


10/27/2020

item 4




**City Council Meeting**

Item 4 –  
Emergency Ordinance to Add  
Worker Recall Protections for  
Building Service, Food Service  
and Hotel Service Workers and

Introduction of an Ordinance to  
provide Hotel Service Workers  
Retention Rights (RTC# 20-1050)

October 27, 2020

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**City of Santa Clara**  
The Center of What's Possible

## Background

- On October 13, 2020 Council directed the City Attorney to:
  1. Prepare an emergency ordinance adding Worker Recall protections for building service, food service and hotel workers; and
  2. Prepare an ordinance amending the existing City Worker Retention Ordinance to add hotel workers as an additional class of covered employees

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## Worker Recall

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## COVID-19 Right of Recall Ordinance

### Applicability

- Any entity in Santa Clara with more than 25 employees in the State of California that enter into contracts for building services and/or food service
- Entertainment/convention venues with a capacity of at least 8,000
- Any entity that operates a Hotel with fifty (50) or more guest rooms
- City of Santa Clara contracts and to contracts with the City's related entities such as SOSA, Stadium Authority etc.
- Other governmental entities are exempt

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## COVID-19 Right of Recall Ordinance

### Contracts Subject to Ordinance

- Contracts in excess of \$25,000 with a term three months or longer for regularly scheduled building services and/or food services

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## COVID-19 Right of Recall Ordinance

### Covered Employees

- **Full or part time employees (8 hours a week or more)** whose regular place of work is in Santa Clara and have a **length of service with the employer of six months or more** and whose most recent separation from active employment by the employer occurred on or after March 16, 2020, as a result of a lack of business, a reduction in work force or other economic, non-disciplinary reason
- Not included are managerial, supervisory, or confidential employees

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## **COVID-19 Right of Recall Ordinance**

### Notification and Recall Procedures

- Employers are required to make the offer to a laid off worker, in writing, to the last known mailing address, electronic mail, and text message phone number, of any position which is, or becomes available, after the effective date of the Emergency Ordinance for which the laid off worker is qualified

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## **COVID-19 Right of Recall Ordinance**

### Notification and Recall Procedures cont.

- Laid off workers must be offered a position in the order of priority below - if the laid off worker:
  - (1) held the same or similar position at the same site of employment at the time of the Laid Off Worker's most recent separation from active service with the Employer; or
  - (2) can be qualified for the position with the same training that would be provided to a new worker hired into that position

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## COVID-19 Right of Recall Ordinance

### Notification and Recall Procedures cont.

- If more than one laid off worker is entitled to preference for a position, the employer shall offer the position to the laid off worker with the greatest length of service in (1) and then (2) with the employer at the employment site
- A laid off worker who is offered a position shall be given no less than five (5) business days in which to accept or decline the offer
- Workers covered by a collective bargaining agreement would continue to be exempt from the provisions of the ordinance.

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## Worker Retention

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## **Ordinance Amending Current Worker Retention Ordinance**

### Applicability

- Any hotel with fifty (50) or more guest rooms

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## **Ordinance Amending Current Worker Retention Ordinance**

### Covered Employees

- Full or part time workers (8 hours a week or more) whose primary place of employment is at a hotel subject to a change in control, (2) who is employed directly by the incumbent hotel employer, or by a person who has contracted with the incumbent hotel employer to provide services at the hotel subject to a change in control, and (3) who has worked for the incumbent hotel Employer for at least 90 days prior to the execution of the transfer document

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## **Ordinance Amending Current Worker Retention Ordinance**

### Notification and Retention Procedures

- Within 15 days after the execution of a transfer document, the incumbent hotel employer must provide the name, address, date of hire and employment classification of each hotel worker to the successor hotel employer
- Successor contractor must retain the employees of terminated contractor for a 90-day transition period

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## **Alternatives for Worker Retention**

- Approve the proposed Ordinance amending the Worker Retention Ordinance and direct staff to bring back the Ordinance for a second reading at the next Council meeting without a community engagement process
- Approve the proposed Ordinance amending the Worker Retention Ordinance and direct staff to bring back the Ordinance for a second reading after an engagement process is complete
- Take no action on the proposed Ordinance and direct staff to complete a community engagement process prior to the introduction an Ordinance amending the Worker Retention Ordinance to add hotel workers.

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## Recommendation

- Alternatives 1 and 4:
  - Approve the adoption of the Emergency Ordinance to add Worker Recall Protections; and
  - Approve the proposed Ordinance to add hotel workers as covered employees under the Worker Retention Ordinance and direct staff to complete a community engagement process prior to setting a date for the second reading of the proposed Ordinance.

