

MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Members of the Finance and Citywide Projects Committee
FROM: Jimmy L. Morales, City Manager
DATE: June 3, 2016

This shall serve as written notice that a meeting of the Finance and Citywide Projects Committee has been scheduled for June 3, 2016, at 1:00 P.M. in the Commission Chambers.

The agenda is as follows:

NEW BUSINESS

1. Discussion Regarding An Ordinance Amending Chapter 18 Of The City Code, Entitled "Businesses," By Adding Article XVII, Entitled "City Minimum Living Wage," To Provide For Implementation Of A City-Wide Minimum Hourly Wage; And Amending Chapter 102 Of The City Code, Entitled "Taxation," By Amending Section 102-371, Entitled "Application Procedures[.]" By Adding A Subsection Entitled "(J) Compliance With City Minimum Living Wage" And Providing For Repealer, Severability, Codification, And An Effective Date (*May 11, 2016 Commission Item R5P)(314)*)

Raul Aguila – City Attorney

Finance and Citywide Projects Committee Meetings for 2016:

June 17

July 22

September 23

October 28

November 18

December 16

AW/kd

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Cc. Mayor and Members of the City Commission
Management Team

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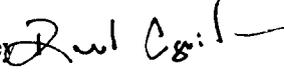
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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Philip Levine and Members of the City Commission

FROM: Raul J. Aguila, City Attorney 

CC: Jimmy L. Morales, City Manager

DATE: May 4, 2016

FIRST READING

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 18 OF THE CITY CODE, ENTITLED "BUSINESSES[,]" BY ADDING ARTICLE XVII, ENTITLED "CITY MINIMUM LIVING WAGE[,]" TO PROVIDE FOR IMPLEMENTATION OF A CITY-WIDE MINIMUM HOURLY WAGE; AND AMENDING CHAPTER 102 OF THE CITY CODE, ENTITLED "TAXATION[,]" BY AMENDING SECTION 102-371, ENTITLED "APPLICATION PROCEDURES[,]" BY ADDING A SUBSECTION ENTITLED "(J) COMPLIANCE WITH CITY MINIMUM LIVING WAGE" AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

SUMMARY OF THE PROPOSED ORDINANCE

This Ordinance, raising the minimum living wage in the City of Miami Beach, has been proposed and sponsored by Mayor Philip Levine. The proposed legislation would gradually raise, over a period of four years, the minimum living wage for all workers employed in the City and covered by the federal minimum wage.

The current minimum wage is currently \$8.05 per hour, as mandated by the State of Florida's Minimum Wage Act. The Ordinance would raise this rate to \$13.31 per hour by 2020, the rate currently mandated for employees of City contractors pursuant to the City's Living Wage Ordinance (as codified in Miami Beach City Code §2-408). The City's minimum living wage would be set at \$10.31 per hour beginning in 2017, with one dollar an hour increases every year until the rate of \$13.31 was reached on June 30, 2020. Thereafter, the City Commission could annually, at its discretion and by Resolution, consider whether an increase in an amount equal to the Consumer Price Index for the

year should be required. Enforcement would be provided by private right of action to a court of competent jurisdiction and of the Ordinance administrative penalties by the City Manager.

ANALYSIS

The United States Congress enacted the Federal Fair Labor Standards Act, 29 U.S.C. §201 (“FLSA”), in 1938. Under the FLSA, the federal minimum wage was set at \$0.25 an hour, and has since then increased steadily over time. Since 2009, the federal minimum wage has been \$7.25.¹

While the U.S. economy saw steady growth and an improvement in the jobless rate since 2009, wages have been flat or falling for much of the labor force. Currently across the country, there exists an ongoing campaign to raise the federal minimum wage above the current \$7.25 level. A January 2015 poll by Hart Research Associates found that 75% of Americans (including 92% of Democrats, 73% of Independents, and 53% of Republicans) supported a federal minimum wage increase to \$12.50 by 2020. Considering that a February 2013 poll by the Pew Research Center found that 71% of Americans supported a minimum wage increase, popularity is only surging for such changes.

The federal and state government has not, however, acted. The U.S. Conference of Mayors’ “Cities of Opportunity Task Force,” in August 2014, endorsed higher city minimum wages as key tools for fighting income inequality at the local level. Over the past year, an unprecedented number of cities and counties have moved to adopt higher local minimum wages. In addition, cities are proposing substantially higher wage levels than the federal or state minimum wages (see Table 1).

The Cost of Living in the City of Miami Beach

A recent study based off the 50-30-20 budgeting rule (50% of income for necessities; 30% discretionary; 20% saved) calculated a cost-of-living comparison on a national scale across the 75 most populous U.S. cities, including Miami. In researching living expenses that include rent, groceries, utilities, transportation, and healthcare, they found the yearly salary needed to “live comfortably” in Miami to be about \$77,000, the sixth most in the country.

¹ Generally, the FLSA covers employers engaged in “interstate commerce” and have annual revenues of over \$500,000.

The results also showed Miami's median income of just under \$31,000 is about \$46,000 short of that number, representing “the biggest gap between actual and ideal incomes of any major city in this study.”²

Massachusetts Institute of Technology (“MIT”) recently released research estimating the cost of living and hourly wage necessary to support a minimal lifestyle in Miami-Dade County. That study sets a minimum of \$11.45 per hour in order for a single person to survive here in 2016. If family and children are added, the hourly wage necessary jumps to between \$18 and \$25 per hour. The Florida minimum wage is currently \$8.05 per hour, \$16,744 per year, if working 40 hours a week for 52 weeks (2,080 total hours). The graph below summarizes the MIT findings. The Research Institute on Social and Economic Policy at Florida International University recently theorized based upon available data that the cost of living in the City of Miami Beach is likely much higher.

