



COUNCIL AGENDA: 9/19/2017
ITEM: 3.5 (17-132)

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: SEE BELOW

DATE: September 14, 2017

SUBJECT: OPPORTUNITY TO WORK.

RECOMMENDATION: As recommended by the Rules and Open Government Committee on September 13, 2017:

- (a) That staff be directed to analyze the administrative and budget implications of implementing the Opportunity to Work rules within the City organization and return to City Council with the results of their analysis and an implementation plan for Council consideration.
- (b) That the City Attorney be directed to provide an explanation of why the Opportunity to Work ordinance does not apply to the City of San José, along with an explanation whether it applies to other public agencies within San José.



Memorandum

TO: RULES AND OPEN GOVERNMENT COMMITTEE **FROM:** Councilmember Donald Rocha
SUBJECT: OPPORTUNITY TO WORK **DATE:** September 7, 2017

Approved Dr. Rocha Date 9/7/17

RECOMMENDATION

1. That staff be directed to analyze the administrative and budget implications of implementing the Opportunity to Work rules within the City organization and return to City Council with the results of their analysis and an implementation plan for Council consideration.
2. That the City Attorney be directed to provide an explanation of why the Opportunity to Work ordinance does not apply to the City of San Jose, along with an explanation whether it applies to other public agencies within San Jose.

ANALYSIS

In November 2016 San Jose voters passed the Opportunity to Work measure, a citizen's initiative that was intended to help part time workers struggling with low wages and lack of benefits. The measure requires that employers in San Jose offer additional work hours to part time workers before they are offered to new employees. The intended result is to increase the hours worked by part time employees, thereby improving their financial stability.

My understanding is that the City has interpreted this measure not to apply to the City organization. The City is tasked with enforcing the Opportunity to Work rules on San Jose employers, but does not live by the rules itself. In my opinion, we should at least consider voluntarily complying with Opportunity to Work. With this memo, I propose that we direct staff to analyze the implication of the City complying with the measure and return to City Council for a decision on an implementation plan.

It's important to point out that my recommendation would not make a final decision to implement Opportunity to Work at the City, it would merely ask staff to bring back analysis and an implementation plan for Council consideration. I think this issue is worth considering, but we can't make a final decision until we hear analysis from staff, and that's all that I'm requesting at this point.

There are at least two reasons why I believe this is an option we should consider. First, this is a matter of fairness. Thousands of San Jose businesses must live under the Opportunity to Work rules or face enforcement action by the City, but the City has chosen to excuse itself from those same rules. This is not fair: we should be willing to follow any rules that we enforce on others. Following the rules will have the added benefit of helping us understand the experience of businesses who must live under them, and could potentially help inform how we enforce the rules on businesses.

Second, as I mention above, Opportunity to Work is intended to help working people in San Jose improve their financial stability. That is a worthy goal, especially considering the huge financial burden that the housing crisis imposes on our residents. We have many part time workers at the City—some of them part time unbenefited—who very likely struggle to make ends meet. Opportunity to Work would not require us to immediately convert all of them to full time; the requirement is only to offer additional hours to existing part time workers before hiring new employees, if the existing workers are qualified to do the job. I think it's very reasonable for us to take a close look at our own part time workforce and consider whether we can help those employees achieve greater financial stability.

These are reasons to consider implementing Opportunity to Work, but again, we can't make a final decision until staff has conducted its analysis.