

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

BILL NO. 2014-34

Living Wage Requirements

SPONSOR(S): Councilor Maestas

SUMMARY: The proposed ordinance amends:

- The Business License Ordinance, §18-1 SFCC 1987, to require businesses that apply for a business license to affirm that such businesses are and will continue to be in compliance with the Living Wage Ordinance
- The Business Registration Ordinance, §18-2 SFCC 1987, to require businesses that apply for a business registration or renew a business registration to affirm that such businesses are in compliance with the Living Wage Ordinance

PREPARED BY: Melissa Byers, Legislative Liaison

FISCAL IMPACT: Yes

DATE: November 6, 2014

ATTACHMENTS: Bill
FIR
Action Sheets & Minutes

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2014-34

3 INTRODUCED BY:

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5 Councilor Joseph Maestas

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10 AN ORDINANCE

11 AMENDING THE BUSINESS LICENSE ORDINANCE, SECTION 18-1 SFCC 1987 AND
12 THE BUSINESS REGISTRATION ORDINANCE, SECTION 18-2 SFCC 1987 TO REQUIRE
13 BUSINESSES THAT APPLY FOR A BUSINESS LICENSE OR REGISTRATION OR
14 RENEW A BUSINESS LICENSE OR REGISTRATION TO AFFIRM THAT SUCH
15 BUSINESSES ARE IN COMPLIANCE WITH THE LIVING WAGE ORDINANCE,
16 SECTION 28-1 SFCC 1987.

17
18 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

19 Section 1. Subsection 18-1.4 SFCC 1987 (being Ord. #1981-64, §4, as amended) is
20 amended to read:

21 18-1.4 License Application; Information Required.

22 A. Applicants for licenses under this section shall file with the city a sworn application
23 in writing, on a form to be furnished by the city, which shall include, but is not limited to the
24 following:

25 (1) Name;

- 1 (2) Address;
- 2 (3) Current state revenue division taxpayer identification number or evidence of
- 3 application for a current state revenue division taxpayer identification number;
- 4 (4) A brief description of the nature of the business;
- 5 (5) Proof of insurance coverage, when applicable; ~~and~~
- 6 (6) Proof of bond, when applicable; and
- 7 (7) An attestation clause that states that the business shall comply with the
- 8 requirements of the Living Wage Ordinance, 28-1 SFCC 1987.

9 B. In addition to the information required in paragraph A, the following businesses shall
10 also include the following information with their applications:

- 11 (1) Carnival operators shall submit a copy of their special use permit, as required
- 12 by subsection 18-7.2 SFCC 1987;
- 13 (2) Circus operators shall submit a copy of their special use permit, as required
- 14 by subsection 18-7.2 SFCC 1987;
- 15 (3) Itinerant vendors seeking to conduct sales as defined under subsection 18-5.1
- 16 SFCC 1987 shall submit a copy of their petition as approved by the governing body, as
- 17 required in subsection 18-5.1 SFCC 1987;
- 18 (4) Jewelry auction operators, as defined in subsections 18-5.1 through 18-5.23
- 19 SFCC 1987, shall provide information required by subsections 18-5.12 and 18-5.14 SFCC
- 20 1987, including a notarization of the application;
- 21 (5) Mobile home park operators shall submit a copy of their certificate of
- 22 occupancy;
- 23 (6) Private day-care nurseries, facilities and kindergarten operators, when
- 24 approval is required by the board of adjustment, as per the provisions of Table 14-6.1-1
- 25 SFCC 1987, shall include a sworn affidavit stating that they have received such approval; and

1 (7) Septic tank cleaners shall submit a sworn affidavit stating that they have
2 conformed to the requirements set forth in subsection 22-4.9 SFCC 1987.

3 (8) Flea market operators shall submit:

4 (a) A copy of a current certificate of occupancy. The certificate of
5 occupancy shall be reissued annually; and

6 (b) A sworn affidavit stating that they have conformed to the
7 requirements set forth in subsection 14-6.2(c) SFCC1987.

8 (9) Alarm installation companies and monitoring companies, as defined in
9 subsection 20-5.4 SFCC 1987, shall submit the following documents as required by
10 subsection 20-5.8 SFCC 1987;

11 (a) A copy of a valid license issued by the construction industries
12 division of the regulation and licensing department of the state of New Mexico; and

13 (b) Proof of bonding.

14 **Editor's Note:** Santa Fe City Code references in paragraphs B(6) and B(8)(b) are corrected to
15 conform with Ordinance No. 2011-37.