Miami-Dade County Annual and Hourly Cost of Living Estimates by Household Composition: 2016 (in 2014 dollars)

Adults	No Children		1 Child		2 Children		3 Children	
	Annual	Living Wage	Annual	Living Wage	Annual	Living Wage	Annual	Living Wage
1 Adult	\$23,820	\$11.45	\$50,114	\$24.09	\$58,584	\$28.17	\$74,117	\$35.63
2 Adults	\$38,426	\$18.47	\$47,224	\$22.70	\$52,417	\$25.20	\$59,388	\$28.55

Source: Massachusetts Institute of Technology (MIT) Living Wage Calculator. 2016.
 Living Wage Calculation for Miami-Dade County, FL
<http://livingwage.mit.edu/counties/12086>

The Distinct Role of Local Minimum Wages

Local minimum wages offer several distinct advantages that differentiate these policies from state or federal minimum wage laws:

- They allow higher-cost cities to set minimum wage rates that better correspond to higher local living costs;
- They allow localities in states where the legislature is slow to raise the minimum wage to address the problem on their own;
- They provide venues for demonstrating the feasibility of substantially higher minimum wages, and pursuing key reforms such as annual inflation indexing and higher tipped- minimum wages, which are less commonly adopted at the state level.

² <http://miami.curbed.com/2016/4/20/11463074/miami-salary-live-comfortably>

The Economic Evidence Shows that City Minimum Wages Boost Earnings Without Reducing Employment

Economic evidence indicates that the higher city minimum wages enacted in U.S. cities to date have boosted earnings without slowing job growth or causing business relocations. These findings are consistent with the bulk of modern research on higher state minimum wages, which has generally found no statistically significant evidence of job losses resulting from minimum wage increases passed over the last 20 years in the United States.

This is partly because the bulk of the low-wage positions affected by city minimum wages are in fields such as restaurants, retail, building services, home health care, and child care jobs that serve city-based customers such as residents, office workers, and tourists at city locations. As a result, most cannot practically be moved by their employers to locations outside of the city while still retaining their customer bases.

Table 2 summarizes the most rigorous research examining the employment impact of minimum wage increases at the local level. The studies below pay particular attention to the experience of minimum wage increases in Santa Fe and San Francisco, which have had local minimum wages in place for over a decade now and offer the most complete picture of how businesses in low-wage sectors have adjusted to higher wage floors.

In both San Jose and San Francisco, for example, jobs in the restaurant industry grew faster after the minimum wage was increased than they did in surrounding cities and counties that did not raise wages. In SeaTac, Washington—the first city in the United States to fully transition to a \$15 minimum wage for workers in the hospitality and travel industries—predicted layoffs and expansion-plan cancellations did not materialize, and in fact some business owners, who were previously opposed to the wage increase, have expanded operations. And in Seattle, which began phasing-in its \$15 minimum wage in April 2015, initial signs are positive. The Seattle region’s unemployment rate hit an eight-year low of 3.6 percent in August 2015, significantly lower than the state unemployment rate of 5.3 percent. And King County, where Seattle is located, is well on its way to breaking last year’s record for the number of business permits issued to food service establishments.

This is how the media has reported on city minimum wage increases in San Jose,

SeaTac, and Seattle:

“Interviews with San Jose workers, businesses, and industry officials show it has improved the lives of affected employees while imposing minimal costs on employers.”

- USA Today, “In San Jose, Higher Minimum Wage Pays Benefits” (June 14, 2014)

“Fast-food hiring in the region accelerated once the higher wage was in place. By early this year, the pace of employment gains in the San Jose area beat the improvement in the entire state of California.”

- Wall Street Journal, “What Happened to Fast-Food Workers When San Jose Raised the Minimum Wage? Hold the Layoffs” (April 9, 2014)

“Those who opposed the \$15 wage in SeaTac and Seattle admit there has been no calamity so far.”

- Washington Post, “No Calamity Yet as SeaTac, WA, Adjusts to \$15 Minimum Wage” (September 5, 2014)

“For all the political uproar it caused, SeaTac’s closely watched experiment with a \$15 minimum wage has not created a large chain reaction of lost jobs and higher prices...”

- Seattle Times, “\$15 Wage Floor Slowly Takes Hold in SeaTac” (June 13, 2014)

“When Seattle’s pioneering \$15 minimum wage law was the subject of fierce debate last year, Tom Douglas predicted it would inflict a \$5 million hit on his empire of more than a dozen restaurants ... Yet six months after the first wage increase to \$11 per hour took effect, the fear of soaring payrolls shows no signs of killing the appetite of Douglas — or the rest of the Seattle restaurant world — for rapid expansion. Dozens of new restaurants have opened in the city since April 1, including many new eateries run by the law’s fiercest critics, such as Douglas.” -

- Puget Sound Business Journal, "Apocalypse Not: \$15 and the Cuts that Never Came" (October 23, 2015)

III. FLORIDA INCOME REGULATIONS

Prior to the establishment of the Florida Minimum Wage Act (see below), local municipalities in Florida enacted “Living Wage Ordinances.” These laws set a local minimum wage for certain categories of employment at a rate higher than the one required under FLSA. Miami-Dade County unanimously passed its Living Wage

