



Agenda Report

April 20, 2020

TO: Honorable Mayor and City Council

FROM: City Manager

SUBJECT: HOSPITALITY WORKPLACE PROTECTIONS

RECOMMENDATION:

It is recommended that the City Council receive information on the draft Hospitality Workplace Protections Ordinance provided by Unite Here Local 11, and consider whether to provide further staff direction.

BACKGROUND:

Recently, representatives from Unite Here, Local 11 requested that the City Council consider taking emergency actions to protect hospitality workers from the risk of contracting COVID-19 coronavirus. In addition, Unite Here asked that the City consider adopting a Hospitality Workplace Protection Ordinance that would, in addition to incorporating various actions to reduce COVID-19 risk, establish a variety of requirements for hoteliers that would remain in place beyond the current state of emergency.

For example, the proposed Ordinance would establish a "Fair Discharge" process whereby hospitality workers could only be discharged for a bona fide economic reason or "Just Cause" as defined. Also, any new positions would have to be offered to Qualified Discharged Employees who lost their position for reasons other than Just Cause termination. As proposed, the employer would be required to send a written notice to the employees' last known address and provide no less than ten days' time for former employees to accept or decline such offers.

As it relates to actions to reduce the threat of COVID-19, the City through its Public Health Orders, has been focused on reducing risks for all those who live and work in Pasadena. Hotels are Essential Businesses under the City's Orders. On April 11th a new Order was issued specifically targeted at Essential Businesses. Pursuant to the Order, each Essential Business is required to implement and post a Social Distancing Protocol which addresses the potential spread of COVID-19. Consequently, staff believes the Unite Here's concern in this regard has been addressed.

In relation to the proffered Hospitality Workplace Protection Ordinance. Several other jurisdictions in California have adopted similar ordinances. The following table summarizes the regulations adopted by Santa Monica, Long Beach and Oakland:

Jurisdiction	Protections
Santa Monica	<ul style="list-style-type: none"> • Hotel worker retention policy for change in hotel operator/management, including seniority prioritization and performance evaluation requirements • Public housekeeping training requirements, including best practices for effective techniques to prevent the spread of disease • Workload limitations, including overtime requirements when limitations are exceeded • Prohibition on retaliatory actions • Personal security devices (panic buttons) for employees with training • Employee rights related to violent or threatening conduct by a hotel guest • Allows the City or any aggrieved person to bring civil action to enforce provisions
Long Beach	<ul style="list-style-type: none"> • Applies to hotels with 50 or more guest rooms and includes hotel employees to contractors • Workload limitations, including overtime requirements when limitations are exceeded • Employees who feel their safety is threatened must be reassigned • Emergency contact devices (panic buttons) for employees • Hotel employers must maintain records for at least 2 years • Hotel employers prohibited from terminating or taking adverse action against an employee for asserting their rights
Oakland	<ul style="list-style-type: none"> • Applies to hotels with 50 or more guest rooms and includes hotel employees and contractors • Minimum wage for hotel employees is \$15 with healthcare benefits or \$20 without healthcare benefits, increased annually with inflation • Emergency contact devices (panic buttons) for employees • Rights for employees reporting violence/threatening behavior • Restrictions on maximum floor space to be cleaned • Restrictions on mandatory overtime • Employee access to pay, workload, and overtime records • Just cause requirements for discharging employees • Additional enforcement procedures for the City • Authorizes the City Attorney to bring civil action against hotel

	<p>employers to address violations</p> <ul style="list-style-type: none">• Creates a City Department of Workplace and Employment Standards for enforcement of these measures
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At the request of Councilmember Madison, the City Council is asked whether it wishes to consider adopting similar regulations in Pasadena.

As drafted, the proposed Ordinance would establish a new set of regulations that would apply to all hotels, event centers (presumably the Pasadena Center Operating Company), and private university cafeterias in the City (presumably Caltech). However, the provision may be waived if expressly set forth in a collective bargaining agreement.

It is unknown at this time what level of impact such regulations would have on the operations of local hotels, PCOC or Caltech. Should the City Council wish to consider the matter further, staff would recommend seeking input from these stakeholders. It should be noted that under current conditions, potentially impacted businesses are struggling. Over the past month or so, the occupancy rate at most Pasadena hotels has dropped precipitously from over 80% prior to the crisis, to 10-15%. As a result there have been wide-spread layoffs and some local hotels have gone so far as to suspend operations, most notably the Langham Huntington Hotel which had heretofore operated for over 100 years in Pasadena.

Traditionally, protections and safeguards for workers in a particular industry are the result of successful union organizing and collective bargaining agreements. Unions representing their members are well situated to enforce just cause termination and other types of provisions. The management of a particular hotel can establish a balance between and among salary and other benefits. Here, the proposal would, in effect, place the City in the role of the union but, rather than negotiating within the industry, the City would be imposing specific benefits and accepting the responsibility for enforcing them. There are a number of similarly situated industries, including the grocery business, larger restaurants, large retailers whose workers might also look to the City to establish rights that they have not been successful in securing through a union process.

In terms of enforcement, while the proposed ordinance provides for a right of civil action by any aggrieved person, it also indicates that the City may take enforcement action and the City's Administrative Officer (City Manager) is authorized to adopt administrative regulations to implement the ordinance.

In recent years, the City has adopted various regulations including a local minimum wage ordinance and an expanded tenant protection ordinance. Such regulations have assisted many Pasadena residents. While these regulations also include a right of private action, the City often becomes involved with enforcement efforts. It is expected that were the City to adopt a Hospitality Workplace Protection Ordinance additional staffing would be required to administer.

Finally, while Safer and Home Orders are expected to end in the near future, the economy is expected to remain in recession for the balance of 2020. It is unclear what affect this will have on the future demand for new hotel rooms, which heretofore was part of the City's long-term economic planning. The City should be mindful of the reality that local regulations may influence developer decisions as to where to locate.

ENVIRONMENTAL ANALYSIS:

The proposed action would be exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3), the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

FISCAL IMPACT:

In order to effectively implement and monitor a Hospitality Workplace Protection Ordinance additional staffing would be necessary. The precise job classification(s) of which have not been determined. Should the Council direct staff to study this further, a specific recommendation would be developed.

Respectfully submitted,



STEVE MERMELL
City Manager

Attachments:

- A. City of Pasadena Emergency Action Proposals from Hospitality Workers Responding to the Coronavirus Outbreak
- B. Proposed Hospitality Workplace Protection Ordinance