



County of Santa Cruz

COUNTY ADMINISTRATIVE OFFICE

701 OCEAN STREET, SUITE 520, SANTA CRUZ, CA 95060-4073

(831) 454-2100 FAX: (831) 454-3420 TDD: (831) 454-2123

SUSAN A. MAURIELLO, J.D., COUNTY ADMINISTRATIVE OFFICER

November 1, 2001

Agenda: November 6, 2001

Board of Supervisors
County of Santa Cruz
701 Ocean Street
Santa Cruz, California 95060

Living Wage Program

Dear Members of the Board:

During Budget Hearings, your Board considered a on the possibility of establishing a Living Wage Program based on the program established by the City of Santa Cruz. That report discussed the potential implications of a Living Wage program on the following five key areas:

- a private for profit vendors;
- a In Home Supportive Services (IHSS)
- a County employees;
- a private non-profit contractors; and
- a private for profit health and human service providers;

Based on preliminary cost projections, the June report estimated that depending on how a variety of elements are addressed by the County that between **\$4.4** million to \$10 million in County Costs would be necessary to implement an approach roughly equivalent to the City's Ordinance.

Your Board requested staff to take the following initial steps toward program implementation (See minute order, Attachment 1):

- a Direct the CAO and County Counsel to prepare a draft County ordinance, based on the City's ordinance, which would include simplifying administrative provisions;
- Direct the General Services Department to develop standardized language for private for profit vendor agreements and a proposed implementation schedule that would institute the Living Wage standard for private vendors, excluding health and human service vendors;
- a Direct the Personnel Director to provide the Board with a status report on the issue of representation of extra help employees and what actions would be necessary to implement the proposed ordinance for County employees;
- a Direct the HRA Administrator to include the Human Care Alliance and the Living Wage Coalition in discussions to determine the best phased strategy to address program

- implement with non-profit agencies and for profit health and human service providers;
- Set aside \$700,000 in restricted contingencies for the future implementation of the program; and
- Approved \$384,109 as part an additional 4% COLA to non-profit organizations and targeted these funds to the lowest wage workers.

This report provides for an update on these matters. We have also included a draft ordinance (Attachment 2) for your consideration, as well as a discussion of the key policy areas addressed in the proposed ordinance. In addition, we have incorporated into this report a discussion of recent fiscal conditions impacting the County.

BACKGROUND

In developing the proposed program recommendations, an inter-department team consisting of all affected departments met regularly to review program options. In addition, while the Santa Cruz City ordinance was a basis for the staff analysis, staff has also conducted an analysis of ten other Living Wage ordinances throughout the country. Many communities have developed effective programs and our evaluation allowed us to consider other county programs, where issues unique to counties were taken into account and are reflected in the jurisdiction's Living Wage program.

In addition, pursuant to your Board's direction, since July, HRA has convened a series of bi-weekly meetings with representatives from HSA, Probation, Parks and the CAO, along with the Living Wage Coalition and the Human Care Alliance, to discuss proposed recommendations concerning non-profit agencies and for-profit agencies providing health and human services.

The draft ordinance has been circulated to the Human Care Alliance and the Living Wage Coalition for their input and review. The Human Care Alliance has indicated support for the proposed approach, and the Living Wage Coalition has provided written and verbal comments that address a number of issues. The Coalition's October 25, 2001 letter is included as Attachment 3. Throughout the body of this report, staff has both incorporated recommendations from the Coalition and indicated the areas where the Coalitions suggested changes are not incorporated. The Coalition has also raised a number of issues regarding employee retention, contractor standards, and labor peace provisions which we believe are better addressed outside the confines of the Living Wage program.

SUMMARY OF RECOMMENDATIONS

The June Board report included an extensive analysis of the wide ranging implications of a Living Wage program in Santa Cruz County. Based on the complex nature of a Living Wage program and the myriad of County contracts potentially involved, your Board directed staff to develop a phased in approach for program implementation.

To this end, the following implementation schedule is recommended:

LIVING WAGE PROGRAM 8 IMPLEMENTATION SCHEDULE		
Phase	Effected Parties	Proposed Implementation Time line
One	Private For Profit Vendors	PHASE ONE: 2001-02 fiscal year, upon adoption of Living Wage ordinance
	County Employees	with collective bargaining, date pending
	IHSS Program	with collective bargaining, Spring 2002
Two	Private Non-Profit contractors	To be considered in FY 02-03. (Discussions to begin in Spring 2002).
Three	Private For Profit Health & Human Service Providers	Due to the crossover nature of many of these contracts with non-profit contracts included in Phase Two, as well as the need to complete an analysis of the impact of a proposed Living Wage Program on these contractors, it is recommended that this phase be considered after the implementation of Phase Two.

In addition, it is recommended that the Living Wage Coalition and the Human Care Alliance continue to work with County staff to discuss specific implementation strategies for later phases of the program, as well as assist staff in monitoring the initial implementation of Phase One.