Ordinance in 1999. The City of Miami Beach followed in 2001, becoming the first city in the State of Florida to have its own Living Wage Ordinance.³ It applies to City contractors. The City of Miami Beach's statutory living wage is currently set at \$11.62 per hour for jobs with health benefits, and \$13.31 for those without health benefits. Miami Beach City Code §2-408(a)

In 2003, the Florida legislature passed, and Governor Jeb Bush signed, the "Minimum wage requirements by political subdivisions; restrictions" law, Fla. Stat. § 218.077. That Statute prohibited municipalities from adopting local ordinances establishing a local minimum wage higher than the federal minimum wage, which was at that time (\$5.15). Specifically, it read, in pertinent part:

(2) ... a political subdivision may not establish, mandate, or otherwise require an employer to pay a minimum wage, other than a federal minimum wage, to apply a federal minimum wage to wages exempt from a federal minimum wage.

The Statute did leave municipalities with the power to maintain Living Wage Ordinances, but only those that applied to city vendors and contractors.

In immediate response, in 2004, 71.25% of Florida voters approved a Constitutional Amendment (now codified as Article X, Section 24 of the Florida Constitution), establishing a higher statewide minimum wage of \$6.15 and indexed it to the Consumer Price Index. Florida's Amendment has a policy statement, which explicitly provides:

(a) PUBLIC POLICY All working Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and healthy life for them and their families, that protects their employers from unfair low-wage competition, and does not force them to rely on taxpayer-funded public services in order to avoid economic hardship.⁴

The constitutional amendment specifically provides that municipalities may establish local minimum wages higher than those set by the state. Specifically, the amendment read:

(f) . . . This amendment provides for payment of a minimum wage and shall not be construed to preempt or otherwise limit the authority of the state legislature or any other public body to adopt or enforce any other

³ Other counties in Florida with Living Wage Ordinances include: Broward County (October 8, 2002) and Palm Beach County (February 25, 2003); cities include Orlando (August 25, 2003).

⁴ Article X, Section 24, Fla. Constitution, subsection (a).

law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits, or that extends such protections to employers or employees not covered by this amendment.⁵

In 2005, the Florida state legislature passed, and Governor Rick Scott signed, an amendment to Fla. Stat. § 218.077, which ignores the constitutional amendment language and broadened the State’s preemption of minimum wage law to include preemption of local regulation of benefits as well as wages. The statute currently reads:

(2) ... a political subdivision may not establish, mandate, or otherwise require an employer to pay a minimum wage, other than a state or federal minimum wage, to apply a state or federal minimum wage to wages exempt from a state or federal minimum wage, or to provide employment benefits not otherwise required by state or federal law.

It is our opinion that the 2004 Minimum Wage Constitutional Amendment reserved the authority of local governments to establish higher minimum wages than that set by federal or state law. Thus, Florida’s statutory preemption of a local minimum wage, as set forth in both the 2003 and 2005 versions of Fla. Stat. §218.077, is unconstitutional because it violates that Amendment by taking power reserved to the municipalities and preempts it to the state. Therefore, we believe that an ordinance by the Mayor and Commission of the City of Miami Beach, which sets a minimum wage higher than that set by the state or federal government, would be valid and would be upheld in court.

FINANCIAL IMPACT

In accordance with Charter section 5.02, which requires that the “City of Miami Beach shall consider the long-term economic impact (at least 5 years) of proposed legislative actions,” this shall confirm that the City Administration evaluated the long-term economic impact (at least 5 years) of this proposed legislative action, and determined that there will be no measureable impact on the City’s budget.

CONCLUSION

The proposed Ordinance comes at the right time. Miami Beach’s cost of living is expensive and getting worse. Hotel room rates have risen to some of the highest in the country, leading to record profits. But wages have not reflected these realities.

⁵ *Id.* at subsection (f).

Cities around the country are setting fair wages for workers in their cities that allow employees to meet their basic human needs. Studies have shown that these higher living minimum wages have benefited everyone: employment rates remained steady, turnover was reduced, and employees were happier.

The slow and gradual increase over four years in the wages paid to the City's lowest paid workers proposed here is prudent, fair, and lawful.

RJA/rfr

Table 1. Local Minimum Wage Ordinances in the U.S.

Passed in 2003	Minimum Wage
Santa Fe, NM	\$10.84
San Francisco, CA	\$12.25
Passed in 2012	Minimum Wage
Albuquerque, NM	\$8.75
San Jose, CA	\$10.30
Passed in 2013	Minimum Wage
Bernalillo County, NM	\$8.65
Washington, DC	\$11.50 (by 2016)
Montgomery County, MD	\$11.50 (by 2017)
Prince George's County, MD	\$11.50 (by 2017)
SeaTac, WA	\$15.24
Passed in 2014	Minimum Wage
Las Cruces, NM	\$10.10 (by 2019)
Santa Fe County, NM	\$10.84
Mountain View, CA	\$10.30
Sunnyvale, CA	\$10.30
San Diego, CA	\$11.50 (by 2017)*
Oakland, CA	\$12.25
Berkeley, CA	\$12.53 (by 2016)
Richmond, CA	\$13.00 (by 2018)
Louisville, KY	\$9.00 (by 2017)
Chicago, IL	\$13.00 (by 2019)
San Francisco, CA	\$15.00 (by 2018)
Seattle, WA	\$15.00 (by 2018-21)

Table 1. Local Minimum Wage Ordinances in the U.S.

