



MINUTES

Citizens League

Saint Paul Minimum Wage Study Committee

Thursday, June 14, 2018, 8:30am-10:30am

University of St. Thomas, Anderson Student Center, Room 340

2060 Summit Ave, St. Paul, MN 55105

Committee Members Present: Co-Chair B Kyle, Co-Chair Rick Varco, Mr. Bob Brick, Mr. Dillon Donnelly, Mr. Paris Dunning, Mr. Matt Gray, Mr. Matt Halley, Mr. Doug Hennes, Ms. Mary Hicks, Ms. Sarah Kopp-Reddy, Mr. Andrew Kopplin, Ms. Rebecca Lucero, Mr. Tim Mahoney, Ms. Veronica Mendez Moore, Mr. Oscar Murcia, Mr. Sam Peterson.

Members Not Present: Mr. Samuel Callahan, Mr. Barry Gisser, Mr. Jon Grebner, Ms. Kera Peterson, Ms. Pang Vang.

Staff & Staff Support Present: Angelica Klebsch, Matt Byrne, Snowden Stieber, Alexis Solheid

Observers Present: LyLy Vang-Yang, Melanie McMahon, Owyn Ferguson, Natalia Madryga, Celeste Robinson, Yingya Vang, Jennifer Schellenberg, Yao Yang, Jeff Peterson, Colleen Nocerini, Kip Hedges, Daniel Yang.

Proposed outcomes for this meeting

- Review study committee charge and proposed goals
- Receive community input
- Receive follow up on research questions posed last week
- Participate in a values exercise
- Hear from City of Saint Paul staff on ordinance passage, implementation, and enforcement
- Discuss information received and confirm additional information needed
- Agree on next steps

WELCOME

Co-Chair Varco opened the meeting at 8:30 am, and reminded guests and people that use of phones and social media during the Committee meeting was not allowed. He then reviewed the proposed outcomes for the meeting (see above), and reviewed the Study Committee's charge.

Co-Chair Varco then gave the Committee time to read the minutes from last week's meeting. No corrections were suggested. A motion was made to accept the minutes, and seconded. Motion passed.

Co-Chair Varco asked if any committee members had thoughts on the last week's meeting and the small business panel which occurred.

A committee member said they enjoyed the presentation by small business owners, but they wished that there had been more owners on the panel.

Co-Chair Kyle asked if any member who had evaluated the meeting lower for last week's meeting would like to explain why they scored it lower. A committee member said they wished there had been more small business owners, and that while the content was good, there was not enough of it. Another member said they scored last week's meeting lower because the meeting had run late and had been procedurally confusing, and that several business owners were forced to leave before being allowed to proceed. The member thought that Mr. Durfee's economic report could have been more effectively summarized, which would have allowed for more Q & A time.

Another member thought the panel would include small businesses besides restaurants, which they thought were for another time. They were frustrated that the panel consisted of restaurants and an industry lobbyist. Another member agreed and said that a lot of small businesses' voices were missing from the panel. They said while the businesses usually shared the same struggles as the restaurants that were represented, the paradigm of bars/restaurants was not what was needed, and some nuances in the broader Saint Paul economy were missed.

A committee member enjoyed the restaurant owners, but questioned the presence of the MLBA lobbyist. The member felt that the lobbyist also represented some larger entities, instead of just small businesses.

A committee member said that the lobbyist represented state wide interests, and that the majority of the businesses he represents were smaller, outside the metro area, and most grossed less than \$1 million annually. The committee member agreed with the others who had said that the Committee should listen to more small business voices. They said they appreciated the liquor store owner, who was having to grapple with businesses moving to second and third-ring suburbs. The member said that they had seen in a Minneapolis survey that small hardware stores had struggled to adapt to the higher minimum wage, especially when they are competing with big national hardware retailers, and that small establishments have different dynamics that the committee should consider.

A committee member said that, upon reflection after the meeting, the restaurant owner who had contemplated moving to Oakdale had mentioned a number of reasons to move, and none of them were wage related. Instead, the owner emphasized lower crime, less poverty. These seemed to the committee member like things that the City of Saint Paul could address in ways besides the minimum wage.

A member asked for a breakdown on industry wages in Saint Paul. A Citizens League staff member responded that Mr. Durfee had developed a breakdown, and that he would report to the Committee next week on the matter.