PHASE ONE

Private For Profit Contractors

The proposed draft ordinance would establish a Living Wage Program for private for profit contractors. The proposed program has been developed in response to your Board's direction and in consultation with numerous County departments, as well as the Living Wage Coalition and the Human Care Alliance. The proposed ordinance includes the following key features:

1. Living Wage standard: The Living Wage would initially be set at \$11/per hour for those employers who provide benefits or \$12/per hour without benefits. Annual indexing of the living wage standard is proposed to be linked to annual cost of living increases for the region.
2. Benefit levels: Minimum benefit levels are proposed to include a minimum of twelve days compensated sick and vacation leave (combined) annually for full-time employees, prorated for employees working less than full time; and payment of at least \$1.00 per hour toward health insurance for the employee. In addition, we have included a provision suggestion by the Coalition that employers are not permitted to reduce health insurance or other benefits in response to this program.

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3. Applicability of Living Wage requirements:

- The proposed ordinance would apply to:

private for-profit sector contractors (and subcontractors) who provide specified services to the County with a County contract with cumulative compensation amount in one County fiscal year equal to or greater than \$15,000. In the event a County contract is subject to the ordinance's minimum contract amount, then all subcontractors, regardless of the subcontractor amount, would be subject to the ordinance.

- Contractors with more than five employees.
- Any employee of a contractor for private sector services who lives or works in Santa Cruz County and works on a full time, part time, temporary, seasonal or regular basis for wages or salary.

- The proposed ordinance would not apply to:

Contracts for commodities, goods, or supplies

Contracts for public works projects, public projects subject to a prevailing wage requirements and professional services.

Employees in trainee positions or in positions which require student status

Volunteers or recipients of income support who would become ineligible for such benefits by virtue of receiving a living wage,

Employees of licensed sheltered workshops or supported employment, or a variety of support programs as defined by the HRA or HSA Administrator

Employees represented by a bargaining unit or for whom a collective bargaining labor agreement is in effect.

4. Monitoring/Enforcement: Contract language is included in the proposed ordinance. Contract compliance and monitoring is proposed to be handled by the contracting County department and would be consistent with other contract monitoring activities, such as the prevailing wage requirement. There are additional features included in the ordinance pertaining to notification of employees and other legal and administrative enforcement remedies.

5. Exemptions:

- Contractors with five or fewer employees;
- Governmental entities: and

- The Board of Supervisors, or its designee, may grant an exemption based on additional grounds or unusual circumstances.

Discussion of Key Issues Associated with Proposed Ordinance

What follows is a brief discussion of some of the key policy issues addressed in the proposed ordinance:

- Minimum Contract Amount of \$15,000. The proposed \$15,000 minimum contract amount is higher than the \$10,000 threshold for private contractors included in the Santa Cruz City ordinance. However, given that the County has a significantly larger number of contracts than the City, and that the proposed threshold amount is within the range of other county jurisdictions surveyed, staff believes that a \$15,000 threshold would be more appropriate and possible to administer without additional resources.

As indicated in the chart below, threshold levels vary significantly from community to community.

Threshold Amounts for Sampled Jurisdictions	
Jurisdiction	Threshold Amount
CITIES	
City of Santa Cruz	\$10,000 - Private Vendors \$5,000 for non-profits
Oakland, CA	\$25,000
San Jose, CA	\$20,000
Detroit, Michigan	\$50,000
Madison, Wisconsin	\$5,000
COUNTIES	
Ventura, CA	\$25,000
Los Angeles, CA	\$25,000
San Francisco, CA	\$25,000
Dane, Wisconsin	\$5,000
Suffolk, New York	\$10,000 - service contracts \$50,000 - grant recipients
Miami Dade, Florida	\$100,000

The recommended \$15,000 threshold is consistent with the Board's policy to require Board

approval for all contracts that exceed \$15,000. Also, because the proposed ordinance would require Board approval of any contractor requesting an exemption to the Living Wage requirement, exemption requests would be handled as part of the Board's consideration of the contract.

While we do not have sufficient information from contractors to ascertain the number of employees impacted by the proposed \$15,000 minimum contract amount, based on 2000-01 contracts, the General Services Department reports that 75 contracts would be subject to the ordinance with the proposed \$15,000 threshold, with an additional 29 contracts subject to the ordinance if the minimum contract amount were reduced to \$10,000. In the event your Board chose to lower the minimum contract amount to \$10,000, GSD indicates that additional staffing resources would be necessary for program implementation.

It is worth noting that, in the course of our review of other Living Wage programs, we have not been able to locate another jurisdiction that reports lost contracts as a result of compliance with a Living Wage requirement. Also, the Living Wage Coalition has expressed interest in this issue and indicated support for the ordinance to apply to the lowest possible minimum contract amount.

- Exemption to Contractors with Five or Fewer Employees: The County has proposed an exemption for all Contractors with five or fewer employees due to the potential for economic impacts on small business. This approach is consistent with four out of five California jurisdictions surveyed, with the exception of the City of Santa Cruz, which applies this exemption only during the businesses first year of operation. The Coalition has requested that this exemption only apply to businesses headquartered in Santa Cruz County. The Coalition believes structuring the exemption in this manner will provide local, small businesses with a competitive advantage in bidding for County contracts. It should be recognized that any exemption for small businesses would narrow the impacts of this ordinance, however staff believes limiting the exemption to businesses in the County to the exclusion of others raises contradictory public policy issues, especially since local residents are the intended beneficiaries of the ordinance.
- Exemption of Professional Services and Contracts providing a commodities/goods or supplies The recommendation that professional service contracts as well as contractors exclusively providing commodities, goods or supplies be excluded from the program is consistent with the Santa Cruz City ordinance and most other ordinances surveyed by County staff. The Coalition's letter has not expressed concern with regard to this item.
- Board of Supervisors Discretion to Grant an Exemption: This feature of the proposed ordinance is consistent with many other ordinances to allow for unusual circumstances and is supported by the Living Wage Coalition and the Human Care Alliance.
- Employees Not Covered by the Ordinance: The Human Care Alliance and the Living Wage Coalition are in general agreement about the employee exclusions included in the proposed ordinance.
- Monitoring/Enforcement: The monitoring/enforcement feature of the ordinance was modeled

