



CITY COUNCIL MEETING MINUTES

Richfield, Minnesota

City Council Work Session

February 11, 2020

CALL TO ORDER

The work session was called to order by Mayor Maria Regan Gonzalez at 5:45 p.m. in the Bartholomew Room.

Council Members Present: Maria Regan Gonzalez, Mayor; Mary Supple; Simon Trautmann; and Ben Whalen.

Council Members Absent: Edwina Garcia

Staff Present: Katie Rodriguez, City Manager; Mary Tietjen, City Attorney; Kristin Asher, Public Works Director; John Stark, Community Development Director; Pam Dmytrenko, Assistant City Manager; Blanca Martinez Gavina, Executive Analyst; and Kelly Wynn, Senior Office Assistant

Item #1	PRESENTATION OF PREVAILING WAGES AND LABOR TRAFFICKING
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City Manager Rodriguez introduced the item and staff.

Executive Analyst Martinez Gavina gave a description of prevailing wage, current rates and research done in 2016 by City staff. She included some key points of current research as well as a study of 140 projects where 122 were using prevailing wage regulations. There was no evidence found to support the proposition that the absence of prevailing wage regulations attracted more bids.

Executive Analyst Martinez Gavina then listed some concerns of how to enforce prevailing wage regulations (1) understanding the hours worked by an employee; (2) contractors refusing to pay fringe benefits; (3) misclassification of employees; and (4) failure to pay overtime rate. She spoke of most cities do not have the resources or knowledge base to be able to enforce the ordinances. Executive Analyst Martinez Gavina then gave some enforcement/monitoring practices (1) certified payroll records; (2) onsite interviews of employees; and (3) inspector check-ins.

Executive Analyst Martinez Gavina stated a recommendation of requiring City projects over \$300,000 are regulated with prevailing wage.

Council Member Whalen asked why is \$300,000 the starting point. Director Asher spoke to the ballpark starting point. There would still be many projects affected but not too many to become overwhelming while they begin the process.

City Manager Rodriguez added that cities with lower thresholds were not really enforcing and Richfield would like to enforce the regulations. The City will most likely have to outsource the enforcement.

Council Member Whalen wondered if it is any project or just fully publicly funded projects. City Manager Rodriguez confirmed it would be City funded projects.

Mayor Regan Gonzalez questioned why other cities were not enforcing these regulations. Executive Analyst Martinez Gavina explained cities may have the regulations in their contract but are not tracking them directly.

Mayor Regan Gonzalez also asked if there would be addition legal protection for renters if developers were accused of not abiding by the regulations. City Attorney Tietjen confirmed protection for renters if legal action were to be taken.

Council Member Trautmann wondered if it would be feasible to create an enforcement provision to incentivize private attorneys to enforce violations and then attorneys collect the fees from enforcing a wage violation. City Attorney Tietjen stated they could look into it but usually attorney fees are contractual.

Council Member Supple believes it is worth having the ordinance to set a standard, even if not fully enforced.

Mayor Regan Gonzalez asked if there would be a difference in the processing and fees when working with someone who already includes prevailing wage in their contract versus someone who does not. Executive Analyst Martinez Gavina stated there would need to be enforcement with any contractors as well as all subcontractors for the entirety of the project.

Council Member Whalen wondered the City is expected to need another staff person. City Manager Rodriguez stated it would not be enough work to justify hiring another staff person and outsourcing the work would be more practical.

Council Member Trautmann asked if it would just be outsourcing the compliance or piece or shifting in-house contract management to have a general contractor for these projects. City Manager Rodriguez stated it would depend on the project. Director Asher spoke in that it would be the compliance piece. Executive Analyst Martinez Gavina believed it would be 10-20 additional hours a week.

Director Stark spoke on the Redevelopment Contract Agreement to discuss what kind of controls they would want to have for projects that are not abiding by regulations. He stated they do not know of anyone that has terminated a project. Director Stark then added what some costs and limitations might be, including (1) developer unaware of subcontractor and suppliers; (2) staff not having capacity to conduct site visits; and (3) may set an unrealistic expectation that staff is monitoring the projects.

Council Member Supple commented on her concern of a developer not knowing of all subcontractors and suppliers coming into their development. Director Stark explained a developer versus a contractor knowing due to the volume of employees on a project.

Council Member Whalen echoed his concern but is hoping this would be the change in enforcing these regulations. He was also concerned about possible punishment to a developer for the fault of a contractor. Director Stark confirmed that is a possibility but developer may alter the language in their contracts to protect themselves.

Council Member Trautmann was curious of any potential civil liability for making this item an ordinance. City Attorney Tietjen replied there would be no liability for adopting the ordinance.

Council Member Whalen recognized the representative from the Carpenter's Union that was present. He believed it is still worth passing something like this and knowing we have partners in the community that monitor this problem.

Executive Analyst Martinez Gavina went on to describe prevention of labor trafficking. There is a state-wide movement to become engaged and an easy way to provide information is signs. She listed some costs and limitations such as (1) costs for labor trafficking prevention signs; and (2) lack of resources to investigate human trafficking cases.

Council Member Supple commented as being the Human Rights Commission liaison and how they would like to be part of the solution and are willing to provide support.

Council Member Trautmann expressed appreciation for bringing this topic into conversation and wondered if the signs would just be at construction sites or able to proliferate the message. Executive Analyst Martinez Gavina described how some signs cover multiple forms of labor/human trafficking. Director Stark explained the inspections division would have to perform a scope and scale of each project.

Mayor Regan Gonzalez wondered about other types other than signs. Executive Analyst Martinez Gavina explained the signs are just a first step in labor trafficking prevention. Council Member Whalen agreed that signs are great but it worth to looking into more options. He also wondered if the City could require businesses need to have these signs posted. City Attorney Tietjen stated they could look into the matter but not sure if they could mandate it unless it is required by some state or federal law.

Council Member Supple asked where the calls would be directed from the signs. Executive Analyst Martinez Gavina listed a couple options and receiving support from the county.

City Manager Rodriguez stated their research mostly surrounded labor trafficking but they have found there is a direct relation to metro transit so they would see if it's possible to place signs at bus stops and other metro transit areas.

Executive Analyst Martinez Gavina gave a summary of recommendations (1) prevailing wage requirement on projects over \$300,000; (2) redevelopment contractual agreements; and (3) labor trafficking prevention signs; as well as next steps and suggestions.

Council Member Whalen asked for clarification if the prevailing wage requirement would be proposed as an ordinance and then come back to Council. City Attorney Tietjen confirmed they are looking to make an ordinance.

Council Member Supple suggested more research on the feasibility of the redevelopment agreement provisions. Director Stark believes the HRA would want to include the language on agreements and contracts.

Council Member Whalen wanted to clarify by researching the feasibility would be to try it in agreements and contracts. Director Stark confirmed that notion. Council Member Whalen stated his support in the matter.

Council Member Trautmann thanked staff for all their work and expressed his support in moving forward.

Mayor Regan Gonzalez stated her support and would like staff to create a baseline of information to see if the work is effective. She also thanked staff for the presentation.

City Manager Rodriguez clarified steps moving forward as (1) developing language for an ordinance of prevailing wage; (2) moving forward with the redevelopment contractual agreement; and (3) labor trafficking sign distribution.

ADJOURNMENT

The work session was adjourned by unanimous consent at 6:45 p.m.

Date Approved: February 25, 2020

Maria Regan Gonzalez
Mayor

Kelly Wynn
Senior Office Assistant

Katie Rodriguez
City Manager