

Council adds hot topic agenda item to retreat

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Electrifying debates consumed Monday night's council meeting as members discussed the use of a federal program in the city.

Council members exhausted a debate about implementing the Federal E-Verify program for city contracts and purchases. E-Verify is a federally maintained electronic database accessible by the internet. It allows employers to check social security numbers and identification data supplied by potential employees on I-9 forms against information maintained by the Department of Homeland Security and the Social Security Administration. The main purpose of E-verify is to prevent and catch lying by employers or employees on I-9 forms. It does not detect identity theft that uses otherwise valid social security numbers and information. E-Verify can only be used after a hiring decision has been made. There is no charge to employers to use E-Verify.

"What I'm asking is that the city adds another requirement on our contracts for the companies to use E-verify to ensure that our tax dollars will go to companies who are doing their due diligence to not hire illegal immigrants," said councilman John Gorena, who requested the item to be put on the agenda. "I would like the companies to hire people that have a right to work in this country. I've studied E-verify a lot, and I know a lot of companies that use the program. This is another way that we can help enforce the law. The economy affects a lot of people; we want as many Americans in this economy working who will spend money in this economy. We need to help those who are following the law."

Throughout most of the workshop meeting and into the regular meeting, council members hammered out the benefits and drawbacks of implementing the program.

In a report prepared by Claude King, city manager, he listed reasons why city staff has not previously recommended using E-Verify. The reasons included the potential complexity of its application, delays in the final implementation of the program and the fact that no other Texas cities have such a requirement. The executive order for the E-verify program was effective on June 11, 2008, but the final rule was not published until Nov. 14, 2008, and was implemented Sept. 8.

"Essentially we wanted to see how the Feds would use electronic verification first so that there was at least some governmental foundation to build upon for any future local applicability," King wrote in his report. "We also hoped -- and still do hope -- to see other Texas cities, or preferably the state legislature, develop policies for its use as models for us."

There are currently 12 states that require some element of E-Verify use. Arizona, Mississippi and South Carolina mandate some level of use by "all employers." The others mandate use by state agencies.

According to King, the city currently has a staff-initiated requirement for its contractors to comply with Federal immigration law, with respect to their employees, and contractors must agree to an audit capability by the city. The current requirement also extends to any sub-contractors utilized.

"The issue with sub-contractors is that the city is not usually party to these arrangements and doesn't have contracts with them, so sometimes we don't know precisely who is being used," King said. "It appears that new federal E-Verify rule also does not require the contractor to verify sub-contractor employees. It only requires that the prime contractor ensure that subs supply a copy of proof of enrollment in the E-verify program."

Even though councilman Nathan Watts chose to abstain from the vote because of personal business reasons, he did offer his view on the program.

"There are bugs and kinks to work out in the system. I do believe that it is an outrage what the federal administration has allowed to go on in our borders," Watts said. "I'm in support of the big picture goal, which is putting our tax dollars in the hands of companies who employ legal workers."

After Gorena's motion to direct the city manager to draft an ordinance authorizing the use of the E-verify program died, Watts' motion to include the E-verify program on the retreat agenda passed.

"I'm still hopeful about this. It was encouraging that some people came and showed their support. I encourage people to continue to get involved," Gorena said. "At least it's not stopped. I want us to mimic another city, not the federal version. Hopefully by the retreat others will see the benefits of this program."

"I'm in favor of the E-verify program and in favor of the city using a variation of the program," said councilman Greg Tierney. "There are a lot of things we need to flush out before we jump into this. I have at least two pages of questions I want to ask about this program."

Based on the report prepared by King, council members will discuss the following issues and questions about the program: the fact that the city can't apply E-verify to contractors' existing employees, questions about the lack of auditing on the current city practice, the question of sub-contractor compliance, the unintended effects of the program such as if it will impact the vendor/contactor bidding on city work, the cost effects, enforcement and state uniformity.

"I believe the best policy approach is a state law that is uniform and applies to all cities. As I've mentioned in meetings with councilman Gorena, I believe that e-verify is a good tool and will eventually be used broadly through governmental mandates," King said. "However, the staff recommends waiting to implement any E-verify policy until there are other cities requiring its use or developing rules together."

Source:

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