



# Celebrating WOMEN'S HISTORY MONTH

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## **Council Passes Worker Retention Ordinance, Approves Soccer Park**

By David Alexander

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Inside the Santa Clara City Council Chambers, dozens of citizens brandished sheets of paper reading "Job Security Now" like flags. Some wore red t-shirts with "Unite Here" printed on them. They cheered and applauded when speakers said something in support of the Worker Retention ordinance. They chanted when the Council the passed the ordinance.

The Worker Retention ordinance, which the Council passed unanimously at its Tuesday meeting, requires businesses to continue employing janitorial, security and food service workers for three months following a contractor change. The ordinance saw little opposition and was similar to the one proposed at the Council's Feb. 7 meeting.

Many members of the public lauded the regulation, saying it offered them "job security."

"I think it is important to remember where the wealth of the City comes from," said Sandy Perry, with the Affordable Housing Network of Santa Clara County. "It is not in the companies. It is not in the technology. It is not in the value of the real estate. It is in flesh and blood in the hearts of the people who built this valley."

Jim Mercurio, the vice president of stadium ops and general manager for the San Francisco 49ers, said his organization supports the ordinance, calling it "essential."

The ordinance affects businesses with more than 25 workers who work at least eight hours a week in building maintenance or food service industries and entertainment venues with a capacity of more than 8,000. This includes the City but excludes Santa Clara Unified School District and Santa Clara County.

According to the ordinance, should the new contractor's evaluation show the employee's performance is "satisfactory," the ordinance requires the contractor to continue to offer the worker a job.

Businesses need not keep all the previous contractor's employees. However, if a new contractor reduces the number of employees, it must give preference to those with seniority. During the 90-day period, the ordinance prohibits the successor contractor from "substantially" changing the employee's work shift or place of work.

If businesses fail to comply with the ordinance, the worker would have recourse in civil court to recoup back pay, attorney's fees and possible damages.

James Kerkstra, a bartender at Levi's Stadium, said the ordinance is "good business" because transitions between contractors can be "very chaotic" and the ordinance will help "foster smooth transition."

"Unstable work is a threat to our community," he said. "By building more stable work, we are building a more stable community."

Still not everyone agreed. A few naysayers challenged whether the ordinance would be the boon so many claimed.

Chris Horton, president of the Santa Clara Chamber of Commerce, said the ordinance would negatively impact the broader base of businesses. He said many of the details of the ordinance are "ambiguous" and the thresholds for the numbers and types of businesses affected are "vague."

While he said the Chamber does not oppose a Worker Retention ordinance per se—having previously supported it at the Council's Feb. 7 meeting—the one proposed would cause the City to lose a lot of tax revenue and rob employers of the "basic right" to decide who they employ.

"What might seem like reasonable regulation is drifting toward over regulation," he said.

Mark Porter, owner of Express Employment Professionals, said California is already one of the most worker-friendly states. He called the ordinance a "burden to employers," adding that there is such an abundance of these types of jobs, that "if anyone were to laid off, they could be working the next day." He said the ordinance is a thinly veiled attempt to unionize these sectors.

Joe Siecinski, chair of the Santa Clara Chamber of Commerce & Convention-Visitor's Bureau, said most Santa Clara companies are not NVIDIA or Intel; they are mostly small businesses, and a majority of new businesses fail within their first year. The ordinance will "make it even harder" for the businesses to succeed, he said.

One of the bigger points of contention was whether the ordinance holds legal water. Interm City Attorney Brian Doyle told Council Member Pat Kolstad that he could not guarantee the ordinance would not be challenged. However, similar ordinances have passed muster in the California Supreme Court. Most of Doyle's concern stemmed from whether the ordinance bumped up against the National Labor Relations Act, a federal law passed in 1935 that deals with collective bargaining rights.

Still, Vice Mayor Dominic Caserta, who along with Mayor Lisa Gillmor wrote the ordinance, said that "You got to break some eggs to make an omelet."

Also up for discussion was an often-contentious topic: soccer parks. The Council unanimously approved the architectural design for soccer fields south of Reed St. between Lafayette St. and Grant St. However, some were irritated with the 18-month timeline for a project that has been years in the making.

Scott Lane, who spoke on several agenda items Tuesday, said the process of getting the soccer parks was “top-down policy planning” and “beyond unacceptable.”

“Basically, this was like a war,” he said.

While the City will take mitigation measures, including a fence between the soccer park and the adjacent dog park, the biggest criticism was of how long the project will take.

Tino Silva, co-founder of the group Stand Up 4 Santa Clara, called for the City to “work at the pace of Silicon Valley.”

“If they can build Apple’s ‘spaceship’ in two years, we can build a soccer field in two years,” he said.

Council mainstay Deborah Bress went in on the timeline, calling it “pathetic,” “ridiculous” and “goofy.” To explain the timeline, Bress even went so far as to imply that Council members had been “paid off” and had their “palms greased” by developers to expedite developments such as Levi’s Stadium.

Council Member Patricia Mahan left the meeting for health reasons following the vote.

Other personalities collided when the Council discussed overtime for a New Year’s Day game at Levi’s Stadium. Although the 49ers agreed to cover the roughly \$35,000 in overtime costs for police officers who worked the holiday, members of the Council, still had pointed words on the matter.

Police Chief Mike Sellers said he was “extremely frustrated” with the situation, claiming that “backroom deals” led to a miscommunication that caused him to believe the Council would approve the overtime. In a “good faith” effort, many officers volunteered to work the game.

Sellers said he would prefer to avoid mandating overtime, something that Patrick Nikolai, president of the Santa Clara Police Officers’ Association, challenged whether Sellers could even do, considering the 49ers games are considered “third-party” events not directly related to City security.

However, Sellers remained steadfast in his claim that he can mandate overtime. He said he was elected to protect Santa Clarans, and if that means mandating overtime, that is what he will do.

Still, Gillmor said expecting the Council to approve the overtime after-the-fact shows that the issues like this need to be handled in advance.

“There was actually plenty of time to work this out,” Gillmor said. “Had you come to me or anyone else on this Council, we would have never approved the overtime because that is general fund money.”

Gillmor called the situation “a mistake” and “bad planning,” adding that Sellers’ claims “did not happen.”

Mercurio called the 49ers willingness to foot the bill for police overtime a “goodwill gesture,” adding that the team was “happy to do it.”

“We do hold the theory that people that come out and work on a holiday do deserve extra compensation,” he said.



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