



Agenda Report

21-1405

Agenda Date: 1/12/2021

REPORT TO COUNCIL

SUBJECT

Action on Adoption of an Ordinance No. 2023 adding Chapter 9.65 to the City Code to provide Hotel Service Workers Retention Rights [Deferred from December 16, 2020]

COUNCIL PILLAR

Promote and Enhance Economic, Housing and Transportation Development

BACKGROUND

At the October 27, 2020 Council meeting, proposed Ordinance No. 2023 passed for the purpose of publication. Pursuant to City Charter Sections 808 and 812, a summary of proposed Ordinance No. 2023 was published on December 2, 2020 and December 30, 2020, and copies were posted in three public places.

Proposed Ordinance No. 2023 would amend the current Worker Retention Ordinance to add Chapter 9.65 "Hotel Service Worker Retention" and would include the following provisions:

Applicability: The proposed Ordinance would apply to any hotel with fifty (50) or more guest rooms

Covered Employees: Consistent with the existing Worker Retention Ordinance, the proposed ordinance would apply to 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. Not included are managerial, supervisory, or confidential employees.

Notification and Retention Procedures:

Consistent with the existing Worker Retention Ordinance, the proposed ordinance would require:

- Within 15 days after the execution of a transfer document, the incumbent hotel employer shall provide to the successor hotel employer the name, address, date of hire and employment classification of each hotel worker.
- Successor hotel employer shall maintain a preferential hiring list of hotel workers identified in the list provided by the incumbent hotel employer and shall be required to hire from that list for a period beginning upon the execution of the transfer document and continuing for six months after the hotel is open to the public under the successor hotel employer.

- If the successor hotel employer extends an offer of employment to a hotel worker, the successor hotel employer shall retain written verification of that offer for no fewer than three years from the date the offer was made.
- The successor hotel employer shall retain each hotel worker hired for no fewer than 90 days following the hotel worker's employment commencement date. During these 90 days, hotel workers shall be employed under the terms and conditions established by the successor hotel employer or as required by law.
- The successor hotel employer shall provide hotel workers with a written offer of employment. This offer shall remain open for at least ten business days from the date of the offer.
 - If the successor hotel employer determines that it requires fewer hotel workers than were required by the incumbent hotel employer, it will retain hotel workers by seniority within each job classification to the extent that comparable job classifications exist.
 - During the 90-day transition employment period, the successor hotel employer shall not discharge a hotel worker without cause.
 - At the end of the 90-day transition employment period, the successor hotel employer shall perform a written performance evaluation for each hotel worker retained. If the hotel worker's performance during the 90-day transition employment period is satisfactory, the successor hotel employer shall consider offering the hotel worker continued employment.
- The Incumbent Hotel Employer shall post written notice of the change in control at the location of the affected hotel within five business days following the execution of the transfer document. Notice shall remain posted during any closure of the hotel and for six months after the hotel is open to the public under the successor hotel employer. Notice shall include the name of the incumbent hotel employer and its contact information, the name of the successor hotel employer and its contact information, and the effective date of the change in control. The notice shall be posted in a place at the hotel to be viewed by hotel workers, other employees, and applicants for employment.

DISCUSSION

Before final action on proposed Ordinance No 2023, City Council directed staff to conduct outreach on the proposed changes to the current Worker Recall Ordinance. Staff scheduled two public input sessions. The first session was held on Monday November 16, 2020 at 6:00 p.m. and the second was held on Tuesday, November 17, 2020 at noon. No objections were noted at either public input session.

A presentation was also given at the Tourism Improvement District (TID) meeting on November 12, 2020. Representatives from several potentially impacted hotels attend this meeting and no concerns were noted.

The public input sessions were advertised as follows:

- Flyer (mailed and emailed to all hotels in the City with 50 or more guestrooms)
- Social Media
- Press Release
- Webpage

City staff also made the public input session presentation from the November 17, 2020 meeting available on the Worker Retention webpage.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” within the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

There is no fiscal impact other than administrative staff time.

COORDINATION

This report has been coordinated with the City Attorney’s office.

PUBLIC CONTACT

A summary of proposed Ordinance No. 2023 was published to the Santa Clara Weekly on December 2, 2020 and December 30, 2020, and copies were posted in three public places and made available for public inspection at the City Clerk’s Office.

Public contact was made by posting the Council agenda on the City’s official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City’s website and in the City Clerk’s Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk’s Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>>.

RECOMMENDATION

Adopt Ordinance No. 2023 adding Chapter 9.65 to the City Code to provide Hotel Service Workers Retention Rights.

Reviewed by: Brian Doyle, City Attorney and Ruth Mizobe Shikada, Assistant City Manager

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Ordinance No. 2023 (Intro)