

**ESST Task Force Meeting
Tuesday, March 8, 2016
Wellstone Community Center – Fireside Room**

Attendees Present:

Autumn Amadou-Blegen
Alex Bajwa
David Burley
Ann Clouser
Steve Cohen (Phone)
Hilario Deleon Perez
Eric Foster
Jim Frisco
JaPaul Harris
JoAnn Hawkins
Robert Kasper
Farhio Khalif
Marfa Malcolm
Pat Mancini
James McClean
Wintana Melekin
Tabitha Mitchell
Ted Natus
Maureen O’Connell
Stefan Pomrenke
Rose Roach
Lenny Russo
Erika Sanders
Lisa Stratton
Michelle Thom
Rich Varco
Daniel Yang

Attendees Not Present:

Matt Kramer
Joanne Mullen

Ja Paul:

Introduced himself; bio in the ESST Binder, HREEO Commission Chair.

Why we are here and the purpose of this Task Force.

The Task Force is put together for the purpose of developing recommendations to the City Council and the Mayor on an ESST ordinance. The Task Force includes a broad spectrum of business owners and citizens of the City of Saint Paul.

The purpose of this meeting is not to determine if we are or are not going to have an ordinance. The purpose is to determine what will be in the ordinance. The City Council will then determine the next steps.

The purpose is to get as much input from business owners, activists, citizens, residents to come up with a recommendation of an ordinance that is as palatable as it can be for all.

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Only Task Force members will be allowed to speak during the meeting. Citizens present may observe. Meeting minutes will be taken and reviewed.

Meetings have been divided into 6 meetings. Final meeting will be a review of recommendations.

<Task Force Introductions of Michelle, Erika, Daniel, Alex, Maureen, Eric, Jim, Wintana, Rick, David, Pat, Bobby, Tabitha, Lenny, Ted, Rose, Ann, Stephen, Joann, Autumn, and Steve (via phone)>

Co-Chairs of the Task Force:

Matt Kramer, Saint Paul Chamber of Commerce

Rose Roach, Minnesota Nurses Association

<HREEO Staff Introductions >

Ethan Hansing, city staff liaison to ESST Task force

Alex Dumke, Labor Standards, HREEO Public Information Officer (media communications)

Jessi Kingston, city staff liaison to ESST Task Force and HREEO Director

JaPaul:

Agendas will be provided via email for meetings going forward.

Agenda for today:

What ESST is?

Why ESST needs to happen now.

What is the importance of doing it at this time.

Discussion about what public has said so far through information gathering

Obtain the views from Task Force

Actual work on the ordinance

Today's meeting is solely on the scope of the ordinance. Who will be covered? Full-time? Part-time? Seasonal? Student Workers?

The resolution indicates 6 points that the City Council has asked the Task Force to review.

Primary components of ESST are developed to get discussion started. Today's meeting will focus on Questions 1-4.

Running the meeting – Do a consensus. If there is no consensus, the group will go to a vote.

Lay out:

Develop a recommendation

Present the recommendation to the HREEO Commission. They will either approve or deny.

If approved, recommendation will be forwarded on the City Council and Mayor for their approval.

City Council and Mayor will determine next steps whether it be to draft an ordinance or to reconvene the group to answer more questions.

Timeline:

Timeline is short.

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Meeting weekly for the next 6 weeks.

2nd week of May – have something for the HREEO commission

Beginning of June – have something for City Council

There is a lot of information to go through and it has been compiled in the ESST Book. The ESST Book will also be made electronically on the city ESST website.

<Task Force request for name cards at future meetings>

<Introductions of Hilario, Marfa, and Lisa>

JaPaul:

What is Earned Sick and Safe Time?

Task Force will need to discuss the terminology.

Difference between the two:

Sick Time is leave used for illness for yourself and family

Safe Time is leave used for safety issues such as court to file an order for protection, hospital visits as a result of being a victim to abuse, or stalking

Why now? ESST has been gathering steam. Minneapolis tried passing an ESST ordinance and was not successful. After having many discussions with various groups, St. Paul felt now was the time to discuss whether or not this is something St. Paul can do and if so, what should be in the ordinance.

Mayor Coleman has announced that the City will be extending this kind of leave to City employees.

Mayor Dayton indicated the same message for state employees.

There are a lot of localities looking into ESST. Minneapolis is again looking into ESST and will be having recommendations coming out soon.