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## City Council Meeting



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10/27/20

Item # 4



# City of Santa Clara

The Center of What's Possible

**Date:** October 27, 2020

**To:** City Manager

**From:** Executive Assistant to the Mayor & City Council

**Subject:** Correspondence received regarding item 4. 20-1050 on the October 27, 2020 Council and Authorities Regular Meeting Agenda

From Friday, October 23, 2020 at 5:00 p.m., through Tuesday, October 27, 2020 at 3:00 p.m., the Mayor and City Council Offices received the attached communications regarding item 4. 20-1050 Action on (1) Emergency Ordinance to Add Chapter 9.70 to enact COVID-19 Worker Recall Protections for Building Service, Food Service and Hotel Service Workers; and (2) Introduction of an Ordinance to Add Chapter 9.65 to provide Hotel Service Workers Retention Rights.

A handwritten signature in blue ink, appearing to read "Julie Minot", written over a horizontal line.

Julie Minot  
Executive Assistant to the  
Mayor & City Council

*Documents Related to this Report:*

1) *Communications received*

**POST MEETING MATERIAL**

## Julie Minot

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**From:** Kaela Sanborn-Hum <kaela.sh@thefightfor15.org>  
**Sent:** Monday, October 26, 2020 11:08 AM  
**To:** Mayor and Council  
**Cc:** Clerk; Maria Maldonado  
**Subject:** Support letter for Item 4, Right of Recall, 10/27 City Council  
**Attachments:** Right-to-Recall-Santa-Clara\_FF15.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Honorable Mayor Gillmor and Santa Clara City Councilmembers,

Please see the attached letter by Maria Maldonado, Northern California Coordinator of the Fight for \$15 and A Union campaign. This letter is supportive of the emergency Worker Recall ordinance that will be considered in the city council meeting tomorrow.

All the best,  
Kaela

October 22, 2020

Honorable Mayor Gillmor and City Councilmembers,

I am writing on behalf of the Fight for \$15 and A Union campaign in the Bay Area, a movement of low-wage fast food workers fighting for a living wage and workers' rights.

Thank you for your foresight and compassion in moving forward with an emergency Worker Recall ordinance to help provide security to some of our hardest hit community members. I urge you to immediately pass the ordinance when it comes before you this Tuesday.

Many thousands of Santa Clarans were hit by layoffs due to COVID-19 and have yet to return to work. Hotel employees, event center workers, and janitorial, security and cafeteria staff at office campuses are among the hardest hit; the jobs and industries to which they dedicated their careers have largely been closed since March, and are not likely to fully reopen until sometime next year.

These largely immigrant and women workers, with years and decades of service, were laid off due to no fault of their own when the pandemic forced businesses to close, travelers to cancel plans, and major office campuses to shift to remote work. Since March, they have struggled to support their families. Many fear that even when their employers finally re-open, they may never be given the chance to return to the careers they spent decades building.

As we slowly begin to re-open, these workers deserve the opportunity to participate in that recovery. The right of recall will guarantee jobs to laid-off workers once their jobs become available, which is essential to providing a strong foundation for collective economic recovery. It will also ensure that pandemic-related layoffs are not used as an excuse to engage in discriminatory or retaliatory actions against employees.

This ordinance does not impose any financial burdens on employers. Nor does it require any employer to hire before they are ready. It simply says that, whenever employers decide that they need to bring back workers, they should offer those positions first to the workers who worked for them before the pandemic. Many responsible employers will do this anyway, but some will not – and workers need that lifeline to know that they will at least have a chance to go back to work, that this crisis has an end in sight.

As we overcome this pandemic and our economy reopens, workers at the forefront of our communities should not be left out. We urge the swift passage of worker recall and retention to give these workers – our neighbors and community members – hope.

Sincerely,

Maria Maldonado  
Fight for \$15 and A Union  
Northern California Campaign Coordinator

## Julie Minot

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**From:** Salvador Bustamante <chava@lunalatinosunidos.org>  
**Sent:** Monday, October 26, 2020 5:10 PM  
**To:** Lisa Gillmor; Kathy Watanabe; Teresa O'Neill; Debi Davis; Karen Hardy; Raj Chahal; Mayor and Council  
**Cc:** Priscilla Acuna  
**Subject:** Recall rights ordinance  
**Attachments:** Mayor Gillmore letter re recall rights.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

San Jose, CA

October 26, 2020

Mayor Lisa M Gillmor and  
City Councilmembers,  
City of Santa Clara  
1500 Warburton Ave,  
Santa Clara, CA 95050

Honorable Mayor Gillmor and City Councilmembers,

My name is Salvador Bustamante. I am the executive director of Latinos United for a New America (LUNA). LUNA is a grassroots organization working to improve the quality of life of Latino immigrants in Silicon Valley.

I am writing to thank you for your foresight and compassion in moving forward with an emergency Worker Recall ordinance to help supply security to some of our hardest hit community members. This measure is too important to not get right. The need is dire, so we ask that you revise the draft ordinance, strengthen it to protect the ability of the greatest number of workers to get back to work quickly and safely.

