

Agenda Report

TO: CITY COUNCIL **DATE:** JUNE 29, 1998
FROM: CITY MANAGER
SUBJECT: IMPACT OF LIVING WAGE ORDINANCE ON ECONOMIC
DEVELOPMENT PROJECTS

RECOMMENDATION

The following is for information only.

BACKGROUND

On June 8th the City Council directed the City Attorney to draft a "Living Wage" ordinance. The City Attorney has completed its draft, which is being presented to the City Council this evening.

The proposed ordinance extends to all service contracts in excess of \$25,000, but excludes economic development and business retention programs; as was the direction of Council. The Mayor has requested staff to prepare additional material on the potential application and impact of "living wage" to economic development and business retention subsidies. This report includes information staff has gathered to date and a discussion of the issues that would need to be resolved if Council were to apply "living wage" to economic development and business retention subsidies.

In addition, the Council considered applying "living wage" to the City's internal workforce. The Human Resources Department, in close consultation with various City departments, is continuing its work to determine which potentially affected job classifications are recommended for "living wage" control rate increases. This analysis will be brought forward as amendments to the Salary Resolution in July.

I. Cities With Living Wage Ordinances that apply to recipients of Financial Assistance

Oakland, CA

The City of Oakland's living wage ordinance applies to recipients of assistance totaling \$100,000 or more in a 12-month period. The provisions apply for the life of the contract

in the case of assistance given to fund a program and for 5 years for assistance given to purchase property.

Tenants or leaseholders that occupy property or use equipment or property that is improved as a result of the assistance are considered “recipients.” Exemptions include recipients who employ fewer than 5 employees, employees who are in a job training program, and employees who are under 21 years of age and are employed by a non-profit for after school or summer employment for no more than 90 days. In addition, financial hardship waivers are available.

Assistance is defined as grants, rent subsidies, bond financing, financial planning, tax increment financing, land write-downs, tax credits, forgiveness of a loan, and loans provided below market rate.

Minneapolis/St. Paul, MN

This ordinance applies to any organization receiving cumulative assistance of \$100,000 or more in one fiscal year.

Exemptions include small businesses as defined by Minnesota statute, intermediaries such as a community development corporation or community bank, which serves as a pass-through agency, and organizations whose primary mission is to provide job readiness and training services. The Department of Planning and Development may also recommend to the City Council that a waiver be granted by resolution.

Assistance is defined as land sales at less than a fair market price, loans, bonds (excluding conduit bonds), grants and city tax incentives.

Philadelphia, PA

A proposed ordinance would apply to recipients of more than \$50,000 in financial assistance that have 25 or more employees.

Exemptions include construction workers and any person under the age of 19 employed during the summer months in a city funded program to create summer jobs for students.

Assistance is defined as tax increment financing, industrial development bonds, use of the power of eminent domain, Community Development Block Grant (CDBG) loans, airport revenue bonds, Enterprise Zone designations, and Private Industry Council aid.

Chicago, IL

A proposed ordinance would apply to beneficiaries of more than \$50,000 in assistance who have more than 25 employees.

Beneficiaries are defined as a recipient of assistance; beneficiary’s tenants or leaseholders, and contractors who supply materials accounting for more than 1% of their total sales.

Des Moines, IA

Des Moines adopted a resolution setting wage goals, not an ordinance, in order to give the city more flexibility with certain projects. All city assistance recipients over the past five years have met the living wage goal (\$9/hr including benefits), however, projects with “overriding considerations” can be exempted. Such considerations might include “the type of new business being considered (e.g., a hotel or start-up business) or the size of the project (e.g., a business with a large number of employees).

II. Cities With Living Wage Ordinances that do not apply to recipients of Financial Assistance

The following cities have adopted living wage ordinances that do not apply to recipients of financial assistance:

- Jersey City, NJ
- Milwaukee, WI
- New York, NY
- Portland, OR
- Baltimore, MD

Staff is presently attempting to ascertain why these cities did not include financial assistance recipients in their respective legislation.

III. Issues to be considered regarding application of living wage to economic development and business retention in Pasadena

- A. Depth and Breadth of Applicability. Prior to the application of “living wage” to economic development and business retention activities, the extent to which the regulations apply must be determined. At a policy level, the balancing of interests must be made. If the City is providing inducements to a company to move to Pasadena, at what point would a living wage requirement outweigh the economic value of the inducement? How do we develop a formula for application which is predictable enough so that potential recipients of City financial assistance can anticipate its effects?
- B. For example, would a “living wage” requirement apply only to a developer or other direct recipient of assistance or would it apply to general construction contractors and their sub-contractors, tenants, lease-holders and other third-parties. And what, if any, exemptions would be included, such as for small businesses or being able to prove a financial hardship.

Another issue that needs to be addressed is whether a financial assistance recipient must provide living wages to employees working on projects that do not receive direct assistance from the City. This item also affects financial assistance recipients that may be regional, state-wide, national or even international firms,

i.e., would Pasadena's living wage be imposed on these firms and to what extent? What would be the implications for a company paying wages to workers in one city which are higher than those paid for the same work in an adjacent city? What would happen to companies doing business with various cities with varying living wage rates? Would the highest prevail and force all others to follow suit?

One additional concern is noted regarding employees of entities that may be covered by existing Memoranda of Understanding which conflict with Pasadena's living wage provisions. Would exemptions be granted in this case or would the City require renegotiation of MOUs

The "living wage" ordinance adopted by the City of Los Angeles applies only to direct recipients of financial assistance and does not extend further. Of the cities surveyed, two, Oakland and Chicago extend beyond the actual recipient. And, in the case of Oakland there are certain exemptions such as, businesses with less than 20 employees.

- C. Duration of Compliance. As it relates to services contracts, the duration of compliance with the "living wage" ordinance is the length of the contract. In regard to economic development and business retention programs determining the duration of compliance is less clear.

The City of Los Angeles ordinance requires compliance for one year for each \$100,000 of assistance provided or five years of compliance for \$1,000,000 of one-time assistance. The City of Oakland requires compliance for the length of assistance and five years when assistance is given to purchase property.

- D. Penalties and Enforcement. The City of Oakland includes the following penalties for financial assistance recipients who fail to comply with "living wage" requirements:

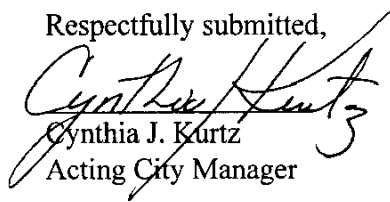
- Suspension and/or termination of the financial assistance agreement
- Payback of any or all financial assistance
- Deeming the financial assistance recipient ineligible for future assistance
- Fines of \$500 per day for each employee found not to have been paid in accordance with living wage requirements and wage restitution for affected employees.

As with the draft ordinance being presented to Council this evening, those of the other cities listed above include provisions whereby rules and regulations concerning enforcement are promulgated by the enforcing agencies. It should be recognized that the amount of resources necessary to enforce "living wage" and the complexities of that enforcement would be a function of the depth of applicability, duration of compliance and various other particulars.

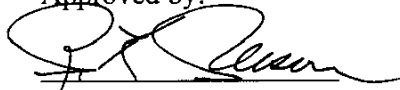
FISCAL IMPACT

Determining the fiscal impact of applying “living wage” to economic development and business retention is difficult as it applies to yet undetermined projects each with varying economics. With the exception of enforcement costs, the fiscal impact will be felt more in the way of lost potential revenues to the City and potential job loss to the community. Staff is currently examining how “living wage” would have impacted prior financial arrangements, but without specific direction on the issues addressed in this report it is difficult to develop specific numbers.

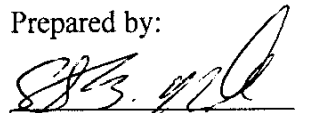
Respectfully submitted,

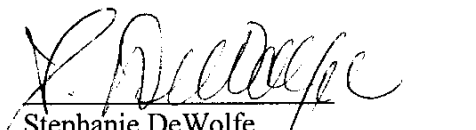

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