

COUNTY OF SANTA CRUZ
STATE OF CALIFORNIA



875

AT THE BOARD OF SUPERVISORS MEETING

On the Date of May 25, 1999

REGULAR AGENDA Item No. 056

(CONSIDERED adoption of a local hire ordinance to encourage the hiring of local workers on capital construction projects;
(1) read title and waived detailed reading of complete ordinance;
(2) approved ordinance "in concept", as amended, to return June 8, 1999 for further consideration; with an additional directive that an ordinance applying to the Redevelopment Agency return on the closest possible date...

Considered adoption of a local hire ordinance to encourage the hiring of local workers on capital construction projects;

Upon the motion of Supervisor Beautz, duly seconded by Supervisor Symons, the Board, by unanimous vote, read title and waived detailed reading of complete ordinance;

Upon the motion of Supervisor Wormhoudt, duly seconded by Supervisor Campos, the Board, by unanimous vote, approved ordinance "in concept", as amended, to return June 8, 1999 for further consideration; with an additional directive that an ordinance applying to the Redevelopment Agency return on the closest possible date

AMENDMENTS TO PROPOSED ORDINANCE

Section 2.33.020 (F): replace language "at the time of the bids for a project" with "immediately preceding the advertisement of the bid"

Section 2.33.030, Line 1: add language to read . . .law "or" regulation

Section 2.33.030, Line 2: change language to read . . .all County "contracts" for a public works project

Section 2.33.120: add language to read: . . .on a County contract, "or any trade association representative on behalf of potential workers of the contractor" may file a protest

cc: CAO, County Counsel, Public Works, Allyne Hammer

State of California, County of Santa Cruz-ss.

I, Susan A. Mauriello, Ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz, State of California, do hereby certify that the foregoing is a true and correct copy of the order made and entered in the Minutes of said Board of Supervisors. In witness thereof I have hereunto set my hand and affixed the seal of said Board of Supervisors.

Page 1 of 1

by

Deputy Clerk, on May 28, 1999

82



County of Santa Cruz 0876

BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069
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JANET K. BEAUTZ
FIRST DISTRICT

WALTER J. SYMONS
SECOND DISTRICT

MARDI WORMHOUDT
THIRD DISTRICT

TONY CAMPOS
FOURTH DISTRICT

JEFF ALMQUIST
FIFTH DISTRICT

AGENDA: 5/25/99

May 19, 1999

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: LOCAL HIRE ORDINANCE

Dear Members of the Board:

As Board members are aware, for years the County has suffered from higher than average levels of unemployment. The problem is particularly severe in South County. The Board of Supervisors has consistently supported efforts to increase the hiring opportunities of our locally unemployed residents. In light of this commitment, it seems counterproductive for County tax dollars to be spent on capital projects to pay the wages of workers imported from other counties, when contractors hiring local workers could do the job at a comparable cost. In addition, local workers spend their paychecks in the local economy.

In recent years, a number of jurisdictions have adopted local hire ordinances to encourage the hiring of local workers on their capital construction projects. Locally, the cities of Watsonville, Santa Cruz and Monterey, and the County of Monterey, have adopted such ordinances.

Attached is a draft local hire ordinance for our County. County Counsel has reviewed the ordinance. To summarize, it provides that contractors and their subcontractors who submit bids on County capital projects make a good faith effort to hire at least 50% of their workers from the Monterey Bay Area. Attached, also, is background material on the proposed ordinance.

In our view, the adoption of a local hire ordinance is both reasonable and desirable. The proposed ordinance is consistent with case law and treats contractors fairly while attempting to encourage the hiring of local workers for County construction jobs funded **by** County tax dollars.

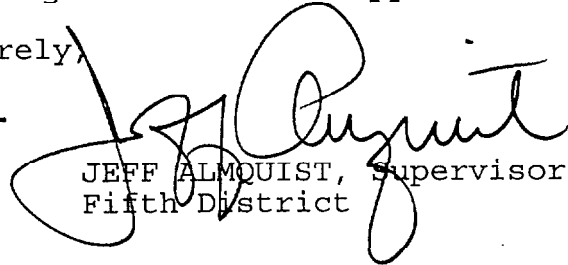
May 19, 1999
Page 2

Therefore, we recommend that the Board of Supervisors adopt the attached local hire ordinance and direct County Counsel to return the ordinance to the Board's next agenda for final approval.

