

Memorandum

TO: Honorable Mayor &
City Council

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: The Public Record
August 2 – August 8

DATE: August 14, 2019

ITEMS FILED FOR THE PUBLIC RECORD

Letters from Boards, Commissions, and Committees

Letters from the Public

1. Letter from Pacific Justice Institute, dated July 27, 2019, regarding: Legal concerns --- denial of airport contract extension for Chick-fil-A.
2. Letter from South Bay Labor Council and San Clara & San Benito Counties Building & Construction Trades Council, dated July 30, 2019, regarding: Support Private Development Workforce Standards.
3. Letter from Brian Kortmeyer, dated August 4, 2019, regarding OPods, Restart My Life, and Crowdfunding.
4. Letter from Blair Beekman, dated August 2, 2019, regarding a letter from Blair Beekman. Friday August 2, 2019. _____ To begin, the season of fall 2019, in San Jose.

Toni J. Taber, CMC
City Clerk



July 27, 2019

San Jose City Council
Sam Liccardo, Mayor
Charles Jones, Vice Mayor
Sergio Jimenez, Councilmember
Raul Peralez, Councilmember
Lan Diep, Councilmember
Magdalena Carrasco, Councilmember
Devora Davis, Councilmember
Maya Esparza, Councilmember
Sylvia Arenas, Councilmember
Pam Foley, Councilmember
Johnny Khamis, Councilmember
200 E. Santa Clara St.
San José, CA 95113

VIA E-MAIL & U.S. MAIL:

RE: Legal concerns – denial of airport contract extension for Chick-fil-A

Dear Mayor Liccardo and Honorable Members of the San Jose City Council:

This legal opinion letter, written on behalf of the Values Advocacy Council, concerns the city council's recent decision to deny Chick-fil-A the opportunity to extend its concession contract with the San Jose International Airport.

Last year, the San Jose City Council approved a plan for concessions at the Mineta San Jose International Airport that included allowing Chick Fil A to operate in the airport until 2026. During the city council meeting held on April 9, 2019, the City Council considered a staff recommendation (19-175) to amend the agreement to extend the concession contracts from 2026 to 2028. LGBTQ advocates present at the meeting expressed concern with the city allowing Chick-fil-A in the airport because they deemed the company a "symbol of hate," presumably due to past statements by the founder regarding his own deeply held religious convictions.

In response, the city council voted 11-0 in favor of "withholding the two-year extension from any operator that does not operate 7 days per week, with direction to the City Attorney to work on language for future contracts to reflect the City's values." Upon the suggestion of Ken Yeager, former County Supervisor, the City also approved a request that the airport prominently display rainbow and transgender flags at the airport to combat any perceptions that might arise from Chick-fil-A's presence in the terminal.

Due to company policy allowing employees to rest and worship, Chick-fil-A is not open on Sundays. Therefore, they will not be entitled to the two-year extension that was approved for other companies at the airport and their contract will expire in 2026.

As a California-based non-profit legal and educational organization focused on religious freedom and constitutional liberties, we are troubled by reports that the decision to deny the contract extension to Chick-fil-A may have been motivated by animus toward its perceived religious and ideological views.


The U.S. Supreme Court has made it clear that government policy cannot discriminate against a person or corporation due to their own deeply held religious beliefs and must remain neutral toward the free exercise of religion. *See Burwell v. Hobby Lobby Stores, Inc.*, 573 U.S. 682, 682, 134 S. Ct. 2751, 2759 (2014); *See also Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm'n*, 138 S. Ct. 1719, 1720 (2018) (recognizing the specific series of events leading to the enactment or official policy are relevant to finding neutrality). Furthermore, “a bare...desire to harm a politically unpopular group” is not a legitimate government interest. *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 447. (1985).

We understand that an alternative reason was offered to the effect that the city is implementing a policy of limiting concession contract extensions to businesses that remain open seven days a week. In light of the concurrent vote to post rainbow and transgender flags in close proximity to Chick-fil-A, it is doubtful that the city could demonstrate that it has neutrally and consistently applied their policy to this matter.

