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COUNCIL OF THE CITY OF PHILADELPHIA  
PUBLIC HEARING AND PUBLIC MEETING  
BEFORE THE COMMITTEE ON LAW AND GOVERNMENT

- - -  
Room 400, City Hall  
Philadelphia, Pennsylvania  
Friday, December 11, 1998  
11:15 a.m.  
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RESOLUTION NO. 980853 - Authorizing the Joint Committees on Law & Government and Commence & Economic Development to conduct a full and comprehensive investigation into whether, and to what extent, City contractors and recipients of financial assistance fail to pay their employees a living wage, and why and to what extent the City and City-related agencies fail to collect information on the wages and working conditions of such companies; and further authorizing the joint committees, in furtherance of such investigation, to issue subpoenas as may be necessary to compel the attendance of witnesses and the production of documents to the full extent authorized under Section 2-401 of the Home Rule Charter.

PRESENT: COUNCILMAN DAVID COHEN, Chair  
COUNCILMAN RICHARD T. MARIANO  
COUNCILWOMAN JANNIE BLACKWELL  
COUNCILMAN ANGEL L. ORTIZ

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P R O C E E D I N G S

COUNCILMAN COHEN: The joint Committee of Law & government and Commerce & Economic Development is now in order. This is a continuation of a previous hearing and, therefore, the quorum is maintained.

The first witness today is Howard Wial. Mr. Wial, we welcome you here, and we'd like you to first tell us something about your self.

MR. WIAL: Yes. I am a Ph.D. in economics from MIT and am senior fellow of the Keystone Research Center, which is a nonprofit public research organization, with offices in Harrisburg and Upper Darby.

COUNCILMAN COHEN: And have you been involved in any way with the issue commonly known as "living wage"?

MR. WIAL: Yes, I have.

COUNCILMAN COHEN: And can you tell us what that involvement has been?

MR. WIAL: I have been collecting data to estimate the economic impacts of the proposed Living Wage Ordinance; specifically to estimate

how many workers would be affected, by how much their wages would go up, and how much that would cost the city.

COUNCILMAN COHEN: Thank you. And in what regard have you been making this study and collecting the data?

MR. WIAL: I'm not quite sure what you mean.

COUNCILMAN COHEN: Well, tell me the center of your interest in the matter of living wage. Why are you collecting the data and of what use is it?

MR. WIAL: We are. . . we are doing this, as we do all of our work, as a public service to the Council and the citizens of Philadelphia so that they can have a better idea, as they debate the living wage bill, what the effect of the bill might be likely to be.

COUNCILMAN COHEN: How do you get the information? How do you get the data?

MR. WIAL: I have sent letters of request to various City agencies: The City Solicitor's Office, the School District, the Redevelopment Authority, the Housing Authority,

PIDC, PCDC, SEPTA, the Pennsylvania Convention Center Authority, and the Philadelphia Facilities Management Corporation, requesting information about contracts and/or financial assistance provided by the City or these independent agencies.

COUNCILMAN COHEN: How do you decide what information you need?

MR. WIAL: I've requested information based on the assumption that we were shall not going to be able to, within any reasonable timely fashion, get actual wage and employment information, which would enable the most accurate kind of estimates to be made.

So I have requested information that would enable me to make more indirect estimates based on industry averages. If I can get information that will enable me to know what industry a City contractor or a financial assistance recipient is in and where it's located, then I can still do the study.

Of course, if I have the direct wage and employment information, the study would be even more accurate, but I have not requested that

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information in my letters.

COUNCILMAN COHEN: And within the technical field in which you work in collecting data, is there a specific approach that's used to develop the questions that you would ask?

MR. WIAL: Yes. There is an approach by Stephanie Luce (ph.) and Robert Poland (ph.) in their book, "The Living Wage," in which they did a similar assessment of the impact of the Los Angeles Living Wage Ordinance while that ordinance was being debated in City Council in Los Angeles. And I am planning to use a very similar methodology.

COUNCILMAN COHEN: All right. In connection with the preparation for this hearing, I asked that you be furnished with a copy of the letters sent out by Mr. Applebaum, our procurement commissioner, to the various contractors and vendors that do business with the City of Philadelphia. Have you seen such a letter?

MR. WIAL: Yes, yes, I have.

COUNCILMAN COHEN: And what is your reaction to that? Will that get the information? Is it a clear letter? Is that an adequate letter

to secure the kind of information you feel is necessary in order to have a data base size for conclusions?

MR. WIAL: Let me clarify first that that letter intends to ask for direct wage and employment information which would enable the most accurate estimates to be made, more accurate than estimates that could be made on the basis of responses to the letters that I previously sent out.