16 **Section 2. Subsection 18-1.5 SFCC 1987 (being Ord. #1981-64, §5, as amended) is**
17 **amended to read:**

18 **18-1.5 Payment of License Fees Required; Assessments; Protest.**

19 A. On or before March 15 of each year, all businesses engaging in a type of business
20 enumerated as requiring business licenses under this section shall apply for a business license for that
21 year. These businesses shall:

22 (1) ~~[i]~~ Include payment with the application; and

23 (2) ~~[s]~~ Show proof of insurance and bond, if the business is so required; and

24 (3) Attest that the business shall comply with the requirements of the Living
25 Wage Ordinance, 28-1 SFCC 1987.

1 B. Upon payment of the business license fee, the city shall issue a business license to the
2 applicant unless refused pursuant to Section 3-28-2 NMSA 1978.

3 C. Any business may protest the amount of the business license fee assessment by filing
4 a written protest with the city clerk, on or before March 15. The finance committee shall give the
5 protesting business no less than five (5) days notice of a hearing, at which time the protest shall be
6 heard by the finance committee.

7 D. The finance committee shall have the same authority and power as that of the
8 governing body as contained in subsection 18-1.6 SFCC 1987.

9 E. Any business which must have a business license as enumerated in this section,
10 which begins operations after March 15, shall apply to the city for a business license prior to
11 engaging in business.

12 **Section 3. Subsection 18-2.4 SFCC 1987 (being Ord. #1981-63, §6, as amended) is**
13 **amended to read:**

14 **18-2.4 Application; Required.**

15 A. Any person proposing to engage in business after the effective date of this section,
16 shall apply to the city for a certificate of occupancy and pay a business registration fee of thirty-five
17 dollars (\$35.00), for each outlet, branch, location, or person doing business in the municipal limits of
18 the city, prior to engaging in business, unless such person is required to pay for and obtain a business
19 license, as specified in Section 18-1, Business Licenses.

20 B. Upon application for a business registration, the person proposing to engage in
21 business shall attest that the business shall comply with the requirements of the Living Wage
22 Ordinance, 28-1 SFCC 1987.

23 **Section 4. Subsection 18-2.5 SFCC 1987 (being Ord. #1981-63, §5) is amended to**
24 **read:**

25 **18-2.5 Renewal of Business Registration.**

1 A. Prior to March 16 of each year, any person engaging in a business within the city and
2 subject to the business registration fee shall apply for renewal of his business registration with the
3 city.

4 B. Upon renewal of a business registration, the person renewing the business
5 registration shall attest that the business shall comply with the requirements of the Living Wage
6 Ordinance, 28-1 SFCC 1987.

7 APPROVED AS TO FORM:

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9 _____

10 KELLEY A. BRENNAN, CITY ATTORNEY

City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: X 2014-34 Resolution: X

(A single FIR may be used for related bills and/or resolutions)

Short Title(s):

- An Ordinance amending the Business License Ordinance, Section 18-1 SFCC 1987 and the Business Registration Ordinance, Section 18-2 SFCC 1987 to require businesses that apply for a business license or registration or renew a business license or registration to affirm that such businesses are in compliance with the living wage ordinance, Section 28-1 SFCC 1987.
- A Resolution directing staff to explore and recommend to the Governing Body a living wage program that will educate and assist Santa Fe businesses in complying with the living wage ordinance and a mechanism for city staff to perform field compliance reviews of businesses to ensure compliance with the living wage.

Sponsor(s): Councilor Maestas

Reviewing Department(s): City Attorney's Office

Persons Completing FIR: Rebecca Seligman Date: 10/27/14 Phone: 955-6501

Reviewed by City Attorney: Kelley A. Brennan Date: 10/29/14
(Signature)

Reviewed by Finance Director: Jerome [Signature] Date: 10/30/14
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The bill amends the business license and business registration ordinances to require businesses that apply for a business license or registration or renew a business license or registration to affirm that such businesses are in compliance with the living wage ordinance, Section 28-1 SFCC 1987. The resolution directs staff to explore and make recommendations to the Governing Body relating to the establishment of a program that will assist Santa Fe businesses in complying with the Living Wage Ordinance and a mechanism for staff to perform field compliance reviews of City businesses.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
- Indicate: "R" – if recurring annual costs
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

_____ Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____
Professional Services	\$ <u>Cost for Updating Software</u>	_____	_____	\$ _____	_____	_____	_____
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____
Total:	\$ <u>Cost for Updating Software</u>			\$ _____			

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- a. To indicate new revenues and/or
- b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

_____	\$ _____	_____	\$ _____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____
Total:	\$ _____		\$ _____		

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

There will be a cost to update the software for online renewal of business licenses and registration. The cost would be for inclusion of a checkbox for businesses to certify compliance with the Living Wage. The cost for such service is unavailable at this time.