after the County's prevailing wage program and provides for a mechanism for complaints to be reviewed and evaluated by the County. In an effort to inform employees of contractors subject to the ordinance, noticing requirements, which would include the name of the contracting department, are included in the proposed ordinance. In addition, the ordinance includes the opportunity to pursue other potential legal and administrative remedies. It is further recommended that the Board receive an annual report concerning the status of the program.

The Living Wage Coalition has suggested that a Living Wage Advisory Committee be established by your Board to provide for program monitoring, based on the City of Santa Cruz program. This approach would require the establishment of a formal, on-going structure by your Board and would require allocating administrative support and additional staffing resources to this effort. The City's program, which applies to considerably fewer contracts than would be covered by the proposed ordinance, included the addition of 1.5 FTEs in the Purchasing Division to handle program administration and staffing support for the Committee.

As part of the program's administration, it is recommended that any complaints arising from application of the ordinance be forwarded to the Contracting Department and if not satisfactorily resolved in 30 days, the complaint could be appealed by the complainant to the CAO. It is further recommended that the Living Wage Coalition and the Human Care Alliance continue to work with County staff to monitor the initial implementation of the ordinance, as they have done during the development of this program.

- Collective Bargaining: The proposed ordinance would not apply to employees represented by a bargaining unit or for whom a collective bargaining labor agreement is in effect. The Living Wage Coalition would like the ordinance to apply to workers that are covered by existing collective bargaining agreements. We are recommending the broader application of the ordinance to preclude any interference with the collective bargaining process.

In Home Supportive Services (IHSS)

The funding of IHSS is the product of a relationship of federal, state and county financing, with differing levels of required County matching funds, depending on whether recipients meet certain income and service need eligibility requirements.

Last month, your Board adopted an ordinance to establish a Public Authority for independent providers (IP). The County's application is currently under review by the State. Once approved, it is our understanding that SEIU will commence actions to organize the IP workers as union members. In the event that the Public Authority results in the establishment of a union for IP workers, these workers would not be covered by the proposed Living Wage ordinance. If the IP workers are not represented by a bargaining unit, these employees would be considered as a part of Phase Three in the implementation schedule for the Living Wage program. The tentative schedule for the implementation of the Public Authority anticipates initial start up occurring in March 2002, at which point, HRA would be in a position to raise wages to \$8.50/hour, the maximum state participation level. The cost of raising wages of IHSS workers up to \$8.50 an hour would be largely offset by State and Federal Funds and result in an increase of \$107,730 in County funds

for the balance of the fiscal year. The annual cost is projected to be approximately \$321,000 in County funds. The allocation of any increase in County funds for this purpose would reduce the \$700,000 set aside in restricted contingencies for the living wage program.

As discussed in the earlier Board report, increasing wages beyond \$8.50/hr result in increased County Cost in the range of **\$2.7** to \$4 million, in local funding. These high cost figures are largely attributable to the limited ability to leverage State and Federal funds to offset costs above \$8.50/hr.

County Employees

The proposed ordinance would provide for an exemption for employees represented by collective bargaining units. This is consistent with many Living Wage programs surveyed by County staff. On August 14, 2001, your Board voted to recognize SEIU as the representative of all County temporary workers which includes 119 employees in Extra-Help Only Employee Classifications. Although now proposed to be exempt, if your Board wished to apply the standards of the living wage ordinance to these employees, the estimated annual county cost would be \$133,328. At this time, the County budget has no provisions for added costs associated with collective bargaining for these employees. However, should your Board deem it appropriate, you could allocate a portion of the \$700,000 set aside to achieve these goals.

PHASE TWO: Non-Profit Contractors

The second phase of the program that staff proposes be considered by your Board involves the applicability of the program to non-profit agencies. As discussed in our earlier Board report, the application of the ordinance to non-profit contractors will have a direct impact on the agency budgets as well as the County financing, as the cost of achieving a Living Wage standard would, in part, become an additional County financial responsibility.

HRA has conducted an analysis of requiring a Living Wage standard for non-profit contractors. This analysis included a survey completed by 100% of the County funded non-profit organizations to ascertain the costs and issues associated with a Living Wage program. Based on the detailed survey results, the total cost to raise salaries to the \$11/\$12 standard in the proposed ordinance would be \$ 1,951,249. If compaction is addressed, an additional \$2,499,362 would be required, for a total of \$4,450,611, based on agency estimates.