Passed in 2015	Minimum Wage
Emeryville, CA	\$15.00 (by 2018)
Los Angeles, CA	\$15.00 (by 2020)
Portland, ME	\$10.68 (by 2017)
Kansas City, MO	\$13.00 (by 2020)**
Birmingham, AL	\$10.10 (by 2017)
St. Louis, MO	\$11.00 (by 2018)**
Palo Alto, CA	\$11.00 (by 2016)
Johnson County, IA	\$10.10 (by 2017)
Los Angeles County, CA	\$15.00 (by 2020-21)
Mountain View, CA	\$15.00 (by 2018)
Sacramento, CA	\$12.50 (by 2020)
Lexington, KY	\$10.10 (by 2018)**
Tacoma, WA	\$12.00 (by 2018)
Bangor, ME	\$9.75 (by 2019)
Current Proposals	Proposed Rate
Olympia, WA	\$15.00
Davis, CA	\$15.00
Sacramento, CA	\$15.00
Washington, DC	\$15.00 (by 2020)
Pasadena, CA	\$15.00
Palo Alto, CA	\$15.00 (by 2018)
Long Beach, CA	\$16.00
Sunnyvale, CA	\$15.00 (by 2018)

*San Diego increase awaits review by votes in 2016

**Preemption lawsuits currently ongoing in Kansas City, MO, Louisville, MO, and Lexington, KY

Table 2. Summary of Economic Research on Citywide Minimum Wages

Study	Year Published	Cities Studied	Summary of Findings
<p>“The Wage and Employment Impact of Minimum-Wage Laws in Three Cities”⁸</p> <p>Center for Economic and Policy Research</p>	<p>2011</p>	<p>San Francisco, CA Santa Fe, NM Washington, DC⁹</p>	<p>“The results for fast food, food services, retail, and low-wage establishments... support the view that citywide minimum wages can raise the earnings of low-wage workers, without a discernible impact on their employment...”</p>
<p>“When Mandates Work: Raising Labor Standards at the Local Level”¹⁰</p> <p>University of California-Berkeley</p>	<p>2014</p>	<p>San Francisco, CA</p>	<p>This book-length study of San Francisco’s minimum wage, living wage, health care, and paid sick leave laws, which collectively raised the compensation of low-wage workers 80 percent higher than the federal minimum wage, found that these laws raised pay without costing jobs. Researchers found that from 2004 to 2011, private sector employment grew by 5.6 percent in San Francisco but fell by 4.4 percent in other Bay Area counties that did not have a higher local wage. Among food-service workers, who are more likely to be affected by minimum wage laws, employment grew 17.7 percent in San Francisco, faster than in the other Bay Area counties. San Francisco employers absorbed the higher costs through a combination of reduced employee turnover and improved customer service and worker productivity.</p>

Table 2. Summary of Economic Research on Citywide Minimum Wages

<p>“The Economic Effects of a Citywide Minimum Wage”¹¹</p> <p>University of California-Berkeley</p>	2007	San Francisco, CA	<p>“We find that the San Francisco wage floor policy increased pay significantly at affected restaurants.... We do not detect any increased rate of business closure or employment loss among treated restaurants; this finding is robust across a variety of alternative specifications and control subsamples.”</p>
<p>“Measuring the Employment Impacts of the Living Wage Ordinance in Santa Fe, New Mexico”¹²</p> <p>University of New Mexico, Bureau of Business and Economic Research</p>	2006	Santa Fe, NM	<p>“Overall, this analysis found that the living wage had no discernible impact on employment per firm, and that Santa Fe actually did better than Albuquerque in terms of employment changes.”</p>
<p>“Minimum Wage Effects Across State Borders: Estimates Using Contiguous Counties”</p> <p>University of California-Berkeley, University of Massachusetts- Amherst, and University of North Carolina-Chapel Hill¹³</p>	2010	288 pairs of contiguous U.S. counties with differing minimum wage rates at any point between 1990 and 2006	<p>Taking advantage of the fact that a record number of states raised their minimum wages in the 1990s and 2000s, this widely cited study compares employment levels among every pair of neighboring U.S. counties that had differing minimum wage rates at any point between 1990 and 2006 and finds that higher minimum wages did not reduce employment. This is a particularly important finding regarding the impact of higher minimum wages at the local level, as the county-level analysis found no evidence of businesses crossing borders or reducing employment in response to higher minimum wages.</p>

Endnotes

1. “Cities of Opportunity Task Force Commitment to Action,” U.S. Conference of Mayors, August 2014, available at: <http://www1.nyc.gov/office-of-the-mayor/news/397-14/cities-opportunity-task-force-commitment-action#/0>
2. “In San Jose, Higher Minimum Wage Pays Benefits,” Paul Davidson, USA Today, June 14, 2014, available at: <http://www.usatoday.com/story/money/business/2014/06/14/minimum-wage-san-jose/9968679/>
3. “What Happened to Fast-Food Workers When San Jose Raised the Minimum Wage? Hold the Layoffs” Eric Morath, Wall Street Journal, April 9, 2014, available at: <http://blogs.wsj.com/economics/2014/04/09/whathappened-tofast-food-workers-when-san-jose-raised-the-minimum-wage/>
4. No Calamity Yet as SeaTac, WA, Adjusts to \$15 Minimum Wage,” Dana Milbank, Washington Post, September 5, 2014, available at: http://www.washingtonpost.com/opinions/dana-milbank-no-calamity-yet-as-seatac-wash-adjusts-to-15-minimum-wage/2014/09/05/d12ba922-3503-11e4-9e92-0899b306bbee_story.html
5. “\$15 Wage Slowly Takes Hold in SeaTac,” Amy Martinez, Seattle Times, June 3, 2014, available at: http://seattletimes.com/html/localnews/2022905775_seatacprop1xml.html
6. “Apocalypse Not: \$15 and the Cuts that Never Came,” Jeanine Stewart, Puget Sound Business Journal, October 23, 2015. Available at: <http://www.bizjournals.com/seattle/print-edition/2015/10/23/apocalypse-not-15-and-the-cuts-that-never-came.html>
7. “New York Small Businesses Support Higher Minimum Wages for Cities and Counties.” Small Business Majority, Opinion Poll, April 2014, available at: <http://www.smallbusinessmajority.org/small-business-research/downloads/042114-New-York-Minimum-Wage-Poll.pdf>