Having said that, I would say that the letter sent out by Commissioner Applebaum is not adequate to the task of getting actual wage and employment information.

COUNCILMAN COHEN: Can you tell us why?

MR. WIAL: Yes. There are four major problems with it. First, the letter refers to all employees of each vendor or contractor as well as all employees of subcontractors, but the living wage bill would only cover workers insofar as their doing work under City contracts.

COUNCILMAN COHEN: Could I interrupt you for a moment? Could I ask Commissioner

Applebaum and Deputy Mayor Kevin Feeley to come forward within -- perhaps you could sit at the same table 'cause I want to make sure that everything is heard that you're saying because we're going to be asking you for responses to see if we can work out, before the hearing ends today, a common ground for obtaining this information.

Because Mr. Feeley has assured me over the last number of days that the City is very anxious to work together with us. And if his letter won't produce the information, they will be prepared to consider changing the letter or sending out another one if it seems necessary.

So I'm trying to get an exchange of opinions and, therefore, I'm going to ask, right after you explain your position, I'm going to ask the Commissioner and the Deputy Mayor for their, you know, their conclusions.

Go ahead, Mr. Wial.

MR. WIAL: Yes. The first problem is that the letter should request information only about workers who are performing work under City contract.

The second problem is that Commissioner



Applebaum's letter omits to request any information about the number of hours worked by the employees. Without information about the number of hours worked, you really can't estimate the wage cost of the living wage bill, so that information should be included as well. We would want to know the average or usual number of hours worked per week by each employee.

Third, the letter makes an ambiguous reference to any and all benefits that may be paid to the employees about whom information is requested. But at least as I understand the living wage bill, it would provide for a wage of at least 7.90 an hour if the employer pays for health benefits, and 9.40 if the employer does not pay for health benefits.

The letter, therefore, ought to request for each covered employee an indication of whether or not that employee is receiving employer-paid health benefits. No information regarding other employee benefits would seem to be needed, at least in my understanding of the living wage bill.

And, finally, the letter asks only for information about employees who earn 7.90 an hour

or less, but there are some employees who earn more than 7.90 an hour, who will be affected by the living wage bill either directly or indirectly.

And there are two groups of such employees. First, employees who don't receive employer-paid health benefits will strictly be affected by the bill if they earn less than 9.40 an hour. And, secondly, there is what has been typically referred to as "a wage ripple effect." Employees who earn perhaps 1 to \$2 an hour more than 7.90 will be indirectly affected.

Research on minimum wage increases has shown employees that who initially earn more than the new higher minimum wage also get wage increases when the minimum wage goes up, even though those wage increases aren't legally mandated. And the reason is that employers and employees want to try to maintain customary wage differentials to some extent -- not completely, but to some extent.

And the same thing would likely be true under the living wage bill. Omitting any estimate of the wage increases that would likely accrue to

employees who currently earn more than 7.90 an hour would lead to an underestimate of the true costs of the living wage bill.

Now, the estimates of the extra wage costs for workers who currently earn more than 7.90 an hour are based necessarily on assumptions. There is no way to know exactly what they are, but in order to even make those assumptions and have any rough sense of what those wage ripple effects are going to be, you need information about the wages and employment of workers who make more than 7.90 an hour.

And, therefore, I would suggest that the letter be revised to request information on all employees of the relevant City contractors or vendors -- not simply those who now make less than 7.90 an hour.

COUNCILMAN COHEN: Before we go any further, I want to mention the committee members who are here. To my extreme left -- and I wish it were really true -- is Councilman Rick Mariano. To immediate left is Councilman Ortiz. And to our right, and she's going to be joining us shortly, is Councilwoman Jannie Blackwell.

Now, I don't know whether you included this -- I couldn't quite tell. I have the problem with the first sentence in which it says, "Provide a list of all employees in your company who earn \$7.90 per hour or less, including any and all benefits that may be paid to these employees."

I have trouble -- maybe it's my legal training, but I cannot tell from that whether or not an employer reading this letter, paying somebody \$6 an hour, but deciding that the health benefits are worth \$2 an hour, would eliminate that employee, figuring that that employee's receiving \$8 in wages -- \$6 in cash and \$2 in health benefits.

And this would have to be interpreted by each employer who receives this letter, some of whom may go one way, some of whom may go the other way. Was that included in one of your criticisms?

MR. WIAL: Yes. As I stated, the reference to benefits is ambiguous in the current letter, and it also doesn't get at the information that we want. We simply want for all of --

COUNCILMAN COHEN: I know about the additional information, but I'm just restricting

my question. Unfortunately I am a lawyer, so I like to get answers to the specific questions.