There has been extensive discussions about the multitude of financial, organizational and service delivery issues associated with extending the Living Wage program to non-profit organizations. While great progress has been made in this area, given the fiscal uncertainties facing the County, this effort has resulted in a consensus among all participants to recommend to your Board that implementation of a Living Wage program for non-profit organizations and for profit agencies providing health and human services be postponed and reconsidered at a later date. The Human Care Alliance and the Living Wage Coalition, recommends that the potential applicability of the Living Wage Program to non-profit contractors be delayed for further discussion by your Board on April 9, 2002. Given this suggestion, staff has not included a detailed discussion and recommendation on these issues at this time.

PHASE THREE: Private For Profit Health and Human Service Providers

As discussed in earlier Board reports, the County contracts with a large number of private, for-profit vendors for health and human service, (e.g. group homes, home care services, family foster agencies, residential care facility and various medical practitioners). Given that many of these contractors operate under State rate caps and other financial complexities, it is critically important that the County fully understand the implications of implementing a Living Wage requirement both these contractors. In addition, many of these activities are functionally similar to non-profit activities. In order to more fully understand the impact and costs of extending a Living Wage program to private for profit health and human service providers, the Health Services Agency is conducting an analysis to address the corresponding financial and service delivery issues.

As a result, it is recommended that your Board postpone consideration of applying the Living Wage program to these types of private contractors until after HSA's analysis is complete and your Board has addressed Phase Two of the program pertaining to non-profit contractors. It is worth noting that most Living Wage ordinances exempt many of these types of services from program requirements, including the City of Santa Cruz's ordinance.

DISCUSSION OF THE COSTS OF THE PHASED IMPLEMENTATION OF A LIVING WAGE PROGRAM

During Budget Hearings, your Board set aside \$700,000 for the future implementation of a Living Wage program plus \$384,109 as part of an additional 4% COLA to non-profit organizations to increase the wages of the lowest paid workers. The Board has allocated the 4% COLA funds to the various agencies, and contract modifications are in progress. The \$700,000 remains in restricted contingencies .

The Board's decision to pursue a living wage program at this time should be viewed in the context of a confluence of fiscal issues that have placed the County in a state of flux and fiscal uncertainty. The overall economic downturn, which includes significant State and Federal budget shortfalls, compounded by recent world events, have clearly begun to impact the County's fiscal health. In addition, the measure which is on the March 2002 ballot to repeal the County utility tax resulting in the loss of \$9.7 million in discretionary General Funds, suggests that a cautionary approach is in order.

In conjunction with the phase one implementation, the Living Wage Coalition has recommended that your Board allocate the entire \$700,000 to IHSS workers as part of collective bargaining efforts. It is our belief that economic parameters are appropriately set by the Board in closed session, as a part of the bargaining process. Given all of these factors contributing to the County's current uncertain financial conditions, staff recommends that your Board review these matters after the State considers and approves the County's IHSS Public Authority Plan, a bargaining unit, if any, is established, the Board of the Directors of the Public Authority is convened and considers any requests by a recognized bargaining representative to commence bargaining and a closed session to receive information preparatory to the bargaining process

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and the establishment of parameters is held. These are the usual precursors to orderly bargaining. It is expected that these steps will be completed this spring. This will also allow the Board to factor the results of the utility tax measure and the Governor's proposed State budget for the next year.

To recap, the following is a summary of the estimated costs associated with the implementation of a phased living wage approach:

Effectuated Parties	Annual Cost
Private Vendors	Limited
IHSS (to \$8.50/hour)	\$321,000
IHSS (to living wage standard)	\$2.4 to \$4 million
County Employees	\$133,000
Private Non Profit (to living wage)	\$1.95 million
Private Non Profit (including compaction)	\$4.45 million
Privatefor Profit Health & Human Service	TBD

Therefore, the updated known costs, not including additional county costs for administration and support totals between \$2.4 million to \$8.6 million.

DISCUSSION/RECOMMENDATIONS

This recommendations included in this report represent a significant step toward achieving your Board's direction to commence a phased implementation of a Living Wage program. The report outlines an initial implementation schedule that would apply to private vendors, IHSS workers and County Employees. In addition, while the report discusses additional implementation phases to address non-profit agencies as well as private for profit health and human service providers, the timing and implementation schedule for later phases of the Living Wage program will be influenced by a number of external factors pertaining to the fiscal realities confronting County government and may present challenges for the implementation of later phases of the program.

It is therefore RECOMMENDED that your Board take the following actions:

1. Accept and file this report on the Living Wage Program;
2. Approve attached Living Wage ordinance and direct in concept, and direct County Counsel to develop a final ordinance incorporating any changes by your Board, for first reading on November 20, 2001;
3. Direct the Personnel Director to return to the Board in closed session upon the receipt of a proposal to commence bargaining by SEIU;
4. Direct the HRA Administrator to return to the Board after the State approval of the IHSS

plan is received and to convene a meeting of the Public Authority when appropriate to consider any requests for representation of IP workers and any proposals to commence bargaining.

5. Direct County staff to continue to work with the Living Wage Coalition and Human Care Alliance to consider development of an implementation program for non-profit organizations and private for profit health and human service providers and; to assess the initial implementation of the proposed ordinance; and
6. Maintain the allocation of the \$700,000 in restricted contingencies to provide for the future implementation of a living wage program.

