

**CITY OF ALBANY  
CITY COUNCIL AGENDA  
STAFF REPORT**

Agenda Date: 07/06/2010

Reviewed by: JL

**SUBJECT:** Living Wage Ordinance

**REPORT BY:** Judy Lieberman, Assistant City Administrator

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**SOCIAL & ECONOMIC JUSTICE COMMISSION RECOMMENDATION**

Approve the First Reading of Ordinance #09-016, An Ordinance of the Albany City Council Adopting Section 2-26 entitled “Living Wage Ordinance” to the Albany Municipal Code, with the following changes

- a) Change the word “increase” to “adjust” in Section 2-26-5(c).
- b) Remove Section 2-26.8(e) so that all city employees fall within this act.

**BACKGROUND**

In November of 2009, based on the Social & Economic Justice Commission (SEJC) recommendation, City Council reviewed a draft ordinance to establish a Living Wage in the City of Albany. At that time, the SEJC had endorsed the draft ordinance #09-016 (see Attachment 1), with the following requests:

*Recommend that Council adopt this draft ordinance as written with a change in §26.5.c from the word increase to adjust; 2) conduct a review of the ordinance and its effect and impact one year after adoption; and, 3) ask the City Council to consider including City employees among those covered by the ordinance one year after adoption.*

Council sent the draft ordinance back to the SEJC to review the fiscal implications and to discuss inclusion of all employees, including part-time, seasonal and temporary employees. (See Minutes in Attachment 2.) Staff prepared the background information and the SEJC reviewed this at the meetings of March and April, and approved the following motion at their April meeting:

*That the SEJC approve sending forward the Living Wage ordinance, and that the exemption for city employees be removed and that the ordinance thereby include all city employees.*

**ANALYSIS**

According to the City Attorney, this ordinance substantially follows the format of ordinances already adopted in other jurisdictions. A comparison to other cities, and a brief explanation of the Living Wage concept, is included as Attachment 3 to this report.

The ordinance as drafted applies to employees of City service contractors and subcontractors who enter into a service contract with the City of \$25,000 or over per fiscal year, as well as to City financial aid recipients who receive direct assistance from the City in the amount of more than \$100,000 per fiscal year. Some examples of possibly applicable service contracts would be janitorial services, landscaping services, or food service preparation services. Financial aid recipients might include organizations that the City makes grants to, although at this time there are none. Further detail on the criteria for inclusion are listed in Section 2-26.4 of the ordinance.

The wage rate is a minimum of \$11.93 per hour including wages and health benefits paid by the employer. If no health benefits are provided, the rate is \$13.54 per hour. The amount would be adjusted annually based on the Consumer Price Index. The figure of \$11.93 came from the "Poverty in America" website which has a calculator for each county. There was a \$1.61 added per hour for health benefits. This figure was achieved by taking the average of what other cities with Living Wage Ordinances in the Bay Area were adding for health benefits. The low was Richmond at \$1.50 an hour and the high was Emeryville at \$2.50 per hour. Emeryville was left out of the calculations because no other city came close to the \$2.50 per hour. The highest city after Emeryville was Berkeley which adds \$1.73 per hour.

Waivers to the ordinance can be provided per Section 2-26.6 of the ordinance. Exemptions also apply, such as for interns, job training, jobs which provide academic credit, owners of a business who are also employees and whose family members are employees, those subject to prevailing wages, collective bargaining, and so forth. (See Section 2-26.8).

The ordinance makes it unlawful to retaliate or discriminate against a person who claims a violation of the ordinance, and a person claiming violation of the ordinance may bring an action in Superior court against their employer. An employee who alleges a violation of the ordinance may report such acts to the City, and these complaints are confidential and exempt from disclosure.

The ordinance goes into effect thirty (30) days after adoption. The effective date for contracts should be changed to January 1, 2011 and thereafter.

## **DISCUSSION**

As of December of 2009, there were no City contracts that staff could find that would trigger the Living Wage criteria. City contracts are commonly union and skilled labor, or professional consultants.