A Citizens League staff member said that they appreciated all the feedback from the committee on the lack of small business owners. They said they had contacted at least 15 owners from a variety of industries to appear on the panel, but that there was a perfect storm of cancellations by potential panelists which limited the range of voices the committee heard. The staff member

said that if any committee member knew of voices that should be included in future meetings, they should feel free to contact the Citizens League staff and recommend them.

Co-Chair Kyle asked the committee if they would be open to receiving written statements from businesses, since many business owners are too busy to attend a committee meeting.

A committee member asked that all people providing written statements be asked the same series of questions, so as to make the comparison easier.

Another committee member said they were wary to opening the floodgates to an overwhelming number of responses.

Another committee member asked, if the written statements were submitted with contradictory claims, would committee members be allowed to respond with more clarifying questions. A committee member said that there would always be contradictory claims because businesses' experiences would vary. They said that there would always be winners and losers in these conversations, and the job of the committee was to put together a thoughtful report.

Co-Chair Kyle asked if the committee would be opening to receiving only written statements from business owners who had previously agreed to attend a panel, but who were unable to make the meeting.

A committee member said they believe that by accepting written statements, the method would be biased against those who couldn't participate in that fashion. They said they would be open to hosting another smaller meeting at a more accommodating time.

A committee member said that the Phase One Scoping Report already laid out a number of voices, and that more info is not necessarily going to add to the conversation. The report has plenty of information, and the member felt that the committee should move on to address the work ahead.

Co-Chair Varco asked if Citizens League staff had any openings at later Study Committee meetings, or whether adding additional small business voices cut into scheduled activities. A Citizens League staff member said that if the committee was interested in hearing from a few voices, like two or three small business owners, the Citizens League would be able to fit them in at a later meeting.

Co-Chair Varco asked the Citizens League to put together a summary of the future meetings, along with a few possible options for when more small business voices could be included.

A committee member said they felt the committee should move on. Co-Chair Varco said that that might be what the committee does after better understanding what the possible options are for the remaining schedule.

Co-Chair Kyle said that she was concerned that the committee treated all panels fairly, and that she wanted to be sure that if future panelists were unable to make meetings due to work obligations, that their voice would still be included. She said she wanted to make sure that at the end of the Committee process, the members would feel like they heard from all the people they needed to.

Citizens League staff added that they could contact small businesses that had not been heard by the committee, and see if the owners were open to appearing in front of the committee. They could include those businesses in next week's report about the remaining schedule availability.

REPORTS

Co-Chair Varco said that the Community Report section would be tabled until the end of the meeting.

Snowden Stieber from the Citizens League staff reported on questions that the Study Committee had asked at a previous meeting.

Mr. Stieber had been asked about (i) potential vulnerability to a city ordinance, and (ii) what legal limitations were constraining the committee's recommendations. In regards to vulnerability, Mr. Stieber explained the legal concept of severability. If a judge finds part of an ordinance to be unlawful, the judge is able to remove the offending part while preserving the remainder of the legislation. This, Mr. Stieber said, meant that the committee would not have to worry about including a particular recommendation that might doom the entire process.

Regarding legal limitations, Mr. Stieber explained the legal concept of preemption. When a state law conflicts with a municipal ordinance, the state law will override the ordinance. There are three kinds of preemption in the law: express, implied, and conflict. As an example of implied preemption, Mr. Stieber talked about workers with disabilities. He said that, since the state is in charge of regulating wages for workers with disabilities, it is likely that the City of Saint Paul would not be able to regulate the same workers' wages.

In conclusion, Mr. Stieber said that cities were capable of expanding or complementing a state law, and that they could not pass ordinances that were in conflict with state law. As an example, he referenced the broader definition of "small business" included in the Minneapolis minimum wage ordinance. Since Minneapolis's definition included more businesses than the state's definition, Minneapolis would not be preempted. Mr. Stieber said that this committee should focus on what the members thought was most important for the City of Saint Paul to consider, and to not worry as much about the legal limits. The City had attorneys who could hammer out the details, but the City is looking to hear what the committee members think. In the committee members' packets, Mr. Stieber included a list of the legal terms he discussed today, and a copy of the Minnesota statute listing the current exemptions from the definition of "employee."

Co-Chair Varco asked how Minneapolis treated the list of exemptions. Mr. Stieber said that Minneapolis took the definition from the Minnesota statute in their packet, with the exceptions for workers with disabilities in the DEED program, and independent contractors, each who were not covered by the Minneapolis ordinance.

GETTING TO KNOW EACH OTHER

Co-Chair Varco said that the co-chairs were contemplating a social event at an outside venue where committee members could talk and get to know each other better.