Many thousands of Santa Clarans were hit by layoffs due to COVID-19 and have yet to return to work. Hotel employees, event center workers, and janitorial, security and cafeteria staff at office campuses are among the hardest hit; the jobs and industries to which they dedicated their careers have largely been closed since March, and are not likely to fully reopen until sometime next year.

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As we slowly begin to re-open, these workers deserve the opportunity to take part in that recovery. The right of recall will guarantee jobs to laid-off workers once their jobs become available, which is essential to supplying a solid foundation for collective economic recovery. It will also ensure that pandemic-related layoffs are not used as an excuse to engage in discriminatory or retaliatory actions against employees.

This ordinance does not impose any financial burdens on employers. Nor does it require any employer to hire before they are ready. It simply says that, whenever employers decide that they need to bring back workers, they should offer those positions first to the workers who worked for them before the pandemic. Many responsible employers will do this anyway, but some will not – and workers need that lifeline to know that they will at least have a chance to go back to work, that this crisis has an end in sight.



As we overcome this pandemic and our economy reopens, workers at the forefront of our communities should not be left out. We urge the passage of a strong worker recall and retention to give these workers – our neighbors and community members – hope.

Sincerely,

Salvador Bustamante,  
Executive director  
408-466-2722  
San Jose, CA

October 26, 2020

Mayor Lisa M Gillmor and  
City Councilmembers,  
City of Santa Clara  
1500 Warburton Ave,  
Santa Clara, CA 95050

Honorable Mayor Gillmor and City Councilmembers,

My name is Salvador Bustamante. I am the executive director of Latinos United for a New America (LUNA). LUNA is a grassroots organization working to improve the quality of life of Latino immigrants in Silicon Valley.

I am writing to thank you for your foresight and compassion in moving forward with an emergency Worker Recall ordinance to help supply security to some of our hardest hit community members. This measure is too important to not get right. The need is dire, so we ask that you revise the draft ordinance, strengthen it to protect the ability of the greatest number of workers to get back to work quickly and safely.

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As we overcome this pandemic and our economy reopens, workers at the forefront of our communities should not be left out. We urge the passage of a strong worker recall and retention to give these workers – our neighbors and community members – hope.

Respectfully,

Salvador "Chava" Bustamante,  
Executive Director  
Latinos United for a New America (LUNA)  
(408) 466-2722

Sent from [Mail](#) for Windows 10



## LATINOS UNITED FOR A NEW AMERICA

1692 Story Rd., Suite 225 San José, CA 95122

(408) 493-6486

San Jose, CA

October 26, 2020

Mayor Lisa M Gillmor and  
City Councilmembers,  
City of Santa Clara  
1500 Warburton Ave,  
Santa Clara, CA 95050

Honorable Mayor Gillmor and City Councilmembers,

My name is Salvador Bustamante. I am the executive director of Latinos United for a New America (LUNA). LUNA is a grassroots organization working to improve the quality of life of Latino immigrants in Silicon Valley.

I am writing to thank you for your foresight and compassion in moving forward with an emergency Worker Recall ordinance to help supply security to some of our hardest hit community members. This measure is too important to not get right. The need is dire, so we ask that you revise the draft ordinance, strengthen it to protect the ability of the greatest number of workers to get back to work quickly and safely.

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As we overcome this pandemic and our economy reopens, workers at the forefront of our communities should not be left out. We urge the passage of a strong worker recall and retention to give these workers – our neighbors and community members – hope.

Sincerely,

Salvador Bustamante,  
Executive director  
408-466-2722

## Julie Minot

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**From:** VyVy Trinh <vyvytrinh89@gmail.com>  
**Sent:** Monday, October 26, 2020 5:30 PM  
**To:** Mayor and Council; Clerk  
**Subject:** Support Item 4 at City Council 10/27, Right to Recall

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

October 26, 2020

Honorable Mayor Gillmor and City Councilmembers,

My name is Dr. Elyse VyVy Trinh, and I am a resident physician at Kaiser Permanente Santa Clara. I am a member of our chapter White Coats for Black Lives and am on a subcommittee working deeply in solidarity with some of the lowest-wage workers in our hospital.

Like so many across the country, many of our cafeteria workers, who are employed by Morrison Healthcare, were laid off at the start of the pandemic. Many of these workers had been working in our cafeterias for many years and are dearly treasured members of our community. They have literally fed me during some of my hardest shifts in the hospital, and their struggles since having been laid off are deeply personal to me. Most of them have struggled to find new employment, and are now raising their families through significant economic hardship.

I am writing today to thank you for your foresight and compassion in moving forward with an emergency Worker Recall ordinance to help provide security to some of our hardest hit community members. I urge you to immediately pass the ordinance when it comes before you this Tuesday.

