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CITY COUNCIL STAFF REPORT

Meeting: September 20, 2016

Subject

Update on regional minimum wage efforts and introduction of Ordinance establishing a citywide minimum wage.

Recommended Action

Receive an update on regional minimum wage efforts and conduct the first reading of the draft ordinance: An Ordinance of the City of Cupertino to add Chapter 3.37 (Minimum Wage Ordinance) to Title 3 (Revenue and Finance) of the Cupertino Municipal Code to establish a citywide minimum wage.

Background

Last fall, an advisory team made up of representatives from the Cities Association of Santa Clara County, San Jose/Silicon Valley Chamber of Commerce, Working Partnerships, and the City of San Jose convened to explore a regional approach to increasing the minimum wage, including an analysis of regional economic impact of increasing the minimum wage to \$15 by 2019 in all cities in Santa Clara County.

The economic analysis indicated that an increase to the minimum wage would significantly increase average earnings for low-wage workers and their families with relatively minor impacts to businesses and consumers. Additionally, the employer survey showed that the majority of surveyed employers believe a minimum wage increase makes sense given the high cost of living in Silicon Valley and agree with a regional approach, but acknowledge that an increase will make it harder to start and grow local businesses. Specifically, the study and survey found:

- Average pay increase of \$3,200 (19.4% of annual earnings) for 250,000 workers (25% of workforce).
- Affected workers are household breadwinners, bringing home half of their family's income on average: 96% of workers who would receive pay increases are over 20 years old; 57% are over 30.
- Average payroll increases for employers of 1.0% across industries (9.6% for restaurants) countywide.

- Average price increase of 0.2% across industries (2.9% for restaurants) passed on to consumers with the majority of the increases absorbed through automation, improved productivity and reduced turnover.
- Net loss of 1,470 jobs by the end of 2019, corresponding to 0.1% of county employment.
- The majority (66%) of affected employers anticipate increasing prices for customers.
- They believe their employees will be more satisfied and productive with the wage increase (66%).
- Surprisingly, 76% of surveyed employers believe a minimum wage increase makes sense given the high cost of living in Silicon Valley and that doing so will reduce income inequality (65%).
- Most (61%) believe that a minimum wage increase will make it harder to start and grow local businesses.
- The vast majority (75%) agree with a regional approach at the county level.

On April 4, 2016, Governor Jerry Brown signed legislation (SB 3, Leno) which will raise California's minimum wage to \$15 per hour by 2022 starting in 2017. After January 1, 2023, future wage increases are tied to inflation. Under the new state law, the wage increase schedule may be temporarily suspended by the Governor during economic downturns. The law also maintains existing exemptions in the state's minimum wage law. It's important to note that the economic analysis did not factor in the state's new minimum wage law, which likely reduces the negative impacts of a regional increase.

On May 17, 2016, staff presented information on the regional analysis and the state's new minimum wage law to Council. Council directed staff to work with the Cupertino Chamber of Commerce to disseminate the economic analysis and county-wide survey results and focus outreach efforts on small business owners, including a survey on the impacts to their business of an increased minimum wage. Council also requested staff return after the Cities Association made a recommendation on a regional minimum wage.

Discussion

Regional Developments

The Board of Directors of the Cities Association voted to recommend the adoption of a minimum wage ordinance on June 9, 2016 shortly after issuing the final report of the economic analysis (Attachment B). Subsequently, a letter addressed to all Mayors and City Managers in Santa Clara County was sent on July 27, 2016 urging support of the regional minimum wage proposal along with a model ordinance for cities to bring to their Council for consideration (Attachment C). The letter was signed by Cupertino Councilmember Rod Sinks, Sunnyvale Councilmember Jim Griffith, and Palo Alto Councilmember Greg Scharff.

All but two cities in Santa Clara County are considering the regional minimum wage proposal. As shown in the chart below, Mountain View and Sunnyvale have already passed ordinance that increase their local minimum wage to \$15 by 2018. Six cities are taking the model ordinance for Council consideration in the next few months, while five others are still in the outreach phase. The Town of Los Altos Hills considered the recommendation in July but determined that it was not applicable due to the absence of commercial/industrial zones. The City of Gilroy is not considering the recommendation and will continue to follow the state schedule, which increases the minimum wage to \$15 by 2022. The City of Morgan Hill considered the model ordinance on August 24th and will explore returning to Council at a future date.