A Citizens League staff member facilitated a group exercise that asked committee members to write down a few sentences on why the members' do what they do. The staff member then asked the members to condense down the reason into a single word, and write down the word on a sheet of paper. The members were then asked to summarize what that single word meant

to them. The staff member then asked the members to meet in groups of two or three to discuss what they had written for about ten minutes. The final part of the exercise involved the members, one-by-one, sharing their single word answers with the rest of the committee, and placing them on the wall.

After sharing their words and seeing other members' answers, committee members were asked what they had learned from the exercise. Members noted that there were a large number of common interests and values, even though there was a large variety of backgrounds among the committee. Others noted that the exercise showed that all of the people in the room were interested in the common good, even though there were a number of opinions on the way to get to that point. Committee members said that they felt like they better understood each other and saw where each other was coming from.

CITY OF SAINT PAUL STAFF PRESENTATIONS

Melanie McMahon, Legislative Aide to Councilmember Chris Tolbert, Jessie Kingston, Director of the Human Rights and Equal Economic Opportunity Department, and Siobhan Tollar, Assistant City Attorney for the City of Saint Paul, all appeared before the committee.

Ms. McMahon began by presenting an overview of the ordinance creation process. She said that the Mayor and City Council appreciated this committee's work, and said that the City leadership wanted to hear the committee's in-depth analysis.

She explained that it takes a minimum of four weeks for an ordinance to be passed by City Council. First, a councilmember must sponsor an ordinance, with other councilmembers allowed to co-sponsor. The first reading of the ordinance is made at a City Council meeting. A second reading happens a week later. At either of the two readings, a councilmember can offer an amendment to the ordinance, and if the amendment passes a City Council vote, the amended version is the working version that is carried forward. The third reading is a publicly available hearing with public input. If there are any amendments made after the public hearing, it is possible that the ordinance might have to undergo another public hearing if there is a significant change in the amendment. The fourth reading is the final time before the council. Any time that an amendment is made, Ms. McMahon said that the new version must sit before the City Council for another week.

Once the ordinance has passed the City Council, the Mayor has five days to decide to sign the ordinance or to veto it. The City Council then has 30 days to attempt to override the veto. Ms. McMahon said that the month-long time frame made sure that no ordinances were passed too quickly, that it gave time for the councilmembers to seriously consider ordinances.

A committee member asked for an approximate timeline for the passage of a minimum wage ordinance. Ms. McMahon said that after the Study Committee publishes its recommendations by August 31st, Ms. Hoffman from the Citizens League would brief the City Council on the recommendations, and that there would still be some time needed to consult with City attorneys and forming the ordinance. She was unable to give a specific timeline or date.

A committee member asked if the mayor could veto specific elements of an ordinance. The City of Saint Paul staff was not sure if the mayor could, but they said it was not likely.

Co-Chair Varco asked if the third reading of an ordinance was the first time the public would be able to appear at a meeting. Ms. McMahon said that it would be.

Jessie Kingston from the Human Rights and Equal Economic Opportunity office spoke next. She outlined what her office would do when implementing an ordinance, and she used her office's experience with implementing the Earned Sick and Safe Time (ESST) ordinance as an example of what they were anticipating with a minimum wage ordinance.

Ms. Kingston said that the first step is an ordinance comparison, looking at similar ordinances from other jurisdictions around the country. Her office would look at enforcement, rules, exemptions, and would determine what was legally possible for the office to do. They would then make a list of important questions that the City would have to make decisions about. She said that some of those decisions would be influenced by the recommendations that came forward from the Study Committee's report.

The next step for the City would be determining what is needed to enforce an ordinance. Ms. Kingston said that the City is already having discussions about when and who might be hired, but that that would depend on when the ordinance is expected to become effective.

Ms. Kingston then talked about implementation. In addition to passing an ordinance, the City created an ESST website to educate employers and employees on the new ordinance. She showed the website to the committee, and highlighted its focus on in-depth rules analysis and broader education. Preparing Know Your Rights posters, FAQs, and marketing strategies were an intense work experience, but it was important to engage with the community and notify them that the new legislation is coming. Ads on light rail and at transit stops, press releases, and community radio advertisements were all used by the City of Saint Paul when implementing the ESST ordinance.

She said that working with the City of Minneapolis was important, as there were differences between the ESST ordinances in the Twin Cities.

A committee member asked if the City reached out to businesses. Jessie said they sent out a postcard to several employer databases, ones provided to the City by chambers of commerce.