Sincerely,



MARDI WORMHOUDT, Supervisor
Third District



JEFF ALMQUIST, Supervisor
Fifth District

MW:JA:lg
Attachments

cc: Allyne Hammer

1044H3

ORDINANCE NO.

**ORDINANCE ADDING CHAPTER 2.33 TO THE
SANTA CRUZ COUNTY CODE RELATING TO
THE HIRING OF LOCAL RESIDENTS
ON COUNTY PUBLIC WORKS PROJECTS**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

The Santa Cruz County Code is hereby amended by adding Chapter 2.33 to read as follows:

LOCAL HIRING FOR PUBLIC WORKS PROJECTS

Sections:

- 2.33.010 Findings and purpose
- 2.33.020 Definitions
- 2.33.030 Local hiring requirements
- 2.33.040 Required documentation
- 2.33.050 Forms submitted under penalty of perjury
- 2.33.060 Binding on subcontractors
- 2.33.070 Declaration of non-responsive bidder
- 2.33.080 Declaration of irresponsibility
- 2.33.090 Finding of noncompliance
- 2.33.100 Disqualification
- 2.33.110 Contracts, bid documents, subcontracts
- 2.33.120 Bid protests
- 2.33.130 Appeals
- 2.33.140 Appeal time limits
- 2.33.150 Initiation of appeals
- 2.33.160 Appeal procedure
- 2.33.170 Rules and regulations

2.33.010 Findings and purpose.

A. Findings. The Board of Supervisors of the County of Santa Cruz finds and declares as follows:

1. The annual average unemployment rates in Santa Cruz County are consistently higher than in California as a whole. Seasonal impacts from the agricultural, retail and visitor serving industries in the County lead to a fluctuating unemployment rate throughout the year. This points to the need for economic diversification to provide more year-round employment for County residents.

2. The Santa Cruz County economy is characterized by small, locally owned and operated firms. The State estimates over 80% of county businesses employ less than 20 people. In the construction sector, a majority of the firms are very small; approximately 75% have less than 5 employees.

3. The State reports that construction firms in Santa Cruz County employ about 4,000 people and generate about \$30 million in payroll to the Monterey Bay economy. But compared to statewide averages, the County has a lower concentration of jobs in construction.

4. Given the high cost of living in Santa Cruz County, a single parent with two children, one in elementary school, the other pre-school age, would need to earn a wage in excess of \$17 per hour, full time, to no longer need government subsidies. The construction industry can provide a family supporting wage. Statewide, the average hourly wage is in excess of \$20 per hour for construction workers.

B. Purpose. The purpose of this chapter is to encourage contractors who receive County public works contracts to hire residents of the Monterey Bay Area in order to provide job opportunities to County residents, expand the County's employment base, and lessen the drain on public assistance resources caused by high unemployment.

2.33.020 Definitions.

Unless the context otherwise requires, the following definitions shall govern the construction of this chapter:

A. "Contractor" means any person or entity, which, pursuant to a written agreement or purchase order, provides labor or materials on public works projects for the County.

B. "Days" means calendar days unless otherwise specified.

C. “Qualified Individual” means an individual who is in a certified state or federally approved apprenticeship program in an applicable trade or has become a journeyman in his or her applicable trade. A journeyman shall demonstrate proof of five years experience in each applicable trade by declaring under penalty of perjury that his or her sworn statement of experience is complete and correct.

D. “Monterey Bay Area” means Santa Cruz County, Monterey County and San Benito County.

E. “Public works project” means any project of the County of ten thousand dollars or more which is required by Section 2.35.030B to be subject to formal bidding procedures.

F. “Resident of the Monterey Bay Area” means an individual who is domiciled within the boundaries of the Monterey Bay Area at the time immediately preceding the advertisement of the bid for a project, who can verify his or her domicile upon request of the contractor or County by producing documentation such as rent/lease agreement, telephone and utility bills or payment bills, a valid California driver’s license or identification card, and/or any other similar, reliable evidence that verifies that the individual is domiciled within the Monterey Bay Area. A worker who is a building trade journey man or building trade apprentice whose local hiring hall has jurisdiction over the Monterey Bay Area is also deemed a resident of the Monterey Bay Area.

