

POLICY AND SERVICES COMMITTEE

Regular Meeting
December 9, 2008

Chairperson Kishimoto called the meeting to order at 7:01 p.m. in the Council Conference Room, 250 Hamilton Avenue, Palo Alto, California.

Present: Barton, Drekmeier, Kishimoto (chair), Espinosa

Absent: None

1. Oral Communications

None.

2. Review and Request for Recommendation on Prevailing Wage Issues Related to City Capital Construction Projects

Assistant Public Works Director, Mike Sartor presented a staff research report related to the prevailing wage issue and City Capital projects. He stated prevailing wages pertain to Public Works contracts which include Utilities, Capital Improvement Projects and Public Works General Fund and Enterprise Fund Projects. He explained that as Palo Alto was a Charter City, it was not required to pay prevailing wage unless the project involved Federal or State Grant funding, Gas Tax Funds or other non-local funding sources.

Council Member Barton asked whether the potential for cost increase was at the bid process or the total at the end of a project. He stated there were bid numbers and the true cost of a project. He stated he would not be supporting the recommendation.

Mr. Sartor stated the study was based on the review of completed projects.

Vice Mayor Drekmeier asked whether the income levels of prevailing wage were that of a medium income versus average income.

Mr. Sartor stated the State determined the prevailing wage based on individual labor categories. For example carpenters in Santa Clara County, the State takes a look at wages for carpenters throughout the entire County then take fifty percent of the highest wages being paid and establish that as the prevailing wage.

Vice Mayor Drekmeier clarified the breakdown of wages was by county.

Mr. Sartor stated yes, by the Department of Industrial Relations.

Vice Mayor Drekmeier asked whether Palo Alto currently had policy on union wages.

Mr. Sartor stated no.

Vice Mayor Drekmeier asked whether there was a forum to view municipality rating systems for contractors.

Mr. Sartor stated the purpose of the survey was to verify any quality impact.

Vice Mayor Drekmeier asked how to determine whether a contractor had poor quality of work.

Mr. Sartor stated reference checks and checking with other municipalities. The bid process require statements of qualifications and experience of similar types of projects.

Vice Mayor Drekmeier asked the impact of the economy on the timeline for moving forward with the prevailing wage.

Mr. Sartor stated direct impact of quality in work were protected by performance specifications and plans prepared. He stated when a contractors' performance was not adequate the contract could be terminated or the contractor could be given the opportunity to correct any performance issues.

Vice Mayor Drekmeier asked how frequently the prevailing wage was recalculated.

Mr. Sartor stated he had no actual data however, he anticipated an annual review would be probable.

Vice Mayor Drekmeier asked whether there was data on prevailing wage contractor's not bidding in Palo Alto because of the possibility of low-balling by non-prevailing wage entities.

Mr. Sartor stated in his research the non-prevailing wage contracts attracted more bidders than prevailing wage contracts.

Council Member Espinosa asked how employees being treated or paid fairly was factored in to the calculations of whether to recommend prevailing wage or not to.

Mr. Sartor stated staff's primary consideration was fiscal. He stated an expected increase in cost of up to ten percent would occur during smaller and or maintenance type projects. Research revealed on major projects the contractor usually paid prevailing wage already.

Mr. Keene stated if the adoption of prevailing wages did increase costs the question to Council would be what the consequence would be in absorbing the costs.

Council Member Espinosa stated his agreement. The City as a whole needed to weigh the two challenges between increase in cost to a project versus ensuring fairness and fair payment for employees working on projects.

Mr. Keene stated the basis of the decision being requested was not quality against cost but an overall combination of reaching a higher level of them together.

Council Member Barton asked for a comparison of both prevailing wage and non-prevailing wage bidders against projects in Palo Alto for 2007 and 2008.

Chair Kishimoto asked whether the increase in cost of going with prevailing wage was transferred to the worker or administrative fees.

Mr. Sartor stated the study being viewed was a study compiled by the State of Kentucky of contractors in their region.

Chair Kishimoto stated it appeared the higher cost of the project went to more administrative fees which was against the object of going forward with prevailing wage. She stated her process was for the higher cost to translate to better wages for the worker.

Mr. Sartor stated the administrative costs were incurred by the owner.

Chair Kishimoto asked whether the employees' benefits and healthcare were included in the cost.

Mr. Sartor stated no. He stated the benefits and healthcare costs were included in the rates. For example a thirty dollar per hour job would cost forty-five dollars.

Chair Kishimoto asked whether the rates changed by skill level or category.

Mr. Sartor stated the rates tended to be geared towards the level of skill for the person in a particular category.

Chair Kishimoto asked how flexible the categories were as in filling-in. If person A from category one was out could person A from category two fill-in or was it job specific.

Mr. Sartor stated his understanding was there was no cross trading without experience.

Council Member Espinosa asked how quality and safety played a role together.

Mr. Sartor stated there were standard quality controls and safety measures in place and monitored by the contractor in charge of the project. The inspector's checks ensure appropriate operators for the specific duties on each project.

Nicole Goehering, 4577 Las Rositas Rd, Unit C, Livermore, spoke of flexibility under prevailing wage work. She stated within Palo Alto the flexibility of metal roofing could be covered by sheet metal workers or roofers and underground utility work could be covered by utilities or laborers.

Kevin Dayton, 4577 Las Rositas Rd, Unit C, Livermore, spoke of the increase in cost not necessarily coming from the prevailing wage but the specifics of how prevailing wage was determined by the state.

Neil Struthers, 2102 Almaden Road, San Jose, spoke of how qualification implied quality. He stated the more experienced worker would turn out a better and quicker product than one of less skill. The hourly wage does not determine the quality. He noted statistical data on percentages of prevailing wage versus non-prevailing wage bids in Palo Alto.