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None staff is aware of

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

If this ordinance is not enacted, the City of Santa Fe could not be able to require businesses that apply for a business license, register or renew a business license to affirm the business is in compliance with the living wage ordinance. Further, City staff would not be able to explore and recommend to the Governing Body living wage compliances processes to assist local businesses in complying with the living wage requirements and a mechanism for City staff to perform field compliance with the living wage ordinance.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

No

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The legislation will have a positive impact in our community because Santa Fe businesses will be reminded when applying for their business license or registration that such businesses are mandated by City ordinance to comply with the Living Wage Ordinance. Once a program is established, staff will take a proactive approach by educating and assisting Santa Fe businesses in complying with the Living Wage Ordinance.

Form adopted: 01/12/05; revised 8/24/05; revised 4/17/08

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2014-____ Living Wage Compliance

SPONSOR(S): Councilor Maestas

SUMMARY: The proposed resolution relates to the living wage ordinance, §28-1 SFCC 1987; directing staff to explore and recommend to the Governing Body a living wage program that will educate and assist Santa Fe businesses in complying with the living wage requirements and a mechanism for city staff to perform field compliance reviews of businesses to ensure compliance with the living wage ordinance.

PREPARED BY: Rebecca Seligman, Legislative Liaison Assistant

FISCAL IMPACT: No

DATE: October 29, 2014

ATTACHMENTS: Resolution

1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2014-__

3 INTRODUCED BY:

4
5 Councilor Joseph M. Maestas

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10 A RESOLUTION

11 RELATING TO THE LIVING WAGE ORDINANCE, §28-1 SFCC 1987; DIRECTING STAFF
12 TO EXPLORE AND RECOMMEND TO THE GOVERNING BODY A LIVING WAGE
13 PROGRAM THAT WILL EDUCATE AND ASSIST SANTA FE BUSINESSES IN
14 COMPLYING WITH THE LIVING WAGE REQUIREMENTS AND A MECHANISM FOR
15 CITY STAFF TO PERFORM FIELD COMPLIANCE REVIEWS OF BUSINESSES TO
16 ENSURE COMPLIANCE WITH THE LIVING WAGE ORDINANCE.

17
18 WHEREAS, through the adoption of Ord. #2003-2, the Governing Body of the City of Santa
19 Fe enacted the Living Wage Ordinance; and

20 WHEREAS, at that time, the Governing Body determined that the public welfare, health,
21 safety and prosperity of Santa Fe requires wages and benefits sufficient to ensure a decent and
22 healthy life for workers and their families; and

23 WHEREAS, pursuant to the purposes stated in the Living Wage Ordinance, the city of Santa
24 Fe shall set an example for the public and private sectors by paying its employees a minimum wage
25 adequate to meet the basic needs of living in Santa Fe; and

1 **WHEREAS**, in addition, the Living Wage Ordinance mandates City contractors and other
2 entities who receive grants, subsidies or other benefits from the city or benefit from the opportunity to
3 do business in Santa Fe to raise the income of employees and pay the living wage; and

4 **WHEREAS**, for the current year, there are 5,466 standard businesses, including food and
5 construction, that are registered with the City to do business in Santa Fe; and

6 **WHEREAS**, pursuant to Subsection 28-1.5 of the Living Wage Ordinance, the City of Santa
7 Fe, contractors of the City of Santa Fe, businesses receiving assistance relating to economic
8 development, businesses required to have a business license or business registration from the city of
9 Santa Fe and nonprofit organizations are required to pay the living wage; and

10 **WHEREAS**, the city manager is authorized, as appropriate and as resources permit, to
11 enforce the provisions of the Living Wage Ordinance; and

12 **WHEREAS**, currently, violations of the Living Wage Ordinance are brought to the
13 attention of the City through complaints of workers who believe they are not being paid the
14 Living Wage; and

15 **WHEREAS**, the Living Wage Ordinance authorizes the city manager to investigate
16 possible violations of the Living Wage Ordinance; and

17 **WHEREAS**, the city manager, after a proceeding that affords a suspected violator
18 due process, concludes that a violation has occurred, the city manager may issue orders to the
19 employer appropriate to effectuate the complaining person's rights, including but not limited
20 to back pay and reinstatement; and