Question for the Task Force, “What are your thoughts on Sick and Safe Time?” and “What are you hoping to get out of this meeting?”

David:

Restaurant owner of 3 and is fundamentally in favor of ESST. Concerns about the details such as how to track, how long a person needs to be an employee. The restaurant industry has a lot of turn over. Is this transferrable from one employee to another.

Pat:

Housekeeping questions. Human Rights Department is involved. Are we doing this as a human rights ordinance? Public safety involvement?

JaPaul:

The answer is “whatever we want.” Human Rights was tasked to do this. The commission has done studies in the past and it has the capacity to do this. This could possibly also be a human rights issue.

In terms of enforcement, this is an area that the Task Force will also discuss in terms of the details and where ESST should be housed.

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Pat:

Is there a reason why we are moving with this so fast?

JaPaul:

No reason. The ground work has been going on since 2015. Does not want to rush this. If in late April-May and additional discussion is needed, more meetings will be added. Another thought was, the HREEO commission does not meet in the summer. The City Council is also eager to have something.

Maureen and Rose:

The state of MN bill mentioned in the papers and in the news is called Paid Family Leave. This is a very different type of program. This is a bill established as an insurance program and is contributed by both employee and employer. The program covers family, bonding leave, medical healthcare and paid family.

Lenny:

How do you see this affecting with what we are doing here? Are we comparing apples to oranges with ESST?

Rose:

It is different. Paid Family Leave is more for catastrophic reasons and is a state issue. ESST is for local/city and shorter term leave.

Lenny:

What are we legally bound to do? Can the City enact an ordinance with what the State will allow us to do? If related to health, what are we allowed to do in terms of regulations and requirements?

JaPaul:

We have the ability to draft an ordinance. We can invite someone from the MN Department of Health. There are no state or federal law barriers that would not allow us to do this.

Daniel:

Clarification, the commission will vote on the recommendation before it is moved to City Council?

JaPaul:

Task Force will make the recommendation and present to the HREEO commission. HREEO commission will make the recommendation to the City Council.

Daniel:

Sees this as a racial equity issue. In terms of his organization, they choose to not have families choose between a paycheck and taking care of their family.

Lenny:

Are we looking at this as a social economic issue? Or are we looking at it as a health issue?

Daniel:

Both are intertwined. I don't see them as separate at all.

JaPaul:

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Both social and public health and economic issue for businesses.

Stephen:

Family Physician. It is a trust issue between employer and employee. Employees cannot tell employers that they are sick. If the motto of St. Paul is to be “the most livable city”, this is a great way to start that trust process. It is also a racial poverty issue. Dignity between people.

Rick:

In favor of ESST for St. Paul and this policy and want it to work. We need to hash out the details. Getting the details right. There are a lot of legitimate concerns that we need to address. General perspective is to keep it simple and keep it straight forward for the ordinance.

<Introduction of Farhio>

Farhio:

Don't know what it looks like in terms of this table. Hard for women of children who work 8 hours a day that gets calls from school about their child. The impact is real for the immigrant community. Mothers get sick from their child and are forced to go back to work.

Ann:

Excel has a generous benefit package. It seems some of the concerns is that this may make it harder for some employees rather than better. The way we work it that it would also benefit the employer.

Ted:

Employs over 100 employees. Has an issue with someone coming in to his business and telling him what he needs to do. He pays his employees. There is less than a 2% turn over. He cares about his people and has a hard time being told how to care for his employees by the government.

Rose:

Sees it from different lenses. Works for the Association of Nurses and nurses care deeply about their community. Doctors see the daily effect of not having good policies in place. Works on behalf of the labor union and negotiates for them. Also there as an employer and negotiates on behalf of management. Health is not a consumable good. It is a public good. It is good for government to step in and say that this is for the good of the public overall and therefore this is how we need to make it happen for the public.

Eric:

Restaurant owner and in favor of ESST for his employees. Are we going to raise the standards for other companies?

Daniel:

There are hundreds of places such as the McDonalds that don't have earned sick and safe leave for their employees. We need to raise the standards for those who aren't meeting those standards right now.

Pat:

How is a small business owner to manage the ordinance to oversee the red tape? Has union employees with paid time off, are they covered? Will he have to hire people to just to comply with ordinance? In

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terms of the safe time, from a male, needs to understand what that means and how the community is affected.

