ahead of time, rather than with this process.

Council Member Campos asked what measures Staff is going to take in order to inform the developers and contractors, and the development community that the Prevailing Wage Law requirements will be in place. Deputy Executive Director Redevelopment Agency John Weis replied almost all of the elements in this Board Report are items that Staff have fulfilled when working on issues with the developers on downtown housing projects. He stated Staff has moved forward, withheld payment, and asked the developers to document various kinds of items, and this action is simply codifying what Staff has been doing to enforce the prevailing wage provision. He stated in moving forward with each DDA, Staff would be working with each developer in that regard.

Council Member Reed stated this is not an additional requirement the City is putting on projects, but an implementation of the existing requirements, and since Staff will be reporting back in 6 months, any problems or issues on implementation can be addressed at that time. Council Member Reed moved approval of the Staff recommendation. Vice Mayor Dando seconded the motion.

Vice Mayor Dando commented on the outreach that Staff will be doing, which is outlined on Page 3 stating, "The inclusion of the recommended language could lead to increased developer costs or the loss of developer interest...", asked Staff to address in the 6 month report back to the Agency Board, what the additional costs were, if any to the various projects, and if there was any loss of developer interest. Council Member Chavez requested Staff to follow up in terms of the increased cost, whether or not the increased cost comes from fines that are levied from non-compliance and also if the loss of interest has any at all shared in the overlaps, in particular, with any subcontractors that the City has already had a problem with in paying prevailing wage, and whether or not they put forward different types of bids in terms of their costs. Deputy Executive Director Weis replied Staff would include the requested feedback from Vice Mayor Dando, and Council Member Chavez.

7.1 (Cont'd.)

On a call for the question, the motion carried unanimously, and the recommended changes to agreements regarding implementation of enforcement mechanisms for Prevailing Wage Law requirements in Agency contracts by the Agency Board was approved, and the recommended changes to agreements regarding implementation of enforcement mechanisms for Prevailing Wage Law requirements in housing development agreements and loans by the City Council was approved, with Staff directed to include in the 6 month report on developer responses and experience: (1) additional costs to various projects, including a loss of developer interest; (2) whether or not the increased cost comes from fines that are levied from non-compliance; (3) if the loss of developer interest has any at all shared in the overlaps, in particular, with any subcontractors the City had previous problems with in paying prevailing wage; (4) whether or not developers put forward different types of bids in terms of their costs.

ADJOURNMENT

The Council of the City of San José, and Redevelopment Agency Board adjourned at 2:37 p.m.

RON GONZALES, MAYOR

ATTEST:

DEANNA J. SANTANA, ACTING CITY CLERK

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