8. John Schmitt and David Rosnick, *The Wage and Employment Impact of Minimum Wage Laws in Three Cities* (March 2011), available at <http://www.cepr.net/documents/publications/min-wage-2011-03.pdf>.articles/abc-123-xyz.html.
9. Study finds that the minimum wage increase implemented in Washington, DC, in 1993 was too small to raise wages in fast-food, food services, retail, and other low-wage establishments. The citywide increase therefore does not allow the authors to draw conclusions about the employment effects of citywide minimum wages for DC.
10. 9. Michael Reich, Ken Jacobs and Miranda Dietz (eds.), *When Mandates Work: Raising Labor Standards at the Local Level*, University of California Press (2014), available at <http://irle.berkeley.edu/publications/whenmandateswork/>; "San Francisco's Higher Minimum Wage Hasn't Hurt the Economy," *Business Week* (January 22, 2014), available at <http://www.businessweek.com/articles/2014-01-22/san-franciscos-higher-minimum-wagehasnthurt-the-economy>; "S.F. praised as model for U.S. on increasing minimum wage," *SF Gate* (January 28, 2014), available at <http://www.sfgate.com/politics/article/S-F-praised-as-model-for-U-S-on-increasing-5183378.php>
11. 10. Michael Reich, Arindrajit Dube, and Suresh Naidu, "The Economic Effects of a Citywide Minimum Wage," University of California-Berkeley, (2007), available at: http://www.irle.berkeley.edu/cwed/wp/economicimpacts_07.pdf
12. University of New Mexico, Bureau of Business and Economic Research, "Measuring the Employment Impacts of the Living Wage Ordinance in Santa Fe, New Mexico," (June 30, 2006), available at: <http://bber.unm.edu/pubs/EmploymentLivingWageAnalysis.pdf>
13. Michael Reich, Arindrajit Dube, and T. William Lester, "Minimum Wage Effects Across State Borders," *Review of Economics and Statistics* (2010): 945-964, available at: <http://www.irle.berkeley.edu/workingpapers/157-07.pdf>

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 18 OF THE CITY CODE, ENTITLED "BUSINESSES," BY ADDING ARTICLE XVII, ENTITLED "CITY MINIMUM LIVING WAGE," TO PROVIDE FOR IMPLEMENTATION OF A CITY-WIDE MINIMUM HOURLY WAGE; AND AMENDING CHAPTER 102 OF THE CITY CODE, ENTITLED "TAXATION," BY AMENDING SECTION 102-371, ENTITLED "APPLICATION PROCEDURES[,]" BY ADDING A SUBSECTION ENTITLED "(J) COMPLIANCE WITH CITY MINIMUM LIVING WAGE" AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, promoting the welfare of those who work within the City of Miami Beach is one of the principle objectives of its municipal government; and

WHEREAS, the federal minimum wage is \$7.25 per hour, effective at that level since July 24, 2009 and, after years of inaction by the United States Congress, it is time for cities and states to lift families out of poverty and stimulate the economy by raising the minimum wage; and

WHEREAS, a January 2015 poll by Hart Research Associates found that 75% of Americans (including 92% of Democrats, 73% of Independents, and 53% of Republicans) supported a federal minimum wage increase to \$12.50 by 2020, which surpassed a February 2013 poll by the Pew Research Center finding that 71% of Americans supported a minimum wage increase; and

WHEREAS, the Florida Constitution was amended in 2004, with the support of 71.25% of the popular vote, to establish a minimum wage in Florida higher than that required by federal law; and

WHEREAS, that Amendment to the Florida Constitution explicitly stated as its public policy that "[a]ll working Floridians are entitled to be paid a minimum wage that is sufficient to provide a decent and healthy life for them and their families, that protects their employers from unfair low-wage competition, and does not force them to rely on taxpayer-funded public services in order to avoid economic hardship"; and

WHEREAS, that Amendment to the Florida Constitution explicitly stated that it "shall not be construed to preempt or otherwise limit the authority of the state legislature or any other public body to adopt or enforce any other law, regulation, requirement, policy or standard that provides for payment of higher or supplemental wages or benefits"; and

WHEREAS, the poverty wage threshold for single adults providing only for themselves is \$5.00 per hour (or \$10,400 per annum assuming 2,080 hours worked per year); and

WHEREAS, poverty thresholds do not account for living costs beyond a very basic food budget; the federal poverty measure does not take into consideration costs like child care and health care that not only draw from one's income, but also are determining factors in one's ability to work and to endure the potential hardships associated with balancing employment and other aspects of everyday life; and, further, poverty thresholds do not account for geographic variation in the cost of essential household expenses; and