21 **WHEREAS**, the city manager also has the power to order termination of any and all
22 economic benefit derived by any offending party from the City and has the power to revoke
23 the employer's business license or registration; and

24 **WHEREAS**, in an effort to take a proactive approach and assist businesses in

1 understanding the mandate of the Living Wage Ordinance, on December 12, 2014, the
2 Governing Body adopted Ord. #2014-___ to require businesses that apply for a business
3 license or registration or renew a business license or registration to affirm that such
4 businesses are in compliance with the living wage ordinance; and

5 **WHEREAS**, to further the effort to ensure compliance with the Ordinance, the
6 Governing Body desires that staff explore and recommend to the Governing Body Living Wage
7 compliance processes to assist Santa Fe businesses in complying with the living wage requirements.

8 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
9 **CITY OF SANTA FE** that the Governing Body directs staff to:

- 10 (1) Explore and recommend to the Governing Body a Living Wage program that will
11 educate and assist Santa Fe businesses in complying with the living wage
12 requirements when such businesses apply for or seek to renew a business license or
13 registration; and
- 14 (2) Recommend a proactive mechanism for City staff to perform field compliance
15 reviews of businesses to ensure that such businesses are complying with the Living
16 Wage Ordinance, including the creation of a comprehensive progressive penalty
17 compliance program; and
- 18 (3) Recommend a process to ensure that City contractors and other entities who receive
19 grants, subsidies or other benefits from the city are complying with the Living Wage
20 Ordinance; and
- 21 (4) Recommend administrative procedures for staff to use when performing field
22 compliance reviews and due process through a progressive penalty compliance
23 program; and
- 24 (5) Present their findings and recommendations related to this resolution within 90 days

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of adoption of this resolution.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2014.

JAVIER M. GONZALES, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



KELLEY A. BRENNAN, CITY ATTORNEY

<p>New Business</p> <p>A. Welcome to Police Chief Eric Garcia</p> <p>B. Councilor Maestas, Wage Theft Resolution</p> <p>C. Pablo Sedillo, SF County Public Safety Director</p> <p>D. Presentation by Victoria Ferrara on Ortiz Middle School</p> <p>E. Resolution to address women and minor's detained in Artesia</p>	<p>Item #D – Tabled</p> <p><i>Ms. Hemmer moved to have a letter prepared to the City Council in support of amending the business license ordinance, second by Ms. Diaz, motion carried by unanimous voice vote.</i></p> <p><i>Ms. Diaz made a motion to recommended taking out page 2, line 25 and page 3, strike \$3.7 billion dollar request made by President Obama, and that the governing body calls on the City's Congressional delegation to address the urgent humanitarian situation on both side of the southwest border of the United States which includes funding to support the immigrant women and children currently housed in Artesia, second by Ms. Esquibel, motion carried by unanimous voice vote.</i></p>	<p>Page 4-10</p>
<p>Old Business</p> <p>A. ICE Detainers Report</p> <p>B. Letter to SFPS</p> <p>C. City Minimum Wage Enforcement Policies</p>	<p>Informational</p>	<p>Page 10-11</p>
<p>Communications from Staff</p>	<p>None</p>	<p>Page 11</p>
<p>Communications from Committee</p>	<p>Informational</p>	<p>Page 11</p>
<p>Next Meeting</p>	<p>November 5, 2014 at 4:30 pm</p>	<p>Page 11</p>
<p>Adjournment</p>	<p>Meeting was adjourned at 7:15 pm</p>	<p>Page 12</p>
<p>Signature Page</p>		<p>Page 12</p>

D. Approval of Consent Agenda-

Councilor Ives moved to approve the consent agenda as submitted. Ms. Karp seconded the motion and it passed by unanimous voice vote.

II. CONSENT AGENDA –

A. Request for approval of the 2015 Meeting Calendar. (Fabian Trujillo)

Ms. Kapin asked that consideration be given to changing either the date or the time of the meeting.

Councilor Ives moved to approve the consent agenda as presented. Mr. Taggart seconded the motion, which passed by unanimous voice vote.

III. ACTION ITEMS

Request for approval of an ordinance amending the Business License Ordinance, Section 18-1 SFCC 1987 and the Business Registration Ordinance, Section 18-2 SFCC 1987 to require businesses that apply for a business license or registration or renew a business license or registration to affirm that such businesses are in compliance with Living Wage Ordinance, Section 28-1 SFCC 1987; and amending Subsection 28-1.8 SFCC 1987 to mandate random audits of businesses to ensure compliance with the Living Wage Ordinance. (Councilor Maestas) (Zachary Shandler).