Jurisdiction	Current Min. Wage	Response to Regional Approach/Next Steps
Campbell	\$10.00	Council consideration on October 4, 2016
Cupertino	\$10.00	Council consideration on September 20, 2016
Gilroy	\$10.00	Declined to consider
Los Altos	\$10.00	Second reading scheduled on September 27, 2016
Los Altos Hills	\$10.00	Council determined that it was not applicable due to the absence of commercial/industrial zones on July 21, 2016
Los Gatos	\$10.00	Mayor scheduling study session
Milpitas	\$10.00	Outreach efforts continuing through October
Monte Sereno	\$10.00	Council to consider in September or October
Morgan Hill	\$10.00	Council considered on August 24 th , future reconsideration TBD
Mountain View	\$11.00	Adopted increase to \$15 by 2018
Palo Alto	\$11.00	Council consideration on September 26, 2016
San Jose	\$10.30	Council consideration TBD
Santa Clara	\$11.00	Council consideration TBD
Saratoga	\$10.00	Council consideration in November
Sunnyvale	\$11.00	Adopted increase to \$15 by 2018

Business Stakeholder and Community Input

Staff made significant efforts to obtain feedback from business stakeholders through the following opportunities: employer survey in partnership with Cupertino Chamber of Commerce, several presentations at Chamber of Commerce Legislative Action Committee, three business outreach meetings, and an online community poll.

Per Council direction, staff conducted the employer survey in partnership with the Cupertino Chamber of Commerce to better target the business community. The survey questions were largely based on the countywide employer survey presented to Council in May (see attachment A). It was released in late June and closed on July 30th. The survey link was sent multiple times through the Chamber's list-serve and City's economic development business contacts. In addition, the City mailed a postcard to every business license holder in Cupertino (2,342)

requesting their participation with several ways to access the survey: surveymonkey web address, wagewatch page, or QR code.

Simultaneously, staff created the www.cupertino.org/wagewatch webpage with information on the regional proposal as well as the City's efforts to study the issue and engage the business community. Staff also presented information at the Chamber of Commerce Legislative Action Committee and hosted three business outreach meetings to present information and gather feedback during the months of June, July, and August. Staff consulted with the Chamber and the California Restaurant Association to ensure that the dates and times of the business outreach meetings would be convenient for their members. Lastly, staff engaged Cupertino residents with a short three question poll on Nextdoor and Facebook.

Despite the efforts of staff and the Cupertino Chamber of Commerce, the City received only 26 responses to the employer survey. With limited resources, staff relied on businesses opting to take the online survey, while the countywide survey was conducted by an applied research firm that conducted a phone survey using a random sampling methodology. This opt-in methodology can lead to participation bias and/or non-response bias, in which certain demographic groups chose to participate or not to participate resulting in skewed data. More concerning was our response rate of about 1%, which results in a margin of error of approximately 18% for most questions.

The employer survey respondents were made up largely of businesses in service sectors with a heavy reliance on low-wage workers when compared to Cupertino's business community overall, an indicator of participation bias. According to the City's draft 2016 Economic Development Strategic Plan, nearly 50% of employers in Cupertino are in the technical and professional sector compared to only 36% of survey respondents. Respondents reported that over half of their employees are currently paid less than \$15 per hour, equivalent to \$31,200 annually. However, the vast majority of workers employed in Cupertino are highly skilled and compensated with median annual earnings of \$81,000 and over 70% earning more than \$35,000 annually.¹ Respondents were more demographically similar to the Cupertino business community in terms of size with 73% of respondents reported having less than 10 employees compared to 80% of Cupertino businesses overall.² Additionally, most respondents had well-established businesses with over 80% having owned a business in Cupertino for over 5 years.

Given that survey responders disproportionately rely on low-wage employees, it is not surprising that our local employer survey showed more negative impacts to employers when compared to the regional employer survey. A majority of respondents reported that they would be very likely or somewhat likely to (1) reduce the total number of employees they employ and (2) reduce employee hours. The vast majority of responders indicated that they would need to increase prices to pay for increased wages. Most would not consider moving their business to another community with a lower minimum wage but three respondents would consider closing

¹ City of Cupertino General Plan Amendment: Market Study, BAE Urban Economics (February 2014)

² City of Cupertino Economic Development Strategic Plan: Background Report, Revised Draft (January 2016)

their business. A third of respondents believe that a minimum wage makes sense for our community given our high cost of living with the majority disagreeing with the statement.

Our business outreach forums were attended by small groups of Cupertino businesses, allowing us to engage in meaningful dialogue with businesses most likely to be affected by a minimum wage increase in a focus group-like setting. In total, about 20 local business owners and managers attended, representing the restaurant, hotel, recreation, education, healthcare and professional services industries. In all forums, representatives expressed concerns about implementing a \$15.00 per hour minimum wage by 2019 and spoke of the detrimental effect it may have on their businesses. Many stated small businesses have narrow profit margins and are impacted by other corresponding increases such as the payroll tax, Workers' Compensation insurance, and paid sick leave. Many attendees expressed concern about raising prices for customers to account for higher wages with a small number wondering whether they can stay in business.

Attendees offered suggestions for Council to consider if moving forward with a minimum wage increase:

- Exemption for new and temporary seasonal employees, targeting summer jobs for teens.
- Exclude tipped employees from the ordinance, as many tipped employees may already make substantially more than the minimum wage rate.
- Look into policies to provide small businesses with relief for increasing commercial rents.