Very truly yours,



SUSAN A. MAURIELLO
County Administrative Officer

SM:ES

cc: HRA
HSA
Parks Department
Probation Department
General Services Department
Living Wage Coalition
Human Care Alliance

Board Minute Orders

- June 21,2001: Budget Hearings
 - June 26,2001: Last Day Report
 - August 7,2001 : ~~4%~~ Special Purpose Budget Augmentation
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4. COMMUNITY PROGRAMS - INDEX CODE 395200

Approved Index Code 395200. as recommended by the County Administrative officer: with an additional direction to return on Last Day Reports to consider granting an additional four percent Cost of Living Adjustment (COLA) to the programs funded by the Human Resources Agency, Health Services Agency and Parks Departments on the County's portion of their grants; the intention of the Board is that the money would be used for wage enhancement to bring up the salaries of the lowest paid people in those agencies and that there be some accountability; and report back to the Board on implementation of the program and on how the additional money is being spent, with an additional report back on funding for the Family Resource Center Network

WBPAC

5. REPORT ON LIVING WAGE PROGRAM

- (1) considered report on the Living Wage Program;
- (2) and begin the phased implementation of a Living Wage program in the following manner:
 - a. direct the County Administrative Officer and County Counsel to draft an ordinance for Board consideration based on the City's ordinance and as discussed in this report, which would include simplifying administrative provisions, and return to the Board for consideration on October 23, 2001;
 - b. direct the General Services Department to develop standardized language for vendor agreements and a proposed implementation schedule that would institute the Living Wage standard for private vendors, excluding health and human service vendors and return to the Board on or before October 23, 2001;
 - c. direct the Personnel Director to provide the Board with a status report on the issue of representation of extra help employees and what actions would be necessary to implement the proposed ordinance for County employees on October 23, 2001;
 - d. direct the Human Resources Agency Administrator, to expand the interdepartmental team to include the Human Care Alliance and the Living Wage Coalition to determine the best phased strategy to address the implementation of the ordinance with non-profit agencies and for-profit agencies providing health and human services, with a report back on October 23, 2001
- (3) with additional directions to report back on the Last Day Reports to consider setting aside \$700,000 to cover the implementation of this ordinance at the time it returns to the Board including support for Child Care Workers

WABPC

20. APPROVED one-time supplemental funding requests as outlined in the letter and approved the following additional allocations: \$50,000 each for the three family resource centers: \$14,000 for **Defensa de Mujeres**, \$5,000 for **Adelante**, \$8,000 for the **Family Services Association of Pajaro Valley**, \$14,000 for **FENIX Services** and \$4,000 for the **YMCA Pajaro Valley**

ABPWC

21. APPROVED the additional four percent COLA to community programs as provided as Attachment 1: Directed the Human Resources Agency Administrator to return on August 7, 2001 with **proposed** language to condition the receipt of the additional four percent COLA on raising the **wages** of their lowest paid workers and to include mechanisms to ensure accountability and reporting on this requirement; directed the County Administrative Officer to include \$700,000 in **restricted** contingencies for the future implementation of a Living **Wage** program, as recommended by the County Administrative Officer

WBPAC (with Supervisor Pirie abstaining as to the Senior Legal Services Grant only)

22. ACCEPTED AND FILED report on financing for the Family Resource Center (FRC) **Links!** program, as recommended by the Human Resources Agency Administrator

ABPWC

23. ALLOCATED an additional \$5,000 to the Santa Cruz Metropolitan Transit District toward the **provision** of shuttle services **between** the **Homeless Services Center** and the National Guard Armory during next ~~winter~~'s emergency shelter operation

APBWC

24. APPROVED Final Appropriation for fiscal year 2000-01 re-aligning **data** processing service appropriations and the Original Appropriation for **fiscal year** 2001-02 setting the initial alignment, as recommended by the Information Services Director

WABPC

25. DIRECTED the Parks, Open Space and Cultural Services Department, in collaboration with the Sheriff's Department, to return to the Board on or before December 4, 2001 with an analysis of the viability of creating a Santa Cruz County **Park Ranger** program

WBPAC

mile up Roberts Road from the intersection of Roberts Road and Love Creek Roads, Ben Lomond, from the Special Use ("SU") to the Timber Production ("TP") Zone District

AWBPC

REGULAR AGENDA

79. AS THE BOARD OF DIRECTORS OF THE FREEDOM COUNTY SANITATION DISTRICT, public hearing held on the 2001/2002 Freedom County Sanitation District Sewer Service Charge Report; closed public hearing: adopted RESOLUTION NO. 335-2001 Overruling Protests and confirming the Report on Sewer Service Charges for Fiscal Year 2001/2002 on Property within the Freedom County Sanitation District

AWBPC

- 79.1 Accepted and filed report on the 4% augmentation approved by the Board-in the budget hearings; adopted proposed contract language, amended as follows: under B) Purpose of the Special Purpose Budget Augmentation- "The purpose of this special budget augmentation is to increase the wages of the lowest paid employees of the Contractor. In order to receive the funds, the Contractor will describe the method to be used in Exhibit A; directed the Human Resources Agency Administrator, Health Services Agency Administrator and the County Parks Director to enter into contract amendments, as provided in Attachment 2, as amended, and deleting the section on benefits; and further directed that should a Contractor propose to increase an employee wage which is already more than \$14 per hour, the request shall be brought before the Board for consideration and recommendation