Chair Lindell said Councilor Maestas was unable to be present. She asked Mr. Zachary Shandler from the City Attorney's office to address the item.

Mr. Shandler said the ordinance does two things: first to amend the Business License Ordinance. A business will have to attest to compliance with the Living Wage Ordinance when applying for or renewing their business license. This is an additional step that will remind businesses that they must comply.

The second proposed change is to the Living Wage Ordinance. The key addition is that random audits will be conducted to verify compliance with the Ordinance. The audits would be similar to the objective and random process used for the Lodgers' Tax and has a similar expense.

Mr. Shandler explained the rationale is that the City Attorney's office has received very few complaints on the living wage and Councilor Maestas heard that is because people fear retaliation. This is a proactive step without a person having to blow the whistle.

Ms. Kapin asked how many complaints have been received since the living wage went into effect.

Mr. Shandler said three complaints were received in the last 18 months and a couple were found to be in violation. Complaints are enforced first by an administrative process; then the Municipal Court and if that fails, the District Court.

Ms. Karp asked if the general labor force knows they need to register complaints and if the complainant has to be named.

Mr. Shandler said he ventured that the public does not know. He said the city has tried putting the information online. That has not resolved the issue because many people do not have a computer. The complainant's name used to be required, but anonymous complaints can now be filed.

Mr. Conway asked the fiscal impact of the proposed changes.

Mr. Shandler said the Lodgers' Tax Audit Contract is for \$9k (thousand) a year. He said Councilor Maestas will meet with the Finance staff and City Manager to discuss where the money could come from. The other costs would probably be absorbed into the current budget.

Mr. Taggart asked how long an audit takes and the number of audits that will be conducted. He asked if Mr. Shandler anticipated any legal challenges with changes.

Mr. Shandler said 10-12 Lodgers' Tax audits are conducted each year and these would be in the same timeframe. He didn't know how long the audits take, but offered to provide the data later. He said he does not anticipate legal challenges; this is an *acknowledgment* and not a new requirement.

Mr. Taggart asked Mr. Shandler to speculate on why the current enforcement mechanism is not working.

Mr. Shandler said Councilor Maestas refers to a proactive and reactive part of the ordinance. The *reactive* is what the City Attorney's office currently does; they wait for a complaint. The proposal is to become more proactive. He said members of the public are present who could speak more to why the current enforcement is not working.

Ms. Kapin asked if businesses are given the requirements of the living wage when they apply for a business license. She asked secondly, if possible to include [in the ordinance] that a business must display proper signage about the living wage to ensure employees have that information.

Mr. Shandler said he understood the posters are already a requirement and are given to a business when they apply/reapply for their business license; although he heard that is not a uniform practice.

The Committee discussed the ordinance. A summary of the discussion follows:

- One concern is that the public is not aware that a vehicle exists to address noncompliance. The businesses know about the ordinance and some choose not to follow it. The city needs a vehicle so employees are aware of the realities and the potential to right a wrong. Santa Fe takes pride in the living wage and should support it.
- The poster could have an anonymous hotline number. That would give an employee the confidence to make a call about a violation. Consideration should be given to being fully anonymous; a disgruntled employee could trigger an audit.
- The process for the random audits is not specific; how many would be conducted a year, etc. There are about 7 thousand business license renewals and 300 new licenses each year. It was not convincing that doing 10 audits out of 7 thousand licenses at a cost about \$9k would accomplish anything or be the best use of the city's funds. The city could find better ways to ensure compliance and should work on compliance issues now.

- Another issue is the ability to remedy noncompliance of minimum wage; but if more people report non-compliance, the \$9k [cost] will become diminimus.
- The city website could be set up to make the system easier for people to report non-compliance. The website could be publicized on the posters and resolve some of the costs. Working on the information side is an easier way to solve the problem than conducting audits.
- There are partnerships in the organization or in the communities that could identify where there are problems. More steps than the business license form could be put in place for awareness.

Mr. Taggart asked if appropriate for him to invite an expert to specifically address the disparity between the reported wage and hour thefts and the low number reported at the city level.

Mr. Trujillo suggested the issue go to one of the other committees and ask that the expert testimony be included. He noted that it could have been included in this discussion if he had known.

Mr. Shandler said the ordinance is scheduled to go next to the Finance Committee on Monday, October 20 and then to the October 29th City Council meeting, Request to Publish. He said if everything went public a 30 day lead time would be required.