Wintana:

Representing members of KNOCK. A big piece of MN's workforce is retiring and there are younger employees who are getting exploited that are getting paid less, with less benefits. Value the people who are coming into our economy. What does the new economy look like for MN who values workers both employers and employees.

James:

With HealthPartners. How to deal with "casual employees" who are people that fill in for employees taking sick time. They are not low wage employees. Depending on hours, they may/may not get sick time. How would it work for these people? Depending on how the ordinance is written, this could limit the help people get with high premium pay. Health Partners has many pay structures for different employees.

Bobby:

Similar movements are going on around the country. The middle class is falling behind. It is about the quality of life, retaining employees, and keeping it simple.

Maureen:

Also works for Take Action. Based on a door-to-door survey on minimum wage, people really wanted to talk about ESST. People are afraid of getting fired if time is taken off. They will look at the enforcement aspect. There may be good laws in the books but they are not enforced. Keep it simple so that it can also be enforced. Focused on how this will be enforced.

JaPaul:

Pivot in the next hour. ESST Task Force Book includes 212 online comments and 4 listening sessions that occurred all over the city. The themes touched on "If in place, how will the ordinance effect one that is already in place", abuses of the policy, keeping the policy simple, etc. Issues against the ordinance were expressed in today's meeting. The book also includes study of various organizations. There is a grid of other cities that have passed ESST and cities comparable in size to St. Paul covering various areas. Use the grid as a resource on your thoughts and issues. Seattle and Washington DC ordinances included.

Talk about what is going to be covered in the ESST ordinance. Talk about the scope of ordinance. Who do you think should be covered?

Michelle:

Student workers should be on the list and discussed. There are some federal regulations having to do with financial aid that would come into play if student workers are covered under an ordinance. Additional work-study research is needed. Student employment program is really about augmenting the academic work that the school does and preparing them for their role in the future workforce rather than earning a wage. The list in the handbook does exempt student workers.

Steve:

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Clarification on the scope of student workers and FMLA (unpaid leave). Can employees access FMLA used for a day off? Not clear on the terms in which you can access FMLA. Employers who already have PTO, is it fair to assume that the PTO policy will cover employees?

Ann:

FMLA coverage is different than ESST coverage. FMLA is used for chronic conditions, missing 3 consecutive calendar days with incapacitating condition, must be employed for 12-months, employer must have 50+ employees to have access to FMLA, employee must have 250 hours in previous 12-months, etc.

JaPaul:

His opinion, that if an employer already has PTO policy that falls within the ordinance, they meet the ordinance.

Pat:

Questions about how union workers are impacted and how this works with unions.

JaPaul:

Will need to determine if folks under a collective bargaining unit covered? There are many ordinances that exempt collective bargaining employees.

Lenny:

One size does not fit all. In a restaurant, how do you determine who is covered? Do you accrue by the year? Month? Week? Hours to be worked? Compensation based on minimum wage? Or estimated gratuity? There is a difference between shifts (ex: Tuesdays shift vs. Saturday's shift). There is a serious wage gap in the restaurant business and it is difficult to close that wage gap. It is also difficult and challenging for restaurants to calculate these benefits (hours, benefits, over time, worker's comp, etc.) and how it impacts the employers. How will it affect his payroll taxes? We need to be careful with making this simple and "painting it with one brush stroke" because someone will get left out. It is complex for the restaurant industry. Life is not about work, but wants to be careful about an ordinance.

Jim:

HREEO commission. We have spent 90% of the time talking about sick leave.

The smaller your business, the more negatively impacted it will be on you on change.

Commission is looking at all extremes.

There is a huge equal component to Safe Time.

Seattle – What is allowed for Safe Time? Sexual abuse, safe time, stalking, etc. Within this frame work, asking businesses:

Question for the business, "In addition to paid time off, if they use them all up, but are in a domestic abuse relationship, how will safe time affect your business? What is the impact?"

This affects predominantly women. Part of this discussion has to be on safe time. "How would you value an employee who is in need of safe time? What is your take on safe time?"

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Lenny:

Sees it as any kind of request for time off. This also includes dependency when a person needs to go into treatment.

Jim:

The concern is that businesses are not being directed by the City to provide 20 hours or whatever that number may be. Cautions everyone to think about it because safe time will be a component of the results of ESST. We want to make sure that if something comes down to safe time...there is no perception that it wasn't discussed.