PABWC

80. AS THE BOARD OF DIRECTORS OF THE DAVENPORT COUNTY SANITATION DISTRICT, public hearing held on the 2001/2002 Davenport County Sanitation District Sewer and Water Charge Report; closed public hearing; adopted RESOLUTION NO. 336-2001 Overruling Protests and Confirming the Report on Water and Sewer Service Charges for Fiscal Year 2001/2002 on Property within the Davenport County Sanitation District

WBPAC

81. Public hearing held on the proposed rates and assessment rates and Assessment Rate Report for County Service Area 9E, Streetscape Maintenance; closed public hearing: adopted RESOLUTION NO. 337-2001 Establishing Benefit Assessment/Service Charges for the 2001/2002 Fiscal Year for County Service Area No. 9E, Streetscape Maintenance; and adopted RESOLUTION NO. 338-2001 Confirming Assessment/Service Charge Report for the 2001/2002 Fiscal Year for County Service Area No. 9E, Streetscape Maintenance

ABPWC

82. Public hearing held to consider Service Report for

ATTACHMENT 2

Proposed Living Wage Ordinance

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11-01-01 *draft*

ORDINANCE NO. _____

**ORDINANCE ADDING CHAPTER _____ TO THE SANTA CRUZ
COUNTY CODE RELATING TO A LIVING WAGE**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION 1

_____ Title 2 of the Santa Cruz County Code is hereby amended by adding Chapter
thereto, said new chapter to read as follows:

Chapter _____

PAYMENT OF LIVING WAGE

Sections:

Section _____ **FINDINGS AND PURPOSE.** In enacting this Chapter the Board of Supervisors makes the following findings and articulates the following purposes for the promulgation of the living wage regulations set forth herein:

1. The health and welfare of all Santa Cruz County residents is benefitted and advances when Santa Cruz County workers are paid a living wage;
2. The County awards many contracts to private sector employers to provide services to the County in accordance with those contracts;
3. Many workers in Santa Cruz County and their families live at or below the poverty line. The payment of inadequate wages to those workers tends to negatively affect the quality of services provided to the County and its residents by fostering high turnover and instability in the workplace;
4. The payment of a living wage will increase the ability of low wage workers to attain sustenance, decrease the amount of poverty and reduce the amount of taxpayer funded services provided in the County of Santa Cruz;
5. Some employers who provide contract services to the County do not

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provide health insurance benefits to their employees. This factor negatively affects worker performance and the quality of services delivered to the County and its residents, results in unwarranted employee absenteeism and negatively impacts local and State health programs. These problems can be favorably impacted if employers provide reasonable health insurance benefits to their employees; and

6. Living wage jobs will decrease poverty, increase consumer income and invigorate neighborhood businesses.

LIVING WAGE REQUIREMENT.

(a) Covered employees shall be paid a living wage.

(b) The “living wage” to be paid to employees pursuant to the requirements of this Chapter shall be a minimum hourly wage of \$11.00 with benefits or \$12.00 without benefits, until adjusted by further action of the Board of Supervisors after consideration of the annual cost of living increase as measured by the San Francisco-Oakland-San Jose area Consumer Price Index. Any adjustments made to the minimum hourly wage shall become effective the following July 1st.

(c) “Benefits” as used in this section means all of the following at a minimum, provided by employer: twelve days compensated sick and vacation leave (combined) annually for full-time employees, prorated for employees working less than full time; payment of at least \$1.00 per hour toward health insurance for the employee. No covered employer will fund wage increases required by this Chapter, or otherwise respond to the provisions of this ordinance, by reducing the health insurance, pension, vacation, or other non-wage benefits of any of its employees.

(d) Amendments to this Chapter concerning the definition of living wage shall apply to contracts entered into or extended following the effective date of such amendments.

Section DEFINITIONS. The following words and phrases, whenever used in this Chapter, shall be given the following definitions:

A. “Contract for private sector services” shall refer to any contract for profit between the County and a private sector contractor for the following services:

Automotive repair and maintenance
 Equipment maintenance service
 Facility and building maintenance
 Furniture moving and installation/maintenance services
 Janitorial and custodial services
 Landscaping services
 Laundry services
 Office and clerical services
 Pest control services
 Recreation services
 Security services
 Transportation and shuttle services
 Towing services
 Tree trimming and removal

“Contract for private sector services” does not refer to: contracts for commodities, goods, or supplies; contracts for public works; contracts for public projects subject to a prevailing wage requirements; contracts for professional services including but not limited to the services of architects, engineers, landscape architects, land surveyors, construction managers, scientists, physicians, attorneys, financial advisers, or consultants; nor leases.

B. “Contractor for private sector services” shall refer to any private sector contractor/employer who enters into a contract or contracts for private sector services with the County, with the cumulative compensation amount in one County fiscal year equal to or greater than \$15,000.

C. “Subcontractor” shall refer to any subcontractor who enters into a subcontract with a contractor for private sector services.

D. “Covered Employee” shall refer to any employee of a contractor for private sector services, or to any employee of a subcontractor who lives or works in Santa Cruz County. In the foregoing context, “covered employees” are persons hired by contractors or subcontractors to work on a full-time, part-time, temporary, seasonal, or regular basis for wages or salary.