Moreover, in California, the Unruh Civil Rights Act ensures that all business establishments provide and be provided with opportunities to engage in commerce, regardless of protected characteristics including religious views. Cal. Civ. Code Section 51 et seq. Just as there are no allegations that Chick-fil-A has actually discriminated against any customer or employee, the restaurant is entitled to have the merits of its contract considered without discriminatory reference to the religion of its executives, and with recognition of its own corporate free expression. *First Nat'l Bank of Boston v. Bellotti*, 435 U.S. 765 (U.S. 1978) (recognizing broad free speech rights of corporations).

For the reasons noted above, we have attached a public record request to this letter to obtain documents relating to the city council's decision on April 9, 2019. In addition, we intend to call for an investigation into this matter by the Federal Aviation Administration (“FAA”) to determine whether there is any merit to concerns of religious discrimination.

Sincerely,

Russell Davis, Esq.
Staff Attorney
PACIFIC JUSTICE INSTITUTE


Building Trades
The outstanding workforce



August 5, 2019

Mayor Sam Liccardo
San Jose City Hall
200 East Santa Clara Street
San Jose, CA 95113

Dear Mayor Liccardo and Members of the City Council:

On behalf of more than 100,000 union members and their families in the South Bay, we are writing to express our strong support for Item 4.1 on the August 6, 2019 City Council Agenda, "Private Development Workforce Standards".

This long-awaited ordinance is an important step towards preventing exploitation and abuse of workers on large-scale private development projects, which has unfortunately become rampant in San Jose's current development cycle.

By requiring developers to make specific, enforceable commitments in return for receiving any City subsidy, the Private Development Workforce Standards ordinance will ensure that if taxpayer dollars are used to subsidize or incentivize private, for-profit development, that developer should commit to creating good, family-supporting jobs with career pathways for local community members.

Specifically, the ordinance sets the following standards for any private development project that receives a City subsidy:

1. Pay the prevailing, market-rate wage for construction workers on that project.
2. Hire and train apprentices through State-registered programs to help expand the pipeline into skilled construction careers.
3. Make good faith efforts to hire local residents for at least 30 percent of work hours.
4. Provide opportunities for residents from disadvantaged and under-represented backgrounds to enter the industry by hiring Underrepresented Workers as new, entry-level apprentices for 25 percent of apprentice hours.

This ordinance is a critical step towards shifting away from low-road, exploitative development that siphons money and resources out of our community, towards positive, high-road development that benefits the entire community. By creating a level playing field with clear, stable rules, actions like this can signal responsible developers and capital providers that they should invest in San Jose.

August 5, 2019
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We continue to remain very concerned about the future possibility of exemption for downtown high-rise developments, which would completely negate these benefits on a class of projects that have received significant subsidies in the past. Barring such future exemptions, this Item is a critical link between subsidies and community benefits.

We urge the Council to approve this ordinance and apply it equally to all developers requesting subsidies, without introducing any future exceptions or exemptions.

Sincerely,

Ben Field
Executive Officer
South Bay Labor Council

David Bini
Executive Director
Santa Clara & San Benito Counties Building
& Construction Trades Council

From: Brian Kortmeyer
Sent: Sunday, August 4, 2019 1:17 PM
To: City Clerk <city.clerk@sanjoseca.gov>
Subject: OPods, Restart My Life, and Crowdfunding

Brian Kortmeyer

Mayor and City Council San Jose
200 E. Santa Clara St.
San Jose CA 95113

Friday Aug 2 2019

Subject: OPods, Restart My Life, and Crowdfunding

Dear Mayor and City Council :

For six years I have lived in Redlands, CA. The last two years I have been eating at local Church meals with the homeless. We have a serious Homeless person housing crisis that has only just begun. My name is Brian and am a disabled veteran. Here is an idea for you to consider. It will require mind bending thinking to make it happen. The only way to know if it works is to do it! Let's get started.

In Hong Kong, an Architect named James Law has created a new home design called an OPod. Here is a description from his firm, www.jameslawcybertecture.com: (Choose Projects)

"OPod Tube House is an experimental, low cost, micro living housing unit to ease Hong Kong's affordable housing problems. Constructed out of low cost and readily available 2.5m diameter concrete water pipe, the design utilizes the strong concrete structure to house a micro-living apartment for one/two persons with fully kitted out living, cooking and bathroom spaces inside 100 sq.ft. Each OPod Tube Houses are equipped with smart phone locks for online access as well as space saving furniture that maximizes the space inside. OPod Tube Houses can be stacked to become a low rise building and a modular community in a short time, and can also be located/relocated to different sites in the city."