Councilor Ives said the ordinance gives the City Manager authorization to conduct audits.

Mr. Shandler said a legal argument could be made without any ordinance change that the City Manager is authorized to take appropriate steps and resources permitting. That could include a proactive audit.

He said a counter legal argument would be that the Lodgers' Tax Ordinance expressly states that audits will occur. He suggested the same language be included in this ordinance to minimize a legal challenge.

Ms. Kelly said a large percentage of the 7 thousand business licenses could be home businesses with no employees. She asked if complaints came generally from businesses with a large number of employees.

Mr. Shandler said the complaints were not from businesses with more than 25 employees within the last year. He said prior to that at least one company did have more than 25 employees.

Councilor Ives said the ordinance states the City Manager is *authorized* to conduct an audit, not that they shall. He suggested the word '*random*' be removed. He said the solution is in public awareness and he would be interested in audits that check to see that signage is up.

Ms. Noble said part of the action of the Committee could be to request the discussion of the BQL be included as the process moves forward.

Chair Lindell said she was uncomfortable having a public hearing since the meeting was not advertised as such. She said she would allow a spokesperson to speak.

Public Comment

Gabriela Ibanez Guzman said she is the Staff Attorney at the United Work Center of New Mexico. She said each week she experiences workers who come to the Center about theft in one form or another. She said fear of retaliation is the main reason people do not submit their complaints and many of the places where these people work are well known. She said random audits might need to occur; possibly profiling a few

bad apples would make other businesses adhere to the law.

Ms. Guzman said many municipalities and cities have done this and the ordinance is a modest step and proactive and another tool for workers. She said Work Force Solutions is creating hurdles and the city process needs to be stronger. She said if City Council approves the ordinances it would provide uniformity, educate the workers and employers about the process and allow necessary due process. No one would feel targeted or that the process is not fair.

Ms. Kapin said this does not address the amount of people being affected. She asked Ms. Guzman to speak to when this is happening and what the focus of that could be.

Ms. Guzman said now the Center sends workers to the US Department of Labor and their process does not require the worker's name. The worker [complaint] could prompt an investigation or an audit.

Councilor Ives asked the number of businesses in the last year that complaints were received for. Ms. Guzman replied at least 10; some well known. The Councilor pointed out with 7k opportunities for a random audit there is about one ten thousandth of a percent that a business that received a complaint would actually be audited.

Ms. Guzman said workers in New Mexico are not inclined to go through the process because their name is required and many still work at the location in violation. She said this does not need to be an *and/or* situation, if there is a way to communicate to the city about offenders. The ordinance is just the first step.

Chair Lindell agreed with Councilor Ives on the word 'random'. She said there is a better way to get where they want to go and to randomly pick a business out of 7k has a relatively small chance of picking one of the 10 offenders.

Ms. Karp moved to pass the bill forward from the Committee with the following recommendations: the word 'random' be stricken from the section on audits, because it is insufficient and there is a better use of funds; that the minutes of this meeting be included so the opinions of the Committee moves forward with the bill; that there be a focus to raise public awareness of the minimum wage requirement for employees, employers and the city in general; that it be required for minimum wage posters to be posted in every place of employment with the required federal posters. Councilor Ives seconded the motion.

A roll call vote was taken with Chair Signe Lindell, Councilor Peter Ives, Miles Conway, Diane Karp, Piper Kapin, Kim Kelly and Damian Taggart voting 'yes'. The motion passed unanimously and none voted against.

IV. UNFINISHED BUSINESS

A. Economic Development Strategic Planning Update and Next Steps –(Kate Noble)

Ms. Noble said staff is working to synthesize the work of the Committee; their ideas and recommendations in areas of target and how that is measured. She hopes to have a concise version in the next few months.

ACTION SHEET
CITY COUNCIL COMMITTEE MEETING OF 11/12/14
ITEM FROM FINANCE COMMITTEE MEETING OF 11/03/14

ISSUE:

14. Living Wage. (Councilor Maestas) (Zachary Shandler)

A. Request for Approval of an Ordinance Amending the Business License Ordinance, Section 18-1 SFCC 1987 and the Business Registration Ordinance, Section 18-2 SFCC 1987 to Require Businesses that Apply for a Business License or Registration or Renew a Business License or Registration to Affirm That Such Businesses are in Compliance With the Living Wage Ordinance, Section 28-1 SFCC 1987.