My food service worker colleagues are not alone. Many thousands of Santa Clarans were hit by layoffs due to COVID-19 and have yet to return to work. Hotel employees, event center workers, and janitorial, security and cafeteria staff at office campuses are among the hardest hit. These largely immigrant and women workers, with years and decades of service, were laid off due to no fault of their own when the pandemic forced businesses to close or scale back. Many fear that even when their employers finally re-open, they may never be given the chance to return to the careers they spent decades building.

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As we overcome this pandemic and our economy reopens, workers at the forefront of our communities should not be left out. We urge the swift passage of worker recall and retention to give these workers – our neighbors and community members – hope.

Sincerely,  
E. VyVy Trinh, MD

## Julie Minot

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**From:** Asim Alam <aalam8888@gmail.com>  
**Sent:** Tuesday, October 27, 2020 9:21 AM  
**To:** Mayor and Council  
**Cc:** Clerk  
**Subject:** Right to Recall Support

Hello my name is Dr. Asim Alam, I am a current physician resident at Kaiser medical center. I grew up in San Jose where my parents still reside. I am writing to urge you to pass the right to recall laid off workers in the hospitality and service industries. Many of these workers are already facing dire economic situations and tough working conditions pre-COVID and as a society the least we can do is guarantee their source of income when hopefully the pandemic subsides. Thank you for your time and hard work serving our community.

Asim Alam MD, PhD  
Internal Medicine-Preventative Medicine Resident  
Kaiser San Francisco Medical Center  
MPH Candidate 2021, UC Berkeley School of Public Health

## Julie Minot

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**From:** Jessica Ocampo <jmocampo11@gmail.com>  
**Sent:** Tuesday, October 27, 2020 2:51 PM  
**To:** Mayor and Council; Clerk  
**Cc:** Lisa Gillmor; Kathy Watanabe; Teresa O'Neill; Debi Davis; Karen Hardy; Raj Chahal; Public Comment  
**Subject:** Right to Recall

October 26, 2020

Honorable Mayor Gillmor and City Councilmembers,

My name is Dr. Jessica Ocampo, and I am a resident physician at Kaiser Permanente Santa Clara. I am writing in strong support of Item 4 "Right to Recall" which is to be discussed at today's city council meeting on Tuesday 10/27/20. I am writing both as a physician caring for patients whose lives have been upended by COVID-19 *and* as a colleague who feels deep solidarity with the cafeteria workers and other contracted workers who have been laid off from my workplace.

Like so many across the country, many of our cafeteria workers, who are employed by Morrison Healthcare, were laid off at the start of the pandemic. Many of these workers had been working in our cafeterias for many years and are dearly treasured members of our community. They have literally fed me during some of my hardest shifts in the hospital, and their struggles since having been laid off are deeply personal to me. Most of them have struggled to find new employment, and are now raising their families through significant economic hardship.

I am writing today to thank you for your foresight and compassion in moving forward with an emergency Worker Recall ordinance to help provide security to some of our hardest hit community members. I urge you to immediately pass the ordinance when it comes before you this Tuesday.

My food service worker colleagues are not alone. Many thousands of Santa Clarans were hit by layoffs due to COVID-19 and have yet to return to work. Hotel employees, event center workers, and janitorial, security and cafeteria staff at office campuses are among the hardest hit. These largely immigrant and women workers, with years and decades of service, were laid off due to no fault of their own when the pandemic forced businesses to close or scale back. Many fear that even when their employers finally re-open, they may never be given the chance to return to the careers they spent decades building.

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As we overcome this pandemic and our economy reopens, workers at the forefront of our communities should not be left out. We urge the swift passage of worker recall and retention to give these workers – our neighbors and community members – hope.

Sincerely,

**Julie Minot**

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**From:** Maziar Shirazi <maziar.shirazi@gmail.com>  
**Sent:** Tuesday, October 27, 2020 2:52 PM  
**To:** Mayor and Council; cclerk@santaclaraca.gov  
**Subject:** Right to Recall - Statement in Support

Hello,

My name is Maziar Shirazi and I am a family physician working for TPMG/Kaiser Permanente in Vallejo, California. As a physician, it is heartbreaking to see folks in the service industry, particularly subcontracted workers, lose their jobs and benefits through the pandemic.

I'm sending an email to urge you to support the Santa Clara City Council resolution so that laid off janitors, cafeteria workers, and other service workers in Santa Clara who have heroically carried out their work through the pandemic only to be at risk of unemployment or to lose their jobs. Right to Recall would present these workers the opportunity to be re-offered their old jobs when the economy picks back up again. Please show support for some of the hardest working and most underappreciated, at-risk members of the community.

Maziar Shirazi, MD  
Senior Physician  
Kaiser Vallejo