Here is the James Law contact information: Unit 702, Metropole Square, 2 On Yiu Street, Shatin, Hong Kong Cybertecture International Holdings. Tele 852.238.19997. enquiries@jameslawcybertecture.com

Enclosed are design and actual photos of a test OPod. In a small space you can create a small community without making permanent buildings. This would be perfect for the Homeless that are interested in returning to work, going to school, those seeking drug abuse treatment, and those utilizing Mental Health treatment. How do we pay for this kind of project? Well, its pretty simple. Crowdfunding. This has been the standard for many years now for most things to get done.

"You measure the degree of civilization of a society by how it treats its weakest members." ~ Winston Churchill

Mr. James Law stated in 2018 that an OPod would cost around \$15,000 a piece with furnishings. No loans or anything like that. They are either paid for or not. Rules for this kind of home space should require an environment that is drug free. People need a safe space from drugs. Drugs are already in the homeless community. That is the OPod idea.

Next, we have Restart My Life. It was a 10 page reality tv show script I wrote 12 years ago for a script writing contest in Hollywood. It never won, but here it is back again! :) Its the idea that won't die! Restart My Life is a plan for taking someone homeless off the street and restarting their life with the following steps:

- A) Finding them a place to live (The OPod Community).
- B) Buying them a backpack, clothes, shoes, and supplies to survive in that community for 3 months.
- C) Offering the person an opportunity to return to Work if that is possible for them.
- D) Teaching them cooking classes to cook food in their OPod and a class on Grocery shopping.
- E) Giving them a basic smart phone for Job Hunting, School Hunting, and communicating with an OPod Community representative.
- F) Giving them a basic Windows Laptop to assist in Job Training online or for attending school at a Local College.
- G) Taking them to the Local DMV office to acquire an official ID card.

At the end of the 3 Months the individual can decide if they want to continue working, going to school, going to training, or leaving the community to find a roommate for example. An endpoint of time should be given to the person staying in the Community because you want success for that person and not a repeating scenario of starting from the beginning.

There is one crowdfunding that comes to mind and that is GoFundMe.org. As far as raising money for that route of funding, one can easily do a 24 Hour Internet Event online and in person by use of Vimeo video services. This would allow people from all over the world to participate in donating money. If you have any questions on this topic you can contact me at anytime. I'm here. Thank You to all who have taken their time to read this letter. I appreciate it! :)

Yours,
Brian Kortmeyer
Redlands, CA

a letter from Blair Beekman. Friday August 2, 2019. _____

To begin, the season of fall 2019, in San Jose.

bob tom

Fri 8/2, 3:25 PM

Dear city govt. of San Jose,

A thank you to Micheal Karlik, aide to Lian Diep, for a recent letter correspondence, that included an application letter, from the Measure T public oversight commissioner appointee process.

It is interesting, how individuals working together, no matter their ability, can very much help build, and feel a part of, a whole community process.

There will be, much early logistical work, for early Measure T public oversight, within Coyote Valley issues, and other accounting needs.

But I am realizing, I am trying to work towards, an overall good space, for helpful community thought.

From this, it is my idea & feeling, their are many good choices, in how technology projects & data collection examples, can be a part of, the Measure T public oversight process - now, and, for the future.

In what should always be, a natural progression, toward the ideas of peace, openness, better democratic practices.

And, in understanding what has been, over a year of good dialogue, between, the city govt.& the aclu, about tech. accountability for the future of San Jose

With an open mind, one should be able to see, many interesting good choices for San Jose, in the next few years.

With the difficult events in Gilroy, this past week, I am hoping we can continue with the idea, that openness & accountability, can create good guideline ideas.

It is this good structuring, that can build an important optimism. And better help develop, a future of peace, better understandings, community well-being and sustainability.

In city govt./community work, no matter one's ability, a thoughtful list of ideas, can always be helpful. I will email a list of items, for the Measure T public oversight commission & appointee process, on Monday

Write back, with good community ideas & practices.

sincerely,
blair beekman