WHEREAS, the newer "Living Wage" model, an alternative measure of basic needs to the poverty threshold, is a market-based approach that draws upon geographically specific expenditure data related to a family's likely minimum food, child care, health insurance, housing, transportation, and other basic necessities (e.g. clothing, personal care items, etc.) costs; and

WHEREAS, the model draws on these cost elements and the rough effects of income and payroll taxes to determine the minimum employment earnings necessary to meet a family's basic needs while also maintaining self-sufficiency; and

WHEREAS, the living wage in the State of Florida for single adults providing only for themselves is \$10.94 per hour (or \$22,755 per annum before taxes assuming 2,080 hours worked); and

WHEREAS, the living wage in Miami-Dade County for single adults providing only for themselves is \$11.45 per hour (or \$23,816 per annum before taxes assuming 2,080 hours worked); and

WHEREAS, the living wage for the cities of Miami-Fort Lauderdale-Pompano Beach, Florida for single adults providing only for themselves is \$11.49 per hour (or \$23,899 per annum before taxes assuming 2,080 hours worked); and

WHEREAS, the minimum hourly wage in the State of Florida is \$8.05, which is modified annually based upon inflation and a cost of living formula; and

WHEREAS, the living wage for contractors in the City of Miami Beach is \$13.31 for employment without health benefits, and \$11.62 for employment with minimum required health benefits of \$1.69 per hour; and

WHEREAS, considering and including living expenses such as rent, groceries, utilities, transportation, and healthcare, the annual salary required to live "comfortably" in the City of Miami is approximately \$77,000, or \$33.65 per hour; and

WHEREAS, the median annual income in the City of Miami is approximately \$31,000; and the difference between this amount and the \$77,000 to live comfortably is the largest amount in the country; and

WHEREAS, the minimum hourly wage in the State of Florida was last increased on January 1, 2015, but was not increased on January 1, 2016; and

WHEREAS, the City of Miami Beach is a longstanding municipal leader in ensuring the utmost protection of the civil rights of its diverse and cosmopolitan population; and

WHEREAS, other culturally and economically diverse destination cities and counties with large tourism industries — including San Francisco, Seattle, Chicago, Los Angeles, New York, and the District of Columbia — have seen it fit to significantly increase their own minimum wages to better serve their working class residents; and

WHEREAS, the weight of research on previous minimum wage increases shows that raising the minimum wage has little or no adverse impact on employment and prices; to the contrary, according to the Economic Policy Institute, raising the minimum wage will help the economy at large, because workers' increased spending power will increase our nation's gross domestic product by about \$33 billion and create approximately 140,000 jobs; and

WHEREAS, the City of Miami Beach is a vibrant multicultural community with significant tourism, service, and hospitality industries that must be founded upon the fair and equal treatment of the workforce; and

WHEREAS, the Mayor and Commission of the City of Miami Beach wish to ensure that each person working within the City limits is paid a minimum living hourly wage.

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. ENACTMENT

That the Code of the City of Miami Beach be amended to add Sections 18-920, 18-921, 18-922, 18-923, and 18-924, and that section 102-371 be amended as follows:

CODE OF THE CITY OF MIAMI BEACH, FLORIDA

CHAPTER 18 – BUSINESSES

...

ARTICLE XVII. CITY MINIMUM LIVING WAGE

Sec. 18-920. Definitions.

For purposes of this Article, the following definitions apply:

The terms "Employer," "Employee," "Wage" shall have the meanings established under the federal Fair Labor Standards Act ("FLSA"), including its implementing regulations.

"Fair Labor Standards Act" or "FLSA" means the United States Fair Labor Standards Act of 1938, 29 U.S.C. § 201 et seq., in force on the effective date of this chapter and as thereafter amended.

"State Minimum Wage Laws" means the Florida Minimum Wage Act, Fla. Stat. 448.01 et seq., in force on the effective date of this chapter and as thereafter amended, together with applicable provisions of the Florida Constitution, Fla. Const. art. X, § 24.

Sec. 18-921. Minimum Hourly Living Wage.

Every Employer shall pay no less than the following Wages to each Employee entitled to receive the federal minimum wage for each hour of work performed for that Employer while physically present within the geographic boundaries of the City:

- (a) Beginning on June 30, 2017, the greater of: (1) the minimum hourly Wage set by the State Minimum Wage Laws; (2) the minimum hourly Wage set by Fair Labor Standards Act; or (3) \$10.31 per hour.
- (b) Beginning on June 30, 2018, the greater of: (1) the minimum hourly Wage set by the State Minimum Wage Laws; (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) \$11.31 per hour.
- (c) Beginning on June 30, 2019, the greater of: (1) the minimum hourly Wage set by the State Minimum Wage Laws, (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) \$12.31 per hour.
- (d) Beginning on June 30, 2020, the greater of: (1) the minimum hourly Wage set by the State Minimum Wage Laws, (2) the minimum hourly Wage set by the Fair Labor Standards Act; or (3) \$13.31 per hour.

Beginning on June 30, 2021, and every year thereafter, the minimum wage rate may, by resolution of the city commission, be indexed annually for inflation using the Miami PMSA Consumer Price Index for all Urban Consumers (CPI-U) Miami/Ft. Lauderdale, issued by the U.S. Department of Labor's Bureau of Labor Statistics. Notwithstanding the preceding, no annual index shall exceed three percent. The city commission may also, by resolution, elect not to index the minimum wage rate in any particular year, if it determines it would not be fiscally sound to implement same (in a particular year). The determination to index (or not index) the minimum living wage rate shall be considered annually during the city commission's review and approval of the city's annual operating budget.