JaPaul:

There will be discussions around safe time.

Coverage-

Does everyone agree that those working within the boundaries of St. Paul should be covered?

Group:

Are independent contractors to be exempt? What about people who are traveling from outside St. Paul?

JaPaul:

Most of the ordinances out there exempt independent contractors. Do folks agree that independent contractors should be exempt?

Group:

Yes.

JaPaul:

Do folks feel that independent contractors should not be exempt?

Wintana:

Does not feel comfortable with the format that is being used. Need to discuss what other cities have done. Need to define what independent contractor is. What is safe time? What is the scope?

Requests a presentation on other policies first.

Ethan:

<Presents Seattle's Three Tiers>

Lenny:

What constitutes a full-time employee?

Ethan:

A person working 40 hours a week.

JaPaul:

Taking a different approach to Wintana's question. A lot of this information is in the handbook.

What do you need from the team? Time to review the book? More information other than what is in the book? If so, this information can be provided at the next meeting. Time to digest this information?

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David:

Find cities that have adopted a similar ordinance who are comparable to St. Paul not cities like San Francisco, New York and Seattle.

JaPaul:

Comparable cities are found on the grid. Cities such as Pittsburg and Oakland. Most cities that have this ordinance are progressive cities. Examples in the book include these bigger cities to showcase their “more well developed” policies for you to digest.

Will have speakers and presentations at the next meeting. Note that this may throw off meeting schedule. Want to be respectful of everyone’s time.

What are folks looking for? What are your questions that you are struggling with?

Wintana:

Requesting a comparison of these models from other cities.

Have a conversation about the timeline and draft it.

Feels rushed making decisions on Day 1 when the full scope is not on the table.

Talk about what is the committee? What is our structure? How do we decide who and when someone gets to speak.

Figure out the task Force’s model on how to run the table.

JaPaul:

As it relates to the goals, the Task Force was created to draft recommendation for City Council. We are not drafting the ordinance. Our job is to look at the individuals and who is being covered, exemption, definition of sick and safe time, etc. We are not drafting an ordinance. City Council will draft the ordinance.

JoAnn:

Define sick and safe time.

Wintana:

What is the voting model? Is it a consensus? Is it a majority? Are we writing statements down? What is our format? How does the Task Force decide?

JaPaul:

We are taking minutes. Assumes that majority wins. What are folks’ thoughts? Do we have to have full consensus to feel comfortable? Or are we comfortable with a voting model where the majority wins?

Others:

What is a consensus? Not everyone will agree so a consensus will not work.

JaPaul:

A consensus is when everyone agrees. Do folks have other ideas in terms of how you want the meeting to run? Delegate who gets to speak?

Wintana:

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Maybe have someone from Minneapolis come to speak about their model. Their committee is run extremely well. Their consensus is scaled. Would help us with a better decision-making model.

<Issues expressed by various>

Lisa:

Layout of the room, no signs, directed by Community Center staff in the wrong direction, not giving the opportunity for others to speak, hard to hear. There are process issues that need to be worked out. Who is the chair? Not sure if there is an agenda?

JaPaul:

Am I speaking loud enough? This meeting room is the room that we had. Next meeting will be larger on the 2nd floor to accommodate 400 people. It was a bad choice of room.

Lisa:

JaPaul to sit at the front of the room to see everyone.

JaPaul:

Next time, all of this will be worked out.

David:

Have speakers that are subject matter experts on topics that can address the group such as Safe Time at one session then we can have a discussion to make decisions and recommendations.

JaPaul:

Who do we want to come in and speak? MN Department of Health who have done some study on the health aspect of things. Someone on domestic abuse.

JoAnn:

Can get someone to speak about domestic abuse from the women shelter.

Rick:

Identify plus and minus items from everyone. Does not help to ask, "Are you for or against..." but rather, "Is this something you want..." and then pile up what people like and what concerns people. Discuss potential opportunities to alleviate peoples' concerns on items. People may feel like they cannot sign off on things until they see the whole deal.

Daniel:

Regionally, what else is going on? Legislation is moving at the state level. For example, what is Minneapolis doing? What is the State doing? It would be good information to know so that St. Paul can align their scope/criteria to what others are doing...does not need to match but be comparable in terms of hours, who is covered, etc. Building a base and then carve out exemptions.