With regard to employees, no other cities include part-time, seasonal, non-benefited employees. In Albany, no City union or management employee positions below the living wage of \$11.93. All positions are benefited. The hourly rates for the three lowest classifications are \$14.18; \$15.63; and \$15.80.

As shown in Attachment 4, there are six part-time, seasonal and non-benefitted positions in Albany in which one or more steps are below the living wage non-benefitted rate of \$13.54. There are 27 employees in these positions in the Recreation Department, and 6 crossing guard positions. In the Recreation Department there are 12 high school/college age individuals and 3 individuals over 65. For crossing guards, 5 of the 6 positions are filled by those 65 and over. Individuals may hold multiple classifications depending on their particular tasks or assignments.

As noted in the second table in Attachment 4, the potential cost to increase all of the wage levels that are below the living wage to \$13.54 would be \$36,350 per year. This was calculated based on the current number of employees and their current hours as of April 2010. Using this approach effectively removes the differential for the positions—there are only two position steps that are above the living wage rate of \$13.54.

If the lowest steps are increased to \$13.54, and the step differential is maintained proportionally, the costs more than double, to \$73,200. In this case the equity between steps is maintained. The lowest wage rate is \$13.54, and the highest rate will be \$17.28 per hour. This provides a 70% wage rate increase for someone at the \$8.00/hour level, and a 17% increase for someone at the \$14.82/hour level.

### **Staff Discussion**

The issue of applying the living wage to the city's part-time, seasonal and non-benefitted positions impacts more than just the individuals who would receive wage increases. One issue which has not been completely explored is the effect of moving these positions above the wage rates for the City's lowest paid union classifications. For instance, should an Aide working several hours a week serving in the senior center kitchen make an hourly wage higher than a full time Office Assistant or Police Parking Enforcement Officer? It is not clear that this is equitable or good for employee morale, and the ripple effects which would undoubtedly occur in future union negotiations have not been considered.

Wage rates are a complex and difficult issue, especially in the context of the current challenging economy and the budget projections for the next fiscal year. In a time of shrinking or flat resources, is it better to have a larger number of lower paid positions available, or is it preferable to have only one or two higher paid positions? If increased wage costs reduce the number of personnel and thereby the level or quality of programs offered by the Recreation & Community Services Department, is this a wise option for the community as a whole? Obviously, some will benefit and some will lose out in a situation where funds are not unlimited. Will providing this wage increase result in fewer full-time benefitted positions over the next budget cycle? Additionally, the increase in the Living Wage rate from \$11.93 to \$13.54 (to include a health care adjustment) may be complicated as it applies to those who are covered by Medicare (65 and over); and high school and college students (up to and including age 25); who may be covered by their parents.

At this time, one option would be to pass the Living Wage ordinance as it was originally introduced (with the minor clean-up in language to the CPI and to the effective dates); and

to request additional staff assessment of the pros and cons and longer-term budget impacts, particularly with regard to union wage rates, and existing budget projections. It might also be possible to phase in Living Wage priorities as these part-time classifications come up for review. Currently, the rates for these positions are considered for adjustment based on increases in the minimum wage (currently \$8.00). Lastly, discussion with other cities about their assessment of living wages rates specifically for part-time seasonal classifications could be explored further.

### **SUSTAINABILITY IMPACT**

If adopted, it is believed that persons affected by the ordinance will receive a more suitable wage that enables them to achieve economic self-sufficiency.

### **FINANCIAL IMPACT**

Costs for including all part time, temporary and seasonal employees would range from approximately \$36,000 to \$73,000 per year.

#### **Attachments:**

1. Ordinance #09-016, An Ordinance of the Albany City council Adopting Section 2-26 entitled "Living Wage Ordinance" to the Albany Municipal Code.
2. Minutes of City Council meeting of November 2, 2009
3. Living Wage Comparisons
4. Part-time, seasonal and non-benefited employee position classifications/wage rates and potential cost impacts