



THE CITY OF SAN DIEGO

**CITIZENS' EQUAL OPPORTUNITY COMMISSION
REGULAR BUSINESS MEETING**

MINUTES

Wednesday, August 5, 2009

6:00 P.M.

**City Administration Building
Council Committee Room
202 C Street – 12th Floor
San Diego, CA 92101**

ATTENDANCE: Commissioners:
Rebecca Llewellyn, Dr. Sarah Young, Debbie Day, Dr.
Shirley Weber, Alden Salcedo, Stamp Corbin, Bradford
Barnum, Eileen Chaske, Maurice Wilson, Daniel Salas

MAYOR'S STAFF: Sanna Singer - Deputy City Attorney, Debra Fischle-Faulk-
Director of Administration, Hildred Pepper – Director P &
C, Terrell Breaux - EOC Supervisor, Ronald White - EOC
Associate Management Analyst, Laura Davis - EOC WPO

PUBLIC SPEAKERS: Rosalind Winstead

Item 1: **CALL TO ORDER:** 6:04 p.m. by Chairperson Rebecca Llewellyn.

Item 2: **APPROVAL OF JULY 15, 2009 MINUTES & TODAY'S AGENDA:**

MOTION: To approve the July 15, 2009 Minutes with spelling correction of
Commissioner Corbin's first name and Agenda for August 5, 2009

Commissioner Barnum: Reminded the Commissioners of the action items
and staff report, he is not going to participate in discussion of item 4 and
asked that the chair move the staff report Item 6 to be first item after
public comment.

Commissioner Llewellyn: You just had my thought