MR. WIAL: Yes, I agree with your statement.

COUNCILMAN COHEN: Okay. Thank you. Commissioner Applebaum, please introduce yourself for the record.

MR. APPLEBAUM: Louis Applebaum, Procurement Commissioner, City of Philadelphia.

COUNCILMAN COHEN: Go ahead, sir.

MR. APPLEBAUM: Let me just review a few things.

And, first, I think that we must realize that in overall procedure here, our goal was to try to get as many of the 7500 vendors that we selected to respond to our questionnaire. To put them through unbearable requests, we would get nothing back. So let's try to focus in on the goal as to get information back and to try to make it as user-friendly as possible.

The first comment on the benefits, if you look at --

COUNCILMAN COHEN: Well, I would appreciate it if you would first address yourself

to the question that I'm raising. The question is, when different people read this letter -- and in my judgment, it's susceptible to two different interpretations. Some people may read it that 7.90 is referring to the cash wages, the gross cash wages; and other people will say, because of the way the sentence is worded, that within that hourly wage, we are going to include health benefits and, therefore, the person is costing our company is costing our company 7.90 or \$8; therefore, I don't have to include that person.

MR. FEELEY: Councilman, my name's Kevin Feeley, Deputy Mayor for Communications.

I know a little bit about this letter, having worked on the drafting of it. I can assure you, first of all, that there was no intention to be --

COUNCILMAN COHEN: No, I understand that.

MR. FEELEY: Well, just for the record I just want to say there was no intention to be anything less than attempting to get as much information as possible from the vendors.

We believe that the way it's worded, in

conjunction with the payroll survey, which was behind each letter that went out. When you look for the payroll survey, it asks for the employee's name, job title and description, hourly wage, and benefits. And it effectively asks them to list and/or give us some information in addition to the hourly wage. We believe that this will be -- that the vendors who receive these letters will be able to delineate the fact that they need to do both.

And what we've said to you and what I'll say for the record is, rather than do a second letter in advance of -- as a result of these criticisms or as a result of these suggestions, what I propose we should do is, let's take a look and see what we get. These letters have already gone out, we sent them to 7500 contractors. According to our request, they have until the 31st of December to respond to us, so we're going to find out pretty quickly what they think this means.

What we propose to do is to suggest to you, if it means what we think it does, we'll be fine. If there's a need for further clarification, we'll send out another letter, and

we'll do it according to the requirements that you have.

I think that this is fairly clear. I understand that, you know, obviously, you don't feel that way. What I propose is, let's see what we get back, because we're going to get it back very quickly.

COUNCILMAN COHEN: Let me ask Mr. Wial for his thought about that.

MR. WIAL: Well --

COUNCILMAN COHEN: Just for the record also, it's the opinion of the Chair, and I think the members of the committee, that there is a good-faith effort being made by the Administration, and nothing I said about confusion was intended to indicate anything to the contrary.

'Cause I think everybody benefits if we get data that all of us can agree on is solid data. Then what we do with it, you know, each party make their own decisions as to that.

MR. FEELEY: Thank you.

COUNCILMAN COHEN: But what you've got to have is a solid rock-hard data base before you know what you're talking about.



MR. FEELEY: We agree that we want the information as well.

COUNCILMAN COHEN: Right. Thank you. Go ahead, Mr. Wial.

MR. WIAL: Yeah, it certainly doesn't seem obvious to me that the employees survey sheet would clarify the issue. There's a space for hourly wage and there's a space for benefits. The employer doesn't know whether he or she is supposed to provide information on people whose hourly wage is less than 7.90 an hour and then say whatever benefits those people receive or whether the employer is supposed to provide information on all people whose hourly wage plus benefits add up to the equivalent of 7.90 or less.

Different employers may well interpret it in different ways. It's certainly true we could wait and see what the employers do, but it is highly likely that we would have to, in order to get the information that we really want, is send out another letter anyway.

COUNCILMAN COHEN: Would you be in a better position to make a judgment if you were able to see the responses that came in?

MR. FEELEY: Well -- I'm sorry, go ahead.

MR. WIAL: Certainly, I would know how various employers were interpreting the request. But I wouldn't have -- I wouldn't have quite the information that I would need.

An employer might write down hourly wage, say, 7.50 an hour; benefits, say, \$2 hour additional, without specifying what those benefits were. For purposes of the living wage ordinance, it's health benefits, yes or no, that we need to know.

MR. FEELEY: Can I interrupt you for a second.