Committee Review:

Immigration Committee (approved)	10/07/14
City Business & Quality of Life (approved)	10/08/14
City Council (request to publish)	11/12/14
City Council (public hearing)	12/10/14

Fiscal Impact – Yes

B. Request for Approval of a Resolution Relating to the Living Wage Ordinance, §28-1 SFCC 1987; Directing Staff to Explore and Recommend to the Governing Body a Living Wage Program That Will Educate and Assist Santa Fe Businesses in Complying With the Living Wage Requirements and a Mechanism for City Staff to Perform Field Compliance Reviews of Businesses to Ensure Compliance With the Living Wage Ordinance.

Committee Review:

City Council (scheduled)	12/10/14
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Fiscal Impact – Yes

FINANCE COMMITTEE ACTION: APPROVED AS DISCUSSION ITEM

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

STAFF FOLLOW-UP:

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR TRUJILLO	X		
COUNCILOR RIVERA	X		
COUNCILOR LINDELL	X		
COUNCILOR MAESTAS	X		
CHAIRPERSON DOMINGUEZ			

14. LIVING WAGE (COUNCILOR MAESTAS). (ZACHARY SHANDLER)

- A. REQUEST FOR APPROVAL OF AN ORDINANCE AMENDING THE BUSINESS LICENSE ORDINANCE, SECTION 18-1 SFCC 1987 AND THE BUSINESS REGISTRATION ORDINANCE, SECTION 18-2 SFCC 1987 TO REQUIRE BUSINESSES THAT APPLY FOR A BUSINESS LICENSE OR REGISTRATION OR RENEW A BUSINESS LICENSE OR REGISTRATION TO AFFIRM THAT SUCH BUSINESSES ARE IN COMPLIANCE WITH THE LIVING WAGE ORDINANCE, SECTION 28-1 SFCC 1987.**

Committee Review: Immigration Committee (approved) 10/07/14; City Business & Quality of Life (approved) 10/08/14; City Council (request to publish) 11/12/14; City Council (public hearing) 12/10/14. Fiscal Impact – Yes

Councilor Lindell asked Mr. Shandler said why is this necessary, when we already have the Ordinance, how we see this happening and how we see the enforcement..

Mr. Shandler said, "The Ordinance change will require people seeking licensure with the City or renewal, to affirmatively attest that they will comply with the Living Wage Ordinance. This is a model copy from a few other jurisdictions that also are in the leading edge of living wage matters. Practically speaking, we will redo the written form to have either a check box or a signature. And we're working with the City subcontractor or contractor who does the computerized forms, where when they apply on line which is the great majority of renewals, that they can check electronically. We are working on an aspect where they can download the poster as part of the electronic process. That's what the Ordinance does.

Councilor Lindell said the fiscal impact report is basically blank, and asked what is the cost.

Mr. Shandler said, "In terms of cost, it is my understanding that a very small number of new applicants come in with paper. The great majority of renewals are electronic, so there shouldn't be any paper cost in terms of both the written application and giving them a poster for the first time. We believe we can absorb those costs. Unstated at this time is we're working with the computer contractor to see if they can do it within the existing contract, to change the form to add the box, and we don't have confirmation at this time whether there will be additional expense for that."

Councilor Lindell asked the mechanism for City staff to perform field compliance reviews of businesses to ensure compliance with the Living Wage Ordinance, and asked Mr. Shandler to speak to this.

Councilor Maestas said, "If I could, just point of Order. I know the Chairman just stepped away. Could we just maybe discuss the Ordinance first and then move to the Resolution."

Councilor Lindell said that will be fine, and she has no further questions on the Ordinance.

Councilor Maestas said, "I'm the sponsor of this and I want to recognize some folks from *Somos un Pueblo Unido*, and I think they have some folks who are fighting for living wage enforcement, as I am. I just want to acknowledge their presence, if you don't mind just standing, *por favor*. Thank you all for coming. *Gracias*."

Councilor Maestas said, "There's really no enforcement associated with this change to the Business License. It's simply another step in filling out the application. It is a matter of changing the application. If the box isn't checked, the application is incomplete, there's no enforcement, no prosecution. It's simply an initial proactive effort by the City to remind businesses of their obligation to enforce the Living Wage. And I think the costs associated would be minimal, like going in and tweaking a website. I'm not a webmaster, but staff tells me that it's minimal. This is a very small measure to the Business License application process. It doesn't affect anything with regard to enforcement."

MOTION: Councilor Maestas moved, seconded by Councilor Lindell, to approve Item 14(A), as presented.