G. “Subcontractor” means any person or entity, which, pursuant to an agreement or purchase order with a County contractor or another subcontractor, participates in the provision of labor or materials on public works projects for the County.

2.33.030 Local hiring requirements.

Unless such provision would conflict with a state or federal law or regulation applicable to a particular contract for a public works projects, all County contracts for a public works project shall contain provisions pursuant to which the contractor promises to make a good faith effort, with the assistance of local labor union hiring halls, to hire qualified individuals who are residents of the Monterey Bay Area in sufficient numbers so that no less than 50 percent of the contractor’s total construction work force, including any subcontractor work force, measured in labor work hours is comprised of Monterey Bay Area residents.

2.33.040 Required documentation.

A. The contractor shall keep an accurate record on a standardized form showing the name, place of residence, trade classification, hours employed, proof of

journey person or apprenticeship status, per diem wages and benefits of each person employed by the contractor, and the contractor’s subcontractors, on the specific public works project, including full-time, part-time, permanent and temporary employees, and make such records available to the County, upon request, within five working days.

B. The contractor shall keep, and provide to the County, on forms acceptable to the County, an accurate record documenting compliance with this chapter. Said records shall include: a listing by name and business address of all local recruitment sources contacted by the contractor, the date of the local recruitment contact and the identity of the person contacted, the trade and classification and number of hire referrals requested, the number of local hires made as a result of the contact, the identity of the business address of the person(s) hired pursuant to the contact.

2.33.050 Forms submitted under penalty of perjury.

All forms required under this chapter shall be attested to as true as to the information set forth therein and shall be submitted under penalty of perjury.

2.33.060 Binding on subcontractors.

A. The good-faith local hiring provisions of this chapter shall bind the contractor both with respect to persons hired directly by the contractor and to all persons hired by the contractor’s subcontractors. The contractor shall be responsible for assuring that all subcontractors document said compliance by submitting the forms required by Section 2.33.040 to the County.

B. The contractor shall include the following language and a copy of this ordinance as may be amended from time to time in all contracts with the contractor’s subcontractors: “This contract is for labor or materials for a County of Santa Cruz public works project. As a subcontractor on a County project, you are required to comply with all of the requirements of the Santa Cruz County local hiring preference ordinance, County Code Chapter 2.33, attached hereto and incorporated herein by reference. Failure to comply with the provisions of the local hiring preference ordinance may subject the contractor and/or subcontractor to disqualification from eligibility for County of Santa Cruz contracts.

2.33.070 Declaration of non-responsive bidder.

Should any bidder or its subcontractor fail to comply with the good-faith local hiring provisions of this chapter, in its bid submissions prior to award, the bidder shall be declared by the County to be a non-responsive bidder.

2.33.080 Declaration of irresponsibility.

Where a County contractor or subcontractor has failed, or the County has cause to believe a bidder shall fail, to abide by a material term of the County contract, applicable prevailing wage laws called for by the contract, other applicable laws governing labor standards or working conditions, any of the provisions of this chapter applicable to contractors or subcontractors, or any of the other provisions of the Code which expressly reference the sanctions provided for in this chapter, said contractor, subcontractor or bidder pursuant to procedures outlined in Section 2.33.090, shall be declared an irresponsible contractor.

2.33.090 Finding of noncompliance.

If the County department head with responsibility for contract administration has cause to believe that any contractor or subcontractor has violated this chapter or that any bidder shall not perform the contract in compliance with this chapter, the department head may conduct an investigation. If, upon investigation, the department head determines that evidence exists to conclude that a violation of this chapter has occurred, or that cause exists to indicate a bidder will fail to perform the contract, the department head, after consultation with the County Administrative Officer or his or her designee, shall make a written Finding of Noncompliance which shall include a declaration of irresponsibility. The written Finding of Noncompliance shall provide the contractor, subcontractor or bidder with an opportunity to appeal the Finding of Noncompliance to the County Board of Supervisors in accordance with Section 2.33.130 et seq. of this Code. If the Board concurs with the Finding of Noncompliance, it shall affirm that finding along with the declaration of irresponsibility contained therein. The decision of the County Board of Supervisors shall be final.