We anticipate -- and I think maybe we should have conveyed this to you. We anticipate that as a result of this survey, we all hoped that we would get a hundred percent cooperation, but we live in the real world and we know that that's not likely to happen. So we anticipating having to send out -- and I think Commissioner Applebaum will confirm this -- having to go back after people who don't respond by the 31st.

All I'm suggesting to you is, to the

extent that we get response back that aren't clear about the information that you want, that becomes a part of the second notice. They just get added to the list. Either you get a letter because you didn't respond by the 31st, or you get a letter because you didn't respond correctly by the 31st.

In either case what it does for us, and the reason it's important to us, it allows us to narrow the list of people we have to mail to. And we're talking about a lot of people here.

COUNCILMAN COHEN: All right. That sounds reasonable, with one exception. I'd like to present to you a letter that my staff and I put together. I'd like to say my staff did, but being a nuisance to everybody, including my own staffs, I redrafted portions of the letter so that it was clear at least to me. I would like to present it.

Do we have several copies that we could give one to Mr.. . .

The letter represents my feeling as to what ought to be said, both with respect to the request for the information itself.

And, secondly, with respect to the

signature that ought to go in the letter, and that's the mayor, and that's no disrespect to you, Commissioner, but I think people, you know, would tend to respond more directly if they thought the mayor was interested.

And, third, it indicates why it's important to the vendor to respond.

I would like to move it away from a polite request to an indication that the vendor might be hurt in the future if he does not respond, because I think the City has a right to know what the vendor pays if the City is contracting with that vendor. And, therefore, without making any specific threat, we indicate it may be important in future allocation of contracts to consider whether or not the vendor complied with this request.

So you each have a copy of it, and I would like to ask you to look at it and see if that would be agreeable as a second letter, you know, if we accept your suggestion to wait out the results of the December 31st deadline.

If second letters have to go out, would this be agreeable to you?

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MR. FEELEY: We will certainly consider the letter, Councilman. I certainly appreciate your taking the time to write it, and your staff as well.

Our intention was that the first letter was to be as -- it is a fairly polite letter, but it's also fairly firm. It's always been our intention that if there's a second letter, we certainly wouldn't be as nice the second time around.

So we'll certainly consider it, thank you.

COUNCILMAN COHEN: And if you have any clear criticism of it, we'd like to hear it. And if you are going to suggest changes, we'd like to have the opportunity to see the letter before it goes out so that it can be a joint product.

MR. FEELEY: Absolutely.

COUNCILMAN COHEN: Because we have no pride of authorship; we just want to kind of get through to the folks, If you want to continue to do business with Philadelphia, we expect to you cooperate with us.

MR. FEELEY: Councilman, having drafted

the letter that is the subject of this meeting, I can also tell you that I have no pride of authorship.

COUNCILMAN COHEN: Okay, thank you.

Mr. Wial, I gather from your answer before that you would be in agreement that it might be worth waiting for the mail to come in, and then we can make a final judgment as to whether or not people have responded need a second letter to clarify their answers. As to those who have not responded, the second letter would go out automatically.

MR. WIAL: Yes, we could certainly do that. All I was suggesting before was that because of the ambiguity in the original letter, there might be various employers responding in good faith who might just not know how to give the response that we are actually seeking and necessitating a follow-up letter in any case.

COUNCILMAN COHEN: For those from the Living Wage Coalition who are in the room, what we're trying to do is to make sure that we find out what the facts are in the Philadelphia area so that there's a very sound basis for conclusion

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that we don't need living wage legislation because most vendors are paying it; or that we do need living wage legislation because most vendors are not paying it. We want to be on a very strong, firm foundation so that all of us can feel very comfortable with whatever decision the committee finally recommends.

So while this hearing may sound technical, talking about questionnaires, we're trying to get to the bottom of the facts, and we're hopeful that when we get the facts, there will be a cooperative effort by the Administration and by the City Council to put the interests of working people first and to see that everybody gets an affordable wage, 'cause that's the concept of the living wage.

So I just wanted to make that clarification for all of the people that are here in attendance.

Well, I think we've reached agreement on what needs to be done.

Does any member of the committee have any question?

(No questions from committee members.)

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COUNCILMAN COHEN: Mr. Feeley, is there anything you wanted to say further?

MR. FEELEY: No, Councilman.

COUNCILMAN COHEN: And I express regret for the delay in the proceeding of the meeting this morning.

COUNCILMAN ORTIZ: It's just that we were up very late last night.

MR. APPLEBAUM: So we will wait for the responses and then we'll get together and come to a conclusion of the next step, whether we should issue the letter.