Peter Philips, Economics Department, University of Utah, Salt Lake City, stated the staff report data was built on impressions from first principles rather than natural experiments or empirical observations. He stated there was no statistically significant difference in the number of bidders on Palo Alto jobs compared to the four surrounding cities. In the sample examined, there were 140 projects, 19 of which were in Palo Alto with 450 bidders. He continued to speak of the study he provided.

Council Member Barton stated one of the supporting factors for the prevailing wage rule was the majority of the workers had come up through some sort of union training program. The people would be well trained in their trade, have quality standards and efficient. He stated Council had an obligation to be morally efficient in the expenditure of public dollars.

MOTION: Council Member Barton moved, seconded by Council Member Espinosa, that the Committee make a recommendation to the Council to impose a prevailing wage requirement for all City Capital Projects.

Mr. Keen asked for clarification as to the relativity to City Capital Construction Projects.

Council Member Barton stated yes.

Chair Kishimoto asked whether the Motion covered all capital projects.

Council Member Barton stated in the beginning to incorporate them all and at a later date discussions could be brought forward as to the necessity of each project.

Council Member Espinosa stated the treatment of workers in any function or capacity as workers for the City needed to be treated with fairness and payment equality.

Vice Mayor Drekmeier stated the Water Treatment Plant project brought about concern whether the City needed to provide prevailing wage or not. The lowest bidder chosen was paying prevailing wage. He noted the importance of fairness in treatment of employees' payment and benefits.

AMENDMENT: Chair Kishimoto moved, seconded by Council Member XXX to incorporate parameters of exclusion for maintenance and smaller projects, and to add a financial threshold where prevailing wage would not apply to a project below \$XXX.

Amendment failed for lack of second.

Mr. Sartor stated staff was prepared to return with exclusionary criteria for maintenance projects from the prevailing wage requirements.

Chair Kishimoto asked whether the matter should be moved forward without adequate information or revisited at a later date.

Mr. Keene stated the language could incorporate the exclusion of routine maintenance contracts. He noted a more specific concern would be public/private partnerships.

Chair Kishimoto asked whether the exclusion of public/private partnerships would cause any legal matters.

Deputy City Attorney, Amy Bartell stated the current statute reads if a project was receiving public funds in whole or part it was subject to prevailing wage law in General Law Cities. She noted currently, Palo Alto remained in the Charter City category, pending the outcome of the City of Vista's court case.

Chair Kishimoto clarified General Law Cities were required to pay prevailing wage when entering into a public/private partnership.

Ms. Bartell stated yes. She clarified the requirement for a Charter City to pay prevailing wage included the receipt of public funds in any amount.

Mr. Keene stated not to overlook the possibility of a group or non-profit organization offering to accomplish a capital project that the city may nor have planned to move forward with and they request a contribution or matching funds. The question would be how prevailing wage would affect that situation.

Vice Mayor Drekmeier asked whether there was a recommendation ready for Council or if the matter would go before Council with further information from staff.

Chair Kishimoto stated staff would return to Policy and Services for further review prior to going to Council.

Council Member Espinosa stated he would prefer staff return to Policy and Services with information detailed to the concerns coming from this meeting. He noted a set timeline should be outlined to avoid prolonging unresolved matters.

Council Member Barton noted the current committee panel would not meet again.

Mr. Keene stated with there being a general consensus on the concept of prevailing wage in regards to capital projects, he suggested the Committee recommend the full Council review what had been accomplished with the understanding of staff's return in early February with suggestions for further resolutions to minor, maintenance, and public/private partnership projects.

Chair Kishimoto asked to have a definition of resource impacts between small and large projects.

Mr. Sartor stated other Charter Cities have excluded smaller projects such as roofing and painting contracts. He noted the report currently includes all projects as part of the \$11.5 million from the Capital General Fund projects.

Chair Kishimoto asked how the \$28 million dollars was divided for projects.

Mr. Sartor stated he was unfamiliar with the number of routine maintenance contracts Utilities had, however the majority of contracts consisted of Capital Improvement Projects which had prevailing wage impacts.

Chair Kishimoto clarified that most of the City contract work was on a larger scale and therefore the contractor's paid prevailing wage.

Mr. Sartor stated yes. For example, Anderson Pacific was a large non-union underground construction contractor who pay prevailing wage. The recommended exemptions from prevailing wage requirement would be maintenance projects and public/private partnership such as Lytton Plaza and the Art Center.

Chair Kishimoto stated her concern regarding the flexibility and calculation in the process of prevailing wage.

Council Member Barton suggested forwarding the recommendation as it was with a parallel recommendation that the Committee was unsure about the thresholds and that staff would return to Council with recommendations.

Mr. Sartor mentioned living wage and prevailing wage were completely separate topics. He stated he understood the Committees' concern for the wellbeing of workers, however a living wage was a local jurisdiction and a prevailing wage requirement was a state mandate.

Chair Kishimoto suggested requesting the new Mayor extend the current Committee panel for a one month term therefore allowing staff time to gather the detailed information needed to complete a recommendation for Council.

Mr. Keene stated he concurred and stated staff would be prepared to return with adequate information.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER, to request the Mayor allow the current Committee panel to meet an additional time in January to finalize a recommendation to the City Council.

Council Member Barton withdrew the Motion.

The Committee recommended that the Mayor direct staff to return to the current Committee panel in late January of 2009 with threshold discussions so the current Committee could return a recommendation to Council on prevailing wage requirement.

3. Discussion for Future Meeting Schedules and Agendas-Last meeting-another in January

ADJOURNMENT: Meeting adjourned at 8:38 p.m.