Results from the community poll were starkly different from the feedback we received from the business community. Using social media, we polled our residents to get a pulse on their sentiments regarding an increase to the minimum wage. With over 150 responses, 74% agree or somewhat agree that an increase in the minimum wage makes sense for our community, given the high cost of living. A majority would be willing to pay up to 3% more for goods and services to help reduce income inequality. Lastly, 72% agree or somewhat agree that it would be better to have the same increase in the minimum wage throughout the County than to have different rates in different cities. Similar to our business survey, social media polls are not necessarily statistically accurate because of participation bias.

Recommendation

Staff recommends Council consider the model ordinance recommended by the Cities Association of Santa Clara County, which gradually increases the minimum wage to \$15.00 per hour by 2019. Considerable outreach was also done in Cupertino to solicit community and business input. Opinions differ significantly on this issue. There is no community-wide consensus in Cupertino on an approach or the impacts of raising the minimum wage.

While an increase in the minimum wage will certainly impact some of Cupertino's businesses, the regional economic analysis shows that the benefits outweigh the costs, that this proposal targets the neediest families in our region with an increase in the average annual income of

19.4% for 250,000 workers with an almost net-zero loss of employment in the 10-county region and a slight increase in average prices of 0.2%. While the price increase at restaurants is estimated to be 3.1%, our community poll indicates that there may be tolerance for this type of price increase in Cupertino. Based on this and the regional approach agreed upon by Santa Clara County city representatives on June 9, 2016, staff has brought the Cities Association model ordinance. The proposed minimum wage ordinance increases the minimum wage as follows:

Effective Date	Proposed Schedule	State Schedule	
		More than 25 EE	25 of less EE
January 1, 2017	\$12.00	\$10.50	\$10.00
January 1, 2018	\$13.50	\$11.00	\$10.50
January 1, 2019	\$15.00	\$12.00	\$11.00
January 1, 2020	\$15.35*	\$13.00	\$12.00
January 1, 2021	\$15.65*	\$14.00	\$13.00
January 1, 2022	\$16.00*	\$15.00	\$14.00
January 1, 2022	\$16.40*	\$15.30**	\$15.00

*Estimate based on historical CPI-W in Bay Area Statistical Area of 2.2%

**Estimate based on historical CPI-W in the U.S. of 1.7%

As shown in the chart above, after 2019, the minimum wage would increase each January 1st by the Bay Area Consumer Price Index-Wages, not to exceed 5%. All increases would be rounded to the nearest five cents. During the ramp-up phase, an “off-ramp” trigger would allow Council to delay these scheduled increases under certain economic conditions related to an increase in unemployment and/or a decrease in sales tax receipts.

No exemptions, other than for collective bargaining agreements, are recommended in the Cities Association model ordinance. However, there are a number of alternative approaches to this issue that Council could consider based on feedback from our business community:

- **Learner Exemptions:** Learners (regardless of age) may be paid not less than 85% of the minimum wage rounded to the nearest nickel during their first 160 hours of employment in occupations in which they have no previous similar or related experience. This exemption is included in the state’s minimum wage law.
- **Exemption for employees receiving discretionary tips.** These employees would be paid at the state minimum wage.

If enacted, the City of Cupertino will need to implement mechanisms to enforce its minimum wage ordinance. Several cities with existing minimum wage ordinances in Santa Clara County have contracted with the City of San Jose for enforcement services through a complaint-driven model. The City of San Jose is open to entering into similar agreements with other cities in the region. Staff recommends exploring this option.

Sustainability Impact

No impact.

Fiscal Impact

If a regional minimum wage is enacted, City costs are anticipated to increase by roughly \$480,000 over the course of three years related to increases for part-time employees, contractual services, and new enforcement mechanisms to ensure compliance with the new law.

First, the City would need to amend its salary schedule for part-time employees to comply with the new minimum wage schedule, resulting in a budget impact of approximately \$75,000 in FY 16-17 and \$95,000 in each of the following fiscal years, for a total of \$265,000 over three years.

Contract costs for crossing guard and janitorial services are also expected to increase as these contractors rely heavily on low-wage workers. Based on staff estimates, the cost for crossing guard services will increase by \$25,000 in FY 2016-17 with a total estimated increase of \$75,000 over the next three years of the ramp up period. Janitorial services are likely to increase about 30% (roughly \$200,000) during the ramp up phase.

Lastly, costs related to enforcement are estimated to be minimal based on the experience from nearby cities who have implemented local minimum wage ordinances. A budget adjustment of \$5,000 would be requested at mid-year to account for enforcement-related costs.

Prepared by: Jaqui Guzmán, Assistant to the City Manager

Approved for Submission by: David Brandt, City Manager

Attachments:

A – Draft Minimum Wage Ordinance

B – Economic Analysis

C – Letter from Santa Clara County Cities Association (July 27, 2016)