For Tipped Employees meeting eligibility requirements for the tip credit under the FLSA, Employers may credit towards satisfaction of the Minimum Wage in Subsections (a)–(d) tips up to the amount of the allowable FLSA tip credit.

Sec. 18-922 Retaliation Prohibited.

It shall be unlawful for an Employer or any other party to discriminate in any manner or take adverse action against any person in retaliation for exercising rights protected

under this ordinance. Rights protected under this Article include, but are not limited to, the right to file a complaint or inform any person about any party's alleged noncompliance with this Article, and the right to inform any person of his or her potential rights under this Article and to assist him or her in asserting such rights.

Sec. 18-923 Private Enforcement.

Employees aggrieved by a violation of this Article may bring a civil action in a court of competent jurisdiction against an Employer or person violating this Article and, upon prevailing, shall recover the full amount of any back wages unlawfully withheld plus, in the case of willful violations the same amount as liquidated damages, and shall be awarded reasonable attorney's fees and costs. In addition, they shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, reinstatement in employment and/or injunctive relief. Actions to enforce this Article shall be subject to a statute of limitations of two (2) years or, in the case of willful violations, three (3) years.

Sec.18-924. Construction.

It is intended that case law, administrative interpretations, and other guiding standards developed under the federal FLSA shall guide the construction of this Article.

Sec. 18-925. Required Affidavit of Compliance.

In order to apply for, renew, or receive a business tax receipt (including, but not limited to a transferred business tax receipt) pursuant to City Code Sec. 102, each business shall submit with their initial or renewal application an affidavit attesting to compliance by that business with the provisions promulgated under Section 18-921 of this Article. No business shall receive a business tax receipt unless the City receives such an affidavit.

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CHAPTER 102 - TAXATION

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ARTICLE V - LOCAL BUSINESS TAX

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Sec. 102-371. - Application procedures.

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(i) Compliance with City Minimum Living Wage. No license shall be issued or granted to any person to engage in any business named, identified, or encompassed by this article unless that person or business' application includes an affidavit, legally binding upon the person or business, attesting to that person

or business' compliance with the City Minimum Living Wage Ordinance, Chapter 18, Article XVII.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Chapter, Article, or Division of the Miami Beach City Code.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall be added to the Code of the City of Miami Beach, Florida. If applicable, the sections of this ordinance may be renumbered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriated word.

SECTION 5. EFFECTIVE DATE.

This ordinance shall take effect the 1st day of June, 2017

PASSED and ADOPTED this _____ day of _____, 2016.

ATTEST:

Rafael E. Granado, City Clerk

Philip Levine, Mayor

(Sponsored by Mayor Philip Levine)

Underline denotes additions.
~~Strike through~~ denotes deletions.

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

Philip Levine 5-3-16
City Attorney Date

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F&CWP Pending Items - Commission Referrals

Attachment 1

Item #	Title	Referred By	Date Referred	Handled By	Date Expiring per Reso # 2013-28147	Note
194	Discussion Regarding whether or not to pursue food and beverage concessions for Soundscape Park, Collins Park, and the Miami Beach Botanical Garden	Tourism, Culture and Economic Development	May 21, 2014 Commission Item C4C	Max Sklar	6/22/2016	6/20/14 The Committee recommended pursuing food and beverage concessions through the pop up concept or food trucks for Soundscape Park, Collins Park and the Miami Beach Botanical Garden to begin in October. 1/7/15 The Committee recommended moving forward with the Soundscape Park term sheet presented. The Committee also determined that Collins Park will go out as a Request for Letter of Interest for a pop up or a temporary food concession concept and the results are to be brought back to the Finance Committee. In reference to the Botanical Gardens the Committee is waiting for staff to bring back additional concepts. 7/1/15 The Committee recommended staff continue to work on the negotiations and bring this item back to the Finance and Citywide Projects Committee when ready. 1/22/15 Max Sklar stated via email to Allison Williams that he is still negotiating with a company to activate a concession in soundscape but those negotiations fell apart because of the high start up costs and plans to bring the item back to Finance Committee in February to get direction. 3/18/16 The Committee recommended staff bring this item back to the Finance Committee with a recommendation after doing some further analysis.
288	Referral To The Neighborhood/Community Affairs Committee To Discuss Proposed Site Options For New Fire Station No. 1	Capital Improvement Projects	January 13, 2016 Commission Item C4A	David Martinez Virgilio Fernandez	7/13/2016	3/18/16 Item deferred. 4/22/16 The Committee recommended staff bring this item back with a more detailed concept plan to include: <ul style="list-style-type: none"> • Appraisal for the fair market value of the site; • Plan for maintaining the Parks and Recreation Department and/or Police Athletic League operational during construction; • Plan addressing temporary parking initiatives during construction; and • More information on the aesthetics of Flamingo Park.
290	Discussion Seeking Citywide WiFi Solutions And CMB Becoming Its Own Internet Service Provider	Michael Grieco	January 13, 2016 Commission Item C4C	Ariel Sosa	7/13/2016	3/18/16 The Committee took no action and recommended staff bring this item back in 3 months to the Finance Committee.
292	Discussion Regarding The Vacation Of A Portion Of The Alley Between Alton Road And West Avenue, Just South Of 17th Street - As Part Of A Proposed Mixed Use Project That Will Include Residential, Retail And Structured Parking, Including Public Parking	Joy Malakoff	September 2, 2015 Commission Item C4I	Thomas Mooney	3/2/2016	3/2/16 Thomas Mooney stated via email to Allison Williams that the proposer has not been in touch with the CAO regarding the appraisal so the item was deferred to April. 4/22/16 The Committee recommended staff and the Public Works Director meet with the applicant to close the gap between the two parties' discrepancies in their respective appraisals and negotiate the price so that this item can be placed on the May 11th City Commission agenda. 5/5/16 Item not ready for 5/11/16 Commission meeting.
293	Discussion Regarding Implementing An Open Data Policy	Ricky Arriola	March 9, 2016 Commission Item C4E	Ariel Sosa	9/9/2016	3/18/16 The Committee recommended staff do further research on open data strategies being executed in other areas. This research is to include cost, the proper governance model, talking to other cities and creating a timeline that can be brought back to the Finance Committee.
296	Discussion Regarding The Creation Of The Ocean Court Green Alley - Española Way (East) Green Alley	Joy Malakoff	February 24, 2016 Commission Item R9B	Eric Carpenter	8/24/2016	3/18/16 Item deferred to April 4/22/16 The Committee recommended staff continue negotiations and bring this item back to Finance unless a deal can be made that is approved by the Finance Committee Chairman Arriola for the item to go to the City Commission.
299	Discussion Regarding Miami New Drama Becoming The Resident Theater And Venue Manager For The Colony Theater As A Pilot Program	Micky Steinberg Michael Grieco Joy Malakoff	April 13, 2016 Commission Item C4M	Max Sklar	10/13/2016	4/22/16 Item deferred.
300	Discussion Regarding The Creation Of The City Of Miami Beach Transportation Fund	Philip Levine	April 13, 2016 Commission Item C4P	Jose Gonzalez Allison Williams	10/13/2016	4/22/16 The Committee moved to create a City of Miami Beach Transportation Fund specifically for the improved public transportation system.
302	Discussion To Consider The Closed Captioning For The Hearing Impaired Of The City's Video-Recorded Meetings And Events	John Elizabeth Aleman	April 13, 2016 Commission Item R9M	Tonya Daniels	10/13/2016	4/22/16 The Committee recommended staff bring this item back to Finance after meeting with the Disability Access Committee to evaluate if this would be the best use of limited City funds for the hearing impaired.
303	Discussion Regarding A Competition Swimming Pool	John Elizabeth Aleman	April 27, 2016 Commission Item R9E	John Rebar	10/27/2016	