Stephen:

Suggests the Commission of Health as a speaker. "Get it from the head." Stephen knows this guy. People are people and you're going to get sick. This needs to be universal.

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Lenny:

Restaurants are required to keep a log of who is sick, what the illness is, and that they are clear for 24 hours before returning to work.

Ann:

On sick leave, there is already the Women's Economic Security Act at the state level that may cover some aspects of domestic safe time situations.

On federal contractors, there is a federal paid sick leave by executive order scheduled to go into effect January 2017.

Rose:

Process and structure issues with the group. Create transparency such as, "This is what "I" bring to the table."

JaPaul:

It was covered at the beginning of the meeting. We can do it again at the next meeting. This Task Force was put together purposefully. There are community members, small businesses, community activists, union members, folks in public health, and lawyers. At the next meeting, we will make sure to have an agenda. In agreement that siloing the discussion is not going to work as folks have questions about items outside of these silos. Next meeting will be an informational gathering.

Pat:

Safe Time – What is it? What is it not? Confusing for men.

JoAnn:

Confidentiality on Safe Time from an HR perspective – It is not the same as sick time.

How much does a person have to disclose to their employer. Suggest adjourning early to read book and be ready for discussion. Have agenda and outline ready for the next meeting for information gathering.

Jessi:

Clarification on information gathering. What specifically are you looking for? To line up presentations and speakers to be here in a week? What details are you looking for in a presentation that is not already in the book? The book has a summary of a lot of the ordinances that has already passed.

Pat:

Current regulations out there and in the near future.

State regulations.

Presentation on how each differs.

Wintana:

What is the model on decision making? EX: Have a spectrum from 1-5 on the issues.

Lisa:

More information on Safe Time – How it impacts the employer and employee. What are the fundamentals? Why we need it. How it impacts people at work.

JoAnn and Lisa:

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Would be happy to bring someone from Women's Advocate to speak.
Would be happy to speak on the topic of safe time from an employment perspective.
Ask the group what they want to know.

Bobbi:

Name plates to get to know each other.

Ted and JaPaul:

Independent contractors – A classification of employee that will need to be discussed.

Eric:

Don't want to spend a lot of time on big presentations on topics already in the book.
Have presentation on each discrete issue, here is the scope of the issue, different approach and results that cities took.
Have intro to the topics and issues (EX: What is an independent contractor, etc.)

Maureen:

Review the primary components of ESST, and look at these questions through the lens of the employer such as issues that will surface, etc.
Provide a higher level of what the issues are.
Urge other Task Force members to reference the grid in the book. If there are questions or you don't understand, send questions to the staff such as terminologies.
Provide presentation on enforcement.
Put information into context. What does the City currently do to enforce?
Chunk the information into key questions.
Would like to see a roadmap of when we are going to talk about this "chunk" of issues the Task Force will tackle.

Daniel:

Question for Rick, "How do you make decisions without addressing one thing and not trying to make it be siloed and build it at the same time?"

Rick:

Share what your main interests and issues are in these buckets.
The main thing is to cover everyone as much as possible, everyone in the City of Saint Paul
There are grey areas such as big companies like Ecolab and HP that employ people in many places.
Not interested in carving out different industries.
We can talk about how ESST applies in different ways but not to this person and that person. This will be administratively burdensome.
Will eventually need to lay out details such as hours, accrual time, etc.
Have the criteria applied universally.
Talk about scope and then move on.
Have tentative agreements on subject items

Lenny:

Talk about how life experience has been impacted and what their perspective is.

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Lisa:

Process – Identify buckets and sets of issues to discuss
Have high level bullet points such as “This is important because...” and “These are the oppositions because...” for focused discussion.

Pat:

Safe Time – Provide a list of what it all includes

JaPaul:

The issue on a safe time list is that each municipality has its own list
Can show these lists and determine what St. Paul wants
Ultimately, determine what St. Paul wants.

Agenda to be emailed
Will put things into buckets. First bucket being the scope.
Have a speaker on domestic abuse
Have a presentation by MN Department of Health

Tabitha:

Provide more information in advance in order to be prepared.

Rose:

Additional information provided in the book, pages 3 and 9.

Rick:

May 17th is the deadline in the resolution.

Maureen and Alex:

Public Data – Anything said and shared here is public information. Media may be present at these meetings. If questioned by the media, answer or re-direct to a staff. Emails between Task Force members are public information. Personal emails outside of this circle are not public information.