2.33.100 Disqualification.

Any contractor, subcontractor or bidder declared to be irresponsible pursuant to the provisions of this chapter shall be disqualified from eligibility for providing goods, labor, materials or services to the County for a period of one year for the first violation and three years for a second, with a right of review and reconsideration by the County Board of Supervisors after two years upon a showing of corrective action indicating violations are not likely to occur.

2.33.110 Contracts, bid documents, subcontracts.

A. Contracts and bid documents shall incorporate this chapter by reference and shall provide that the failure of any contractor or subcontractor to comply with any of its requirements shall be deemed a material breach of contract or subcontract.

B. Contracts and bid documents shall require bidders, contractors and subcontractors to maintain and submit records necessary for monitoring their compliance with this chapter.

2.33.120 Bid protests.

Any contractor who has submitted a bid but is not apparent lowest responsible bidder on a County contract or any trade association representative on behalf of potential workers of the contractor may file a protest. The bid protest shall be filed with the County Clerk within three working days of the bid opening. The County Board of Supervisors shall hear the bid protest prior to the execution of the contract. The protesting party may protest the bid award for the County's or successful bidder's failure to comply with the requirements of this chapter, the bid documents or any other applicable provision of this Code. The Board shall sustain a bid protest only if it finds evidence that award of the bid would violate the Code or other applicable law. The decision of the Board shall be final.

2.33.130 Appeals.

To avoid results inconsistent with the purposes of this chapter, decisions of the department head or County Administrative Officer, other than bid protests which are heard separately under Section 2.33.120 may be appealed by the affected contractor to the County Board of Supervisors.

2.33.140 Appeal time limits.

A. Appeals by Contractor. Appeals of decisions shall be initiated within ten days of the decision. The County shall be considered an interested party.

B. Time Limits. When the appeal period ends on a day when the County offices are not open to the public for business, the time limits shall be extended to the next full working day.

2.33.150 Initiation of Appeals.

A. Filing of Appeals. An appeal shall be filed with the Clerk of the Board of Supervisors on a form provided and shall state, as appropriate, any of the following:

1. A determination or interpretation is not in accord with the purpose of this chapter;
2. There was an error or abuse of discretion;

- 3. The record includes inaccurate information; or
- 4. A decision is not supported by the record.

B. Effect on Decisions. Decisions that are appealed shall not become effective until the appeal is resolved.

2. 33. 160 Appeal procedure.

A. Appeal Hearing Date. An appeal shall be scheduled for a hearing before the Board within thirty days of the County’s receipt of an appeal unless the contractor and County consent to a later date.

B. Notice and Public Hearing. An appeal hearing shall be a public hearing. Notice of the public hearing shall be mailed or delivered to the contractor within ten days.

C. Hearing. At the hearing, the Board shall review the record of the decision and hear testimony of the contractor and any other interested party.

D. Decision and Notice. After the hearing, the Board shall affirm, modify or revise the original decision. When a decision is modified or reversed, the Board shall state the specific reasons for modification or reversal. The Clerk of the Board of Supervisors shall mail notice of a County Board decision. Such notice shall be mailed to the contractor within five working days after the date of the decision and to any other party requesting such notice.

E. A decision by the Board regarding an appeal shall become final on the date the decision is announced to the public.

2. 33. 170 Rules and regulations.

The County Administrative Officer shall prescribe rules, regulations and procedures relating to the application, administration and interpretation of the provisions of this chapter. The rules, regulations and procedures shall be consistent with the provisions of this chapter, and may specify forms to be used.

SECTION II

SEVERABILITY. The provisions of this Ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, provision, subsection, section or other portions of the ordinance, or the invalidity of the application thereof to

any person or circumstances, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

SECTION III

This ordinance shall take effect on the 3 1st day after the date of final passage.

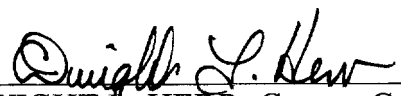
PASSED AND ADOPTED this ____ day of _____, 1999, by the Board of Supervisors of the County of Santa Cruz by the following vote:

- AYES: SUPERVISORS
- NOES: SUPERVISORS
- ABSENT: SUPERVISORS
- ABSTAIN: SUPERVISORS

 Chairperson of the
 Board of Supervisors

Attest: _____
 Clerk of the Board

APPROVED AS TO FORM:



 DWIGHT L. HERR, County Counsel

DISTRIBUTION: County Counsel
 County Administrative Office
 Public Works Department