“Covered Employee” shall not include persons who are: in positions that are designated for “trainees” that are part of an employer’s bona fide time-limited training program, which training program enables the employee to advance into a permanent position; in positions of employment that require student status as a prerequisite to being employed in that position; volunteers; recipients of income support

such as but not limited to SSI/SSA who would become ineligible for such benefits by virtue of receiving a living wage as described herein, who waive in writing their entitlement to a living wage; or workers in licensed, sheltered workshops or supported employment; recipients of public funds who have been placed in a work experience, on the job training position, summer employment position, or wage-based community service position as defined by the Human Resources Agency Administrator or Health Services Agency Administrator .

“Covered Employee” shall not include those employees who are represented by a bargaining unit or labor union pursuant to rights conferred by state or federal law or for whom a collective bargaining labor agreement is in effect governing their terms and conditions of employment.

E. “County” shall refer to the County of Santa Cruz.

_____ EXEMPTIONS.

(a) Exempted from the requirements of this Chapter are contractors with five or fewer employees.

(b) The Board of Supervisors in its sole discretion, or its designee, may grant an exemption for additional grounds on a finding of good cause.

_____ NONPROFIT AGENCIES. Applicability of this Chapter to nonprofit agencies will be considered by the Board of Supervisors in Spring 2002;

_____ ASSIGNEES/SUCCESSORS IN INTEREST. The living wage requirement imposed by this Chapter shall be binding upon the assignees and successors in interest of any contractor or subcontractor to which this Chapter applies.

_____ CONTRACT PROVISION. County departments and officers shall place in contracts for services and related requests for proposals or bid documents language in substantially the following form: “This contract is subject to the provisions of Santa Cruz County Code Chapter -----, requiring payment of a living wage to covered employees. Noncompliance during the term of the contract will be considered a material breach and may result in termination of the contract or pursuit of other legal or administrative remedies.”

_____ CERTIFICATION BY CONTRACTOR. Prior to commencement of the contract’s term or execution by County, Contractor will certify to the satisfaction of the County that its employees are paid a living wage as provided by this Chapter.

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APPLICATION OF CHAPTER. The living wage requirement imposed by this Chapter shall apply to all contracts for services and related subcontracts made or entered into, or extended, on or after the effective date of the ordinance enacting this Chapter.

ENFORCEMENT. Complaints concerning contractors' compliance with this Chapter shall be made in writing to the administrator of the contracting County department or office which administers the subject contract.

Contractors or subcontractors shall not discharge, reduce the compensation of, discriminate or otherwise retaliate against or intimidate any person for making a complaint to the County concerning noncompliance with obligations under this Chapter. Contractors for services, and subcontractors shall also comply with federal, state and all other applicable law proscribing retaliation for union organizing.

NOTIFICATION OF EMPLOYEES. Contractors for services and subcontractors shall notify all employees subject to the provisions of this chapter of the requirement to pay a living wage, the current minimum living wage rates, the minimum vacation leave and sick leave that must be provided and the minimum amount paid toward health insurance to qualify for the lower minimum living wage rate, and the contracting department.. Contractors for services and subcontractors shall make a copy of this Chapter available to employees in the workplace.

SEVERABILITY. If any section, subdivision, paragraph, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portion of the ordinance. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section, subdivision, subsection, paragraph, sentence, clause or phrase of this ordinance.

MONITORING. Monitoring of compliance with the requirements of this Chapter shall occur under the same monitoring program as applicable to the County's prevailing wage requirements. An annual report shall be provided to the Board of Supervisors or its designee concerning the status of the program.

SECTION II

This ordinance shall take effect on the 31st day after the date of final passage.

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PASSED AND ADOPTED this ____ day of _____, 2001, by the Board of Supervisors of the County of Santa Cruz by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Tony Campos
Chairman of the Board of Supervisors

Attest: _____
Clerk of the Board

APPROVED AS TO FORM:

Jane M. Scott
Assistant County Counsel

DISTRIBUTION: County Counsel
Human Resources Agency

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ATTACHMENT 3

Living Wage Coalition letter, October 25,2001

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Santa Cruz County Coalition for a Living Wage
501 Soquel Avenue, Suite E, Santa Cruz, CA 95062
(831) 4574741 • (831) 724-0211 • (831) 457-0617 (Far)

MEMO

To: County Administrative Office
cc: Members, Board of Supervisors
From: Santa Cruz County Coalition for a Living Wage
Date: October 25, 2001

Re: October 13, 2001 Staff Report for November 6, 2001 Board Agenda –
Response to draft Board Letter and Ordinance.

The Coalition for a Living Wage (CLW) has reviewed the draft living wage materials provided to us by your office. The following are recommendations related to the proposed timing, funding set-asides, ordinance elements, and specific ordinance language contained in the draft Board Letter and draft ordinance.

Timeline and Phasing

The draft report suggests that County staff return to the Board with a report regarding coverage of non-profit organizations during next year's budget hearings. The Coalition agrees to a delayed recommendation on non-profit coverage because we recognize the fiscal uncertainty associated with the economic downturn and the potential loss of significant County revenues from the utility tax. However, the Coalition agrees to this phased in approach only if there is a formal process for continuing discussions among interested parties and for developing recommendations. Specifically, we request a report back at the last Board meeting in March 2002, once the County's fiscal outlook becomes clearer.