COUNCILMAN COHEN: Just one point of clarification, Commissioner. These 7500 letters that went out, to whom did they go out?

I don't mean individuals. For example, did they only go to the those vendors that have contracts with the Procurement Department? Did they go out to vendors, say, in the Health Department? I don't know whether you handled that.

And the last question would be, how about the various authorities?

MR. APPLEBAUM: They went out to every



vendor, every person who received a check from the City of Philadelphia, less certain items that were removed, such as employees, petty cash, pension-type benefits, anything that we could identify that was not pertinent.

So the data base started with all checks going out, and then we removed things such as one-time benefits, one-time payments to dues and subscriptions, and various items that were people that do not basically have contracts with the City. So it would include procurement contracts; service, supply, and equipment; and also professional service contracts.

COUNCILMAN COHEN: Let's say Redevelopment Authority contractors; were they included?

MR. APPLEBAUM: If the payments were made from the City of Philadelphia, they would be listed in that --

COUNCILMAN COHEN: But suppose payments were made by the Redevelopment Authority. I don't know what the -- you know, I assume that they make payments, or are all payments --

MR. APPLEBAUM: We will have for you --

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or actually, I have -- right now I can deliver to your staff the listing of the 7500 recipients of the letters. We have that.

COUNCILMAN COHEN: No, what I'm wondering is, for example, the Philadelphia Housing Authority does an enormous amount of contracting and subcontracting. Do we have available from them a list from them a list of vendors, or will they agree to a similar mailing as we have? 'Cause we don't make payments for them, and our understanding was that the Commerce Department --

COUNCILMAN ORTIZ: PHA would be apart from the City.

MR. FEELEY: Correct. If there's not a check that's coming from the City of Philadelphia, they're not on this list.

COUNCILMAN COHEN: They're not on this list. Then we're going to have to bring in all the separate -- what I'm asking at this point is, I understand all of those departments have a working relationship with folks in the mayor's office.

MR. FEELEY: Right.

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COUNCILMAN COHEN: We would like to ask the mayor, you know, through his office, to make a similar request for each of the agencies that do city business in the form of authorities to make the same request.

People out in the community, you know, are not concerned with whether it's the Redevelopment Authority or the City of Philadelphia. They regard it all as one and the same. And in truth, it is, 'cause the Redevelopment Authority only does work for the City.

MR. FEELEY: We will be in touch with those agencies, and we'll report back to you.

COUNCILMAN COHEN: Thank you very much.

If you hold, in a minute, we're going to be recessing to a specific date. We want to clear the date with the clerk's office.

When do you -- what -- let me ask you this, Mr. Feeley: The closing date of your request is December the 31st?

MR. FEELEY: (Nods.)

COUNCILMAN COHEN: When do you think you would have material available in substantial

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number for you to form judgments as to whether people are going to reply?

MR. FEELEY: We think probably by mid-January. I mean, I think that --

COUNCILMAN COHEN: Then your suggestion would be for a hearing date, if this is to be continued, to a date later than mid-January.

MR. FEELEY: Well, I wouldn't be so bold as to suggest a hearing date for you, Councilman, but we think we'll be in a position to know what kind of responses we've gotten by mid-January. So you can schedule it for then.

COUNCILMAN COHEN: Mr. Wial, if we made those responses available to you after the City made it available to us, how long would you need to form a judgment as to the adequacy or inadequacy of responses?

MR. WIAL: Probably a few days after I received the responses.

COUNCILMAN COHEN: Within two days?

MR. WIAL: Yeah. I could easily inspect the responses and determine whether or not they're adequate.

COUNCILMAN COHEN: Let me take the

first Tuesday in the fourth week of January.

That's a very scientific data-base approach to getting a date. We need a 1999 calendar. Okay, at 11 a.m., on the fourth Tuesday of January of 1999, can you give us that date?

THE CLERK: The 26th?

MR. FEELEY: The 26th.

COUNCILMAN COHEN: Okay, January the 26th, at 11 o'clock, 1999. This hearing is recessed till that date.

I want to thank all the witnesses for their cooperation and thank everybody that attended. I think we've moved the process forward. Thank you all very much.

The hearing is recessed until the date I've just mentioned.

(Adjourned at 11:49 a.m.)

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C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing  
proceedings of the Council of the City of  
Philadelphia of Friday, December 11, 1998, were  
reported fully and accurately by me, and that this  
is a correct transcript of same.

RE: COUNCIL COMMITTEE ON LAW & GOVERNMENT AND  
COMMERCE & ECONOMIC DEVELOPMENT

RESOLUTION NO. 980853

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JOSEPHINE CARDILLO,

Registered Professional Reporter

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