Ms. Kingston said they implemented a complaint tracking database for compliance, as well as on-line and off-line ways to file complaints with the city.

Ms. Kingston showed the Study Committee the ESST Website, which included links to the direct legislation, information for employers and employees, and links to all the rules that were created. The website was also an important source of information for businesses that might not have their own HR departments, and for those that were unsure if their business was actually located in the jurisdiction and therefore covered by the ordinance. She said that this would be the model for a minimum wage ordinance website.

Ms. Kingston then talked about effective dates. She said that the Study Committee's recommendation could have an impact on the City's plan for deciding effective dates. The City included a delay for businesses to learn about the ESST ordinance and to ensure compliance. There was a 30 day comment period, which gave some citizens the chance to ask clarifying questions, which the City responded to in a detailed manner.

The original cutoff line was employers who had 24+ employees, and they went live first. Employers with 23 or fewer employees had an additional 6 months before they were required to comply with the ordinance. Ms. Kingston said that who goes live first, who is exempt, these are the kinds of questions this Study Committee could address. She said that there were differences

between Minneapolis and Saint Paul on ESST, in particular defining what size businesses were covered by the ordinance. Minneapolis exempted businesses with less than 5 employees from the ordinance, while Saint Paul did not.

A committee member asked what kind of outreach had been effective in ESST, and what did they think they could have done better.

Ms. Kingston said they received a lot of feedback from the Hmong community, saying that they did not know much about the ESST ordinance. She said that it was important that the implementation and education should be culturally sensitive. The City learned to reach out on Hmong radio, which was an effective method of communicating. She said it's important to consider where these communities are getting their information from, and thinking outside the box about the way to reach them.

Ms. Kingston showed the Study Committee the ESST packet with the recommendations for enforcement from the ESST task force. She highlighted specific recommendations around size exemptions and notifications.

Questions from the committee.

A committee member said that a well-intended ordinance with poor adherence will yield self-defeating outcomes. Officials from Minneapolis told the Study Committee to produce recommendations on implementation. The member asked about recommendations for effective implementation. The committee member also asked how the City measured conformity with a law, and if they use any data points.

Ms. Kingston said a budget would be needed for marketing and the City was looking at staffing options. She said that Minneapolis has a different model of enforcement than what the City of Saint Paul usually does. She said that Saint Paul focuses on education and outreach and complaint-based systems. They do not require audits or input from businesses.

A committee member asked how many investigators were added for ESST compliance. Ms. Kingston said they added one additional investigator. She said that in the beginning, most of the input they received was clarifying questions, and the City is only now beginning to receive complaints, so there hasn't been a need to add 5 or 6 additional investigators.

A committee member asked if the City had any analysis on how capable the City was at enforcing ESST, and if they had any concern about the enforcement. Ms. Kingston said that her office had not heard any serious concerns about enforcement, but asked the committee member to explain further. The member said they had heard that a complex ordinance made enforcement more difficult. Ms. Kingston replied that the type of exemptions could make things more complex, and could take more staff time, requiring a more in-depth role and greater education.

A committee member said that ESST was an additional benefit to employees, while a minimum wage ordinance would involve payroll, and was significantly more difficult. They said that a noncompliant business would put both compliant businesses and employees at a disadvantage.

Another committee member asked about small businesses without HR departments, and asked how effective the City's outreach had been to those businesses and how did size impact outreach efforts.

Ms. Kingston said that the roll-out of ESST brought a number of chambers of commerce to her office, asking her to come present to their members. She did not know how many businesses adopted the ordinance, however.

Regarding payroll, Ms. Kingston said that if the Study Committee wanted to regulate payroll, that it would not be simple, and that it would be a brand-new challenge for her office.

Co-Chair Varco asked Ms. McMahon if enforcement items with budgetary impacts can be included in an ordinance, or if that had to be included in a separate process.

Ms. Kingston said that the City of Saint Paul is already preparing a shell budget in anticipation of the minimum wage ordinance. She said that she did not know of any ordinance that comes with specific staffing requirements. The recommendation can outline what the vision of enforcement might be, but the staffing and budget will be handled by the City Council.

A committee member asked the staff about complaint-based models versus auditing styles of enforcement. While auditing would be significantly more expensive, it would be more effective.

Ms. Kingston said that complexity of legislation doesn't necessarily mean more staffing, just more time educating at roll out. She said that exceptions and complex enforcement required upfront resources, but not ongoing resources. Ms. Kingston said that the kind of complexity created by payroll monitoring would be different, and have much larger staffing requirements.