Funding Set-Aside

The CLW believes that the funds set aside for a living wage program during the 2001-02 budget hearings should be used to assist those workers who are most in need. Towards that end, the Coalition recommends that the County utilize the \$700,000 restricted contingency fund for collective bargaining with homecare workers. Homecare workers are among the lowest paid in our community and any investment made to increase their wages will mean significant progress in increasing their household income. Additionally, the County has the opportunity to ensure that all of the funds go directly to benefit low paid workers, as all homecare workers currently earn the same low wage of \$7.50 per hour. While the Coalition recognizes that the County faces future fiscal uncertainty, we assert that funds previously designated for low-wage workers should not be the first reductions when the County faces such uncertainty.

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Ordinance Language

1. Wage rate – the CLW supports the recommended method of indexing the living wage rate and further recommends that indexing coincide with City of Santa Cruz indexing, beginning February 2002. This will provide for consistency in vendor contracting.
2. Benefits rate – the CLW supports using the standard of an average of \$1.00 per hour, as long as all workers in a business or agency are offered the same health insurance benefits. Additionally, the Coalition urges the County to include the following ordinance language: “No covered employer will fund wage increases required by this Chapter, or otherwise respond to the provisions of this ordinance, by reducing the health insurance, pension, vacation, or other non-wage benefits of any of its employees.”
3. \$15,000 contract threshold - the Coalition’s position is that the County should retain the \$10,000 threshold for service contractors. At \$15,000 20 of 70 contracts and an unknown number of low paid workers would be excluded. While contract thresholds vary among different cities and counties, all counties referenced in the staff report are larger than Santa Cruz County and most are significantly larger, both in terms of population and annual budget size. The closest comparison could be made with Dane County, WI (population c. 425,000 and budget c. \$382 million), where a threshold of \$5,000 was adopted.
4. Exemption for small businesses – the staff report recommends an exemption for employers with five or fewer employees. The CLW recognizes that this would provide special consideration for small businesses and agrees to the exemption where the businesses are headquartered in Santa Cruz County.
5. Exemption for collective bargaining – the CLW does not support an exemption that would exclude workers represented by a labor union or covered by a collective bargaining agreement. Ordinance language should be “and” not “or” because employers should bargain in good faith and settle contracts with employees prior to being exempted from a living wage ordinance. The staff report also suggests that the CLW would propose to re-open all existing collective bargaining agreements based on passage of the ordinance. While the CLW does hope that the living wage rate will set a community wage standard, we do not support an automatic re-opening of collective bargaining agreements.
6. Monitoring and enforcement - the CLW believes that, in order for a living wage ordinance to be effective, an adequate system of monitoring and enforcement is necessary. This would include a system for community oversight of ordinance implementation and compliance, as well as community involvement in future ordinance revisions to ensure program effectiveness. Based on extensive research of living wage ordinances nationally, the CLW believes that those ordinances that most effectively meet their intended goals have included a community oversight component. Additionally, the CLW is concerned with the lack of definitive language regarding enforcement and remedies. We request inclusion of the following provisions:
 1. A clear process for reporting a violation, by employees or a member of the public. Complainants should not be required to conduct research to determine the appropriate department and/or individual with whom to file and pursue a potential violation.

2. A statement of remedies available to the County when violations are discovered. Many ordinances include possible remedies beyond contract suspension or termination, including requiring payment of administrative costs associated with enforcement and debarment from eligibility for future contracts. The county should include these remedies.
 3. A statement that any employee claiming violation of ordinance provisions may bring action in Superior Court of the State of California, or other administrative agency, as appropriate, and may request back wages, reinstatement, attorneys fees, compensatory and punitive damages.
7. Recommended ordinance elements not included the draft:
The purpose of the CLW in bringing this living wage proposal is to ensure that employers doing business with public funds are responsible in their employment practices, including but not limited to the payment of wages. We recommend inclusion of the following elements:
- A. We recommend that the County cover economic assistance recipients, as well as service contractors under the living wage ordinance. The ordinance should include businesses or agencies receiving any grant, subsidy, cooperative agreement, loan, contract or any other arrangement by which the County provides assistance in an amount equal to or greater than \$25,000.
 - B. We further recommend the inclusion of employee retention, contractor standards and labor peace provisions in the ordinance. We urge you to include the following provisions, which would require contractors to:
 1. Agree to employee retention when contracts change hands.
 2. Submit information to assist the County in determining the qualifications of the contractor to provide the services, including experience and expertise necessary to carry out the work, a satisfactory record of performance, a satisfactory record of compliance with applicable statutes and regulations and a satisfactory record of business integrity.
 3. Enter into a Labor Peace Agreement with any labor organization expressing interest in representing the contractor's employees, in order to ensure that essential services are provided efficiently and without interruption, including avoiding potential disruption by labor disputes with all covered employees.

The CLW appreciates the opportunity to work with County staff in the development of a living wage ordinance. We look forward to continuing to work together to develop a comprehensive living wage program. Please do not hesitate to contact Sandy Brown, the Coalition's Coordinator, at 457-1741 x130, should you have questions about the comments we have submitted.