VOTE: The motion was approved unanimously on a voice vote.

B. REQUEST FOR APPROVAL OF A RESOLUTION RELATING TO THE LIVING WAGE ORDINANCE, §28-1 SFCC 1987; DIRECTING STAFF TO EXPLORE AND RECOMMEND TO THE GOVERNING BODY A LIVING WAGE PROGRAM THAT WILL EDUCATE AND ASSIST SANTA FE BUSINESSES IN COMPLYING WITH THE LIVING WAGE REQUIREMENTS AND A MECHANISM FOR CITY STAFF TO PERFORM FIELD COMPLIANCE REVIEWS OF BUSINESSES TO ENSURE COMPLIANCE WITH THE LIVING WAGE ORDINANCE.

Committee Review: City Council (scheduled) 12/10/14. Fiscal Impact – Yes

Councilor Lindell asked Councilor Maestas what he has in mind for the enforcement part of this.

Councilor Maestas said, "The current enforcement right now is reactive. Right now, if the City is unaware of any complaints, there's really nothing to do. There's no proactive comprehensive enforcement of our Living Wage Law. And it is considered one of the most progressive living wage laws in the country. But if folks were to look deeper the actual enforcement isn't consistent with the reputation that I think our Living Wage Law has across the country. So, this Resolution.... if you recall, when I initially introduced a change to the Business License Ordinance and the enforcement, I had sponsored an amendment to the Living Wage Law, and we called for audits. And we felt it is beyond audits, and it's not a very business-friendly term. And we felt like by picking one form of pro-active enforcement, we felt like that was too narrow-minded."

Councilor Maestas continued, "So we put a team together, and Teresita was part of that team. She has vast experience and knowledge as an auditor. She said it really should be a comprehensive program that encourages businesses to become aware of the Living Wage Law, and there should be an education campaign to raise the awareness on the part of businesses to comply with the Living Wage Law. So instead of jumping right to some kind of hard compliance mechanism, we're to take a step back. And

staff is going to take 90 days, which is a long time to look at a more comprehensive Living Wage Enforcement Program, and bring recommendations back. So there is nothing binding in this. This is a no cost staff exercise. And we're already finding out that a lot of these other communities with living wage laws have these proactive, comprehensive living wage enforcement programs which is something we don't have here in the City..... we're going to take a more gradual, team approach, and come up with best practices, and we want to minimize any fiscal impact, which is a top priority of staff in considering a more diverse program for living wage enforcement."

MOTION: Councilor Lindell moved, seconded by Councilor Maestas, to approve Item 14(B), as presented by staff.

DISCUSSION: Chair Dominguez thanked Councilor Maestas for bringing this forward, noting he has had discussions with folks previously. He commended him, because this really is the way to do it, so we have legislation directing staff to do something that we collectively feel is worth-while, assuming it is unanimous. He said there will be some costs, which will be money well spent. He is looking specifically at the potential to upgrade the software for business licenses. He thinks some of that can extend to more than this effort, to other IT efforts we've all identified as being a pretty big priority in the community. We need to continue to expand that potential in Business Licensing software.

Councilor Maestas said we issue Business Licenses at the beginning of the calendar year and we are now adding a pro-active reminder. He said the CPI which determines increases or decreases to the living wage doesn't come out and take effect until March, noting we have no mechanism to inform businesses of the CPI change and the required change in the living wage as te result. This is an example of what this evaluation can do.

VOTE: The motion was approved unanimously on a voice vote.

- ~~15. **REQUEST FOR APPROVAL OF A RESOLUTION IN THE INTEREST OF PUBLIC SAFETY; DIRECTING PARKING DIVISION STAFF TO REMOVE FOUR PARKING SPACES ON CANYON ROAD EASTBOUND, FROM PASEO DE PERALTA TO GARCIA STREET (COUNCILORS MAESTAS AND IVES). (SEVASTIAN GURULE) Committee Review: Public Safety Committee (approved) 10/21/14; Public Works Committee (approved) 10/27/14; and City Council (scheduled) 11/12/14. Fiscal Impact – No**~~

~~Councilor Trujillo said, "So. I've got some issues with this, because as you know, this came before Public Safety and Public Works a few years back. And the reason back then was there were businesses that didn't want these parking meters in front of their businesses. What I'm reading now it says, 'Whereas fire suppression response requires' this. Is this a new way to get this passed that it's needed because of safety issues. This came before us two years back and it had nothing to do with safety issues, and dealt with a few businesses that did not want this."~~