The committee member asked about the IRS model, putting the burden on the business to prove compliance instead of employees bringing complaints forward, and asked if that model was more expensive or effective.

Ms. Kingston said she had not studied whether that model would be more effective. She said that it would be a value judgment whether people believe that businesses are acting in bad faith. She said that her office had not taken that philosophy, and they have believed that businesses want to comply, and that that has driven her office to work on outreach and education. She said that Minneapolis has engaged with community organizations for outreach, but that Saint Paul has been different. She said that Saint Paul has told the community organizations to not be enforcers but to explain to their members how the law worked, and how to reach out to the City. Ms. Kingston said that most businesses have not been avoiding compliance, but have been asking about how they can comply. She said that small percentage of businesses are knowingly noncompliant, that most businesses, when educated, comply

Another committee member asked whether the City had considered on-the-ground accounting and compliance support for small businesses and nonprofits, as well as one-on-one workshops in the communities. Ms. Kingston said they had gone out and provided on-site presentations when the ESST ordinance rolled out. She said that her office was willing to do broader presentations or one-on-one conversations, whatever the businesses needed. She asked City staff in attendance at the meeting to address questions around technical support for businesses.

LyLy Vany-Yang from Mayor Carter's office said if the Study Committee felt strongly about education and technical support for businesses they should definitely include it in their recommendations. The mayor would then be able to consider it in his plans for implementing the ordinance.

Daniel Yang from Mayor Carter's office said that the mayor had already had discussions with several groups about technical support for the minimum wage ordinance, but he echoed Ms. Vang-Yang's comments, that the Study Committee's recommendations on the matter would bring more weight to the conversation.

A committee member said that there are a number of businesses and nonprofits that are afraid of talking to enforcers. The member was interested in knowing if there could be a separation of funding for outreach and enforcement. They said that they wanted the City to have strong and fully-funded enforcers, but that they hoped there could be inclusive partnerships between the City and the business community in the model. Ms. Kingston said that there are some community organizations that businesses might feel more comfortable working with, but some of those groups would lack the full expertise. She said that she did not want businesses to come to HERO only when they are in trouble. Her office had worked with Minneapolis's and the state's human rights offices to go out to businesses and explain what kinds of problems they had been seeing, as a way to encourage greater compliance without using enforcement. Ms. Kingston asked the Study Committee to provide recommendations about the roles of education and enforcement.

Co-Chair Varco said that the Study Committee could include recommendations about what is in the ordinance, but that it could also write recommendations that go directly to the mayor's office about outreach and enforcement and other non-ordinance issues.

COMMUNITY REPORTS

Co-Chair Varco asked if committee members have comments about Community Report.

A committee member highlighted comment #11, which stated that since Minnesota does not allow tip credits, that a city could not go against state law. They asked if the Study Committee was wasting time considering tip credits if it was not legally possible.

Mr. Stieber said that it is clear that a city could not allow for tip credits that go toward the state's minimum wage of \$9.65. He said it is unclear whether a tip credit can be included above that amount, and he pointed out that the Minneapolis ordinance explicitly prohibited a credit towards its own minimum wage. He said that this Study Committee would have to consider whether it could include a tip-credit for amounts above the state wage.

The committee member said that the debate over credits was not going to be resolved as it had been going for a long time. They said they are worried that the committee would be wasting its time if there was not a legal way to do this.

A Citizens League staff member said that Mr. Stieber had done research on the legality of tip-credits, but that the issue was going to be the focus of next week's committee meeting, and he could talk more about it then.

The staff member reported that they had been in contact with the Saint Paul Saints, and that they would provide a handout to the committee next week on the franchise's position on the minimum wage. The staff member highlighted an informational chart that was included in the Community Report. They then reviewed the remainder of the schedule for the committee, and asked committee members to direct any other voices they thought were important to include to the Citizens League staff so that they could work to bring them in.

Co-Chair Varco asked the staff to email the schedule to committee members.

A committee member asked about last week's Community Input Session. The Citizens League staff member said that the staff was going over the raw data from that event, and that they would be sending all members a summary of the report.

Co-Chair Varco reminded committee members that next week's meeting would be back at McNeely Hall at the southwest corner of Cleveland and Summit.

Meeting adjourned at 10:29 a.m.

Ratings: 4.5, 4, 4, 3, 5, 4, 4, 4, 4, 4, 4, 4, 4, 4.5, 4. Average Rating: 4.06