



SUPPLEMENTAL *Memorandum*

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: August 24, 2009

Approved

Date

8/26/09

COUNCIL DISTRICT: City-Wide
SNI AREA: All

SUPPLEMENTAL MEMO

SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSE EXTENDING THE TERM OF THE INTERIM ORDINANCE ADOPTING A TEMPORARY MORATORIUM ON THE ESTABLISHMENT OF NEW BAIL BONDS ESTABLISHMENTS FOR A PERIOD OF TWENTY-TWO (22) MONTHS AND FIFTEEN (15) DAYS, PENDING THE REVIEW AND POSSIBLE AMENDMENT OF LAND USE REGULATIONS APPLICABLE TO SUCH ESTABLISHMENTS, ALLOWING CERTAIN RELOCATION OF EXISTING, LEGALLY OPERATING BAIL BONDS ESTABLISHMENTS, SETTING FORTH THE FINDINGS TO SUPPORT SUCH EXTENSION OF THE TERM OF THE TEMPORARY MORATORIUM, AND MAKING THE EFFECTIVENESS OF THE PROVISIONS OF THIS ORDINANCE RETROACTIVE AND APPLICABLE AS OF OCTOBER 9, 2009 AS DESCRIBED IN THE ORDINANCE.

REASON FOR SUPPLEMENTAL

This memorandum addresses revisions to the proposed ordinance to extend the existing temporary moratorium on new bail bonds establishments (transmitted under separate cover), which revisions would make the moratorium extension retroactive to October 9, 2009 and would allow for relocation of existing, legally operating bail bond establishments.

RECOMMENDATION

Staff recommends that the City Council approve the proposed ordinance extending the temporary moratorium on the establishment of new bail bond businesses, allowing the relocation of existing and legally operating bail bonds businesses, and making the provisions of the extension ordinance retroactive to October 9, 2009.

BACKGROUND

On August 11, 2009, the City Council approved for publication an interim ordinance establishing a moratorium on new bail bond businesses, which ordinance the City Council is expected to adopt on August 25, 2009. At that time, the Council directed that the proposed ordinance to extend the term of this ordinance include a provision allowing for relocation of existing bail bond establishments during the moratorium period. The currently proposed extension ordinance was originally scheduled to be considered by the City Council on August 25, 2009. An error in the noticing necessitated that it be re-noticed for the September 1, 2009 Council meeting. This memorandum addresses revisions to the extension ordinance to provide for relocation of existing bail bond businesses, per Council direction, and a provision to make the extension ordinance retroactive and applicable back to the date that the original interim ordinance expires.

ANALYSIS

State law provides that the interim moratorium ordinance expires 45 days from the date of its adoption by the City Council, but allows for adoption of a second ordinance to extend the moratorium for a total period of up to two years. Should the City Council adopt the proposed interim ordinance establishing a moratorium on new bail bond businesses on August 25, 2009, it would become effective on September 25, 2009 and expire on October 9, 2009. If the current proposed extension ordinance is considered by the Council on September 1, 2009 and adopted on September 15, 2009, it would become effective on October 15, 2009. The proposed extension ordinance has been revised to include a provision making the moratorium extension retroactive to October 9, 2009, so that there is no break in time from the expiration of the original ordinance and its extension. Should the Council choose to adopt the original moratorium and extension ordinances per the above schedule, they will establish and continue a moratorium that would expire on August 24, 2011 or on the date that the City Council adopts its land use regulations applicable to bail bonds businesses, whichever date occurs earlier.

Based on direction from the City Council during its consideration of the original moratorium ordinance, staff has included provisions in the proposed extension ordinance that allow existing bail bond establishments that are currently operating in conformance with all City requirements, or which have legal non-conforming status, to relocate during the moratorium period to a new location that conforms to the requirements of the Zoning Ordinance and other applicable City requirements in effect at the time of relocation. Implementation of this Council direction would not result in the establishment of new bail bonds businesses insofar as the businesses allowed to relocate already would have been in existence and legally operating.

PUBLIC OUTREACH/INTEREST

A re-notice of the public hearing on the proposed extension ordinance has been published in the Mercury News and posted on the City's web site. Staff sent a notification of the new hearing date to a citywide email list of businesses, organizations, residents and bail bond professionals. Staff has been available to respond to questions from the public on this issue.

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COORDINATION

Preparation of the proposed ordinance and this memorandum has been coordinated with the City Attorney's Office.


JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Laurel Prevetti at 535-7901.