Item #	Title	Referred By	Date Referred	Handled By	Date Expiring per Reso # 2013-28147	Note
304	Discussion Regarding a Resolution Approving the Purchase of Flood Insurance, All-Risk Property Insurance, Including Windstorm, Boiler & Machinery Insurance for City Buildings and Contents (Including New Construction); And Fine Arts Insurance (Bass Museum), As Proposed by Arthur J. Gallagher Risk Management Services, Inc., The City's Broker of Records.			Sonia Bridges		
305	A Discussion Regarding A New Lease Agreement, Between The City Of Miami Beach And South Florida Seniors In Action, Inc., At Southshore Community Center, 833 6th Street, Miami Beach, Florida			Mark Milisits		
306	Discussion Regarding Advertising Opportunities Within Municipal Parking Garages And Not Visible From The Right-Of-Way.	Parking	May 11, 2016 Commission Item C4B	Saul Frances	11/11/2016	
307	Discussion Regarding 300 Alton Road	Ricky Arriola	May 11, 2016 Commission Item C4D	Jeff Oris	11/11/2016	
308	Discussion To Consider Televising All City Special Master Hearings.	John Elizabeth Aleman	May 11, 2016 Commission Item C4H	Tonya Daniels	11/11/2016	
309	Discussion To Work With Miami-Dade County Public Schools (MDCPS) To Assess The Viability And Interest In A City Of Miami Beach School Bus Service Within The 2-Mile Boundary Of School Bus Service Provided By MDCPS.	John Elizabeth Aleman	May 11, 2016 Commission Item C4K	Leslie Rosenfeld Jose Gonzalez	11/11/2016	
310	Discussion Relating To City Clerk Rafael E. Granado's Annual Performance Evaluation.	Philip Levine	May 11, 2016 Commission Item C4O	Sylvia Creso-Tabak	11/11/2016	
311	Discussion Regarding Proposed Miami Beach Marina Redevelopment And Associated Legislative Changes	John Elizabeth Aleman	May 11, 2016 Commission Item R9J	Thomas Mooney	11/11/2016	
312	Discussion Regarding A Review Of The Fine Schedule For Littering On The Beach	Philip Levine	May 11, 2016 Commission Item R9R	Eric Carpenter	11/11/2016	
313	Discussion Regarding A City Employee Healthy Cafeteria	Philip Levine	May 11, 2016 Commission Item R9T	Max Sklar Alex Denis	11/11/2016	
314	Discussion Regarding An Ordinance Amending Chapter 18 Of The City Code, Entitled "Businesses," By Adding Article XVII, Entitled "City Minimum Living Wage," To Provide For Implementation Of A City-Wide Minimum Hourly Wage; And Amending Chapter 102 Of The City Code, Entitled "Taxation," By Amending Section 102-371, Entitled "Application Procedures[.]" By Adding A Subsection Entitled "(J) Compliance With City Minimum Living Wage" And Providing For Repealer, Severability, Codification, And An Effective Date	Philip Levine	May 11, 2016 Commission Item R5P	City Attorney	11/11/2016	