

City of Santa Barbara

**LIVING WAGE ADVISORY COMMITTEE  
MEETING MINUTES**

for

5:15 P.M., Wednesday, April 9, 2014

Roll Call:   √ Richard Flacks           √ Anna Kokotovic           √ Larry C. Lee, Chair  
              √ Gabe Dominocielo       □ Ken Oplinger

Council Liaison: √Cathy Murillo

City Staff:   √ Greg Corral               √ Bill Hornung           Call to order: **5:20pm**

I. Public comment: **No members of the public were present. At the request from the committee, Ariel Calonne, City Attorney, and Tava Ostrenger, Deputy City Attorney attended the meeting.**

II. Review and approve the February 12, 2014 meeting minutes: **Approved unanimously as-is**

III. Old Business

a. Discussion and Update on Increasing Public Awareness

**Richard:** The Living Wage PSA has been airing on UCSB's radio station in both English and Spanish.

**Bill:** Left a message with CAUSE about assisting in disseminating information but I have not heard back from them.

**Cathy:** I will follow-up with them. Should work places post signage and should that be part of the enforcement?

**Bill:** The posting requirement is in certification form that is included in bids. In addition, the certification form requires vendors to check yes or no to the posting of notices in an area accessible to employees working on City of Santa Barbara contracts. The issue in the past has been some employees worksite is outside of their firm's office such as landscaping and janitorial services.

**Cathy:** Can the City post notices at its facilities?

**Bill:** I will need to follow-up on this.

**Dick:** Would there be a penalty for not posting?

**Bill:** The ordinance does not have any penalty provisions. The only options are to warn them of possible termination of all of their contracts with the City or to terminate all of the contracts the firm has with the City. Since departments oversee their contracts and in position to interact with the workers, they are suppose to be informing the workers of their rights.

**Dick:** This may be enough of an incentive to assume compliance.

**Cathy:** Ariel, have you dealt with this issue at Ventura?

**Ariel:** No. If we want to pursue criminal action, the notification requirement would need to be added to the ordinance.

b. Discussion of PO/Contract award method

i. Local Preference

**Bill & Greg provided reports on last fiscal year's Living Wage contracts.**

**Larry:** Firms from outside the area are pushing out local businesses.

**Ariel:** What is local?

**Larry:** Local being city limits or perhaps county.

**Tava:** There are constitutional issues but it may be possible for the city to do this. There must be a legitimate purpose. If you include public work contracts, you would need a study.

**Cathy:** We should only be recommending something that applies to Living Wage contracts. Local could be the city limits, County of Santa Barbara, or the tri-county area.

**Dick:** The Living Wage Ordinance has made it easier for firms from outside of the area to win contracts. We need evidence that local vendors are losing contracts. Can we get the evidence?

**Bill:** Gathering evidence would be time consuming and labor intensive since the data would be manually gather and analyzed. The two reports from the previous fiscal for Living Wage contracts do not show that local businesses are being hurt by the Living Wage Ordinance.

**Greg:** Many of the non-local firms provide a specialty service that is not available locally.

**Tava:** There needs to be a substantial reason why the city should discriminate against outside firms.

**Cathy:** I can ask Ken from the chamber to do the research.

ii. Award other than low bid

**Ariel:** A resolution would be required for Living Wage contracts to be awarded on anything other than the low bid.

**Larry:** The problem with outside vendors is that they cannot respond to immediate needs.

**Ariel:** This can be handled in the specifications such as requiring an office within X miles.

**Bill:** Departments include responsive times in the specifications and sometimes firms still cannot respond within the required times. This has lead to cure notices and termination of contracts in some cases.

**Larry:** Is it in the committee's preview to make a recommendation to replace the low bid award method?

**Ariel:** The low bid method is supposed to be objective and to avoid fraud and favoritism. With regards to Living Wage contracts, you would need to define the other criteria that would be taken into account.

**Bill:** There are other agencies such as the UC system and city of Santa Monica that award contracts using methods other than the low bid.

**Larry:** Bill can you get examples from other agencies that use best value and bring them to the next meeting?

iii. Other – **Not discussed**

c. Discuss the Committee's goals and objectives for 2014: **Not Discussed**

d. Discussion of enforcement of the ordinance requirements

**Larry:** The mechanism for enforcement is lacking and this is part of the problem we discussed at the last meeting.

**Cathy:** Why are we suspicious?

**Dick:** We audited three vendors and the auditors could not determine if the vendors were in compliance due to poor recording keeping. We recommended that penalties be added as an option to Council but nothing happened.

**Cathy:** This is a policy decision. Due to the economy, the Council did not act. Is the committee thinking about taking another run at Council?

**Larry:** We need to pull together a cohesive program for enforcement before presenting anything to Council.

**Cathy:** Ariel, did you have an active audit in Ventura?

**Ariel:** No.

**Bill:** All cities that I contacted several years ago did not proactively audit. Audits were complaint driven.

**Gabe:** We should be requesting payroll records. They are not that difficult to review.

**Bill:** Our contracts require firms to provide payroll records to the departments. The departments are should be reviewing them and be asking for them if they are not being provided. Purchasing has not had time to follow-up with departments to ensure this is consistently happening. I know some departments such as the Fire Department have asked for them because they have called me with questions. I have been working with HR to schedule training but no date has been set.

**Larry:** Bill, please report back to the committee on the status of the training at the next meeting.

**Richard:** How do we get budget for audits?

**Ariel:** The committee's responsibility is to make recommendations to Council on the implementation of the ordinance.

**Dick:** I motion to support a budget for audits, which was seconded by Anna. Gabe was the only dissenting vote.

**Gabe:** Voted against funding the audits saying that the audits are like throwing money in the garbage because previous audits were inconclusive and the audits would not stop contractors from lying to the city.

**Cathy:** When does Finance present its budget?

**Bill:** April 28 from 3 to 6 pm.

**Larry:** We need to broaden and flush-out enforcement methods before recommending anything to Council.

#### IV. New Business

1) Review and Discussion on the Committee's report to Council from November 23, 2010:

**Larry:** Are there specific recommendations that you want to revisit?

**Gabe:** The three wage tiers.

**Richard:** The non-profit exemption and the dollar threshold for triggering the Living Wage requirements. What was the issue with the zoo?

**Cathy:** It looks like over 90% of the non-profits are already paying a living wage.

**Richard:** Maybe it is no longer an issue.

**Larry:** As a principle, should we require them to pay a living wage?

**Richard:** Who are the grant recipients?

**Cathy:** I can get that information.

**Gabe:** Zoo at the time was part of the Santa Barbara Foundation.

**Anna:** We are having trouble filling positions and should look at the composition of the committee.

## 2) Discussion of the ACA and wage tiers/insurance requirements

**Larry:** We are interested in how the ACA may interact with the insurance requirements of the ordinance. How can we streamline the insurance requirements?

**Bill:** The City offers several plans that employees can choose from and it is very difficult to compare plans from one insurer to another. When we survey the Living Wage contractors several years ago, one of their complaints was that it is difficult to determine if their insurance meets the insurance requirements in the ordinance.

**Tava:** It will not impact the three tiers. Companies with fewer than 50 employees are exempt.

**Ariel:** Meaning that there is no interpretation that will integrate the ACA with the insurance requirements. You could recommend that the tiers be replaced with the ACA tiers.

**Gabe:** Is there an individual mandate?

**Tava:** Yes but the employees pay out of their own pocket so the employer would not benefit under the Living Wage Ordinance.

**Larry:** The city offers good insurance plans. We would like something that is easier to manage and enforce. I will not be re-applying when my term end in June.

## V. Adjourn: **7:10 pm**

## VI. Next Meeting: June 18

**AMERICANS WITH DISABILITIES:** In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Finance Department at 564-5334. Notification of at least 48 hours prior to the meeting will enable the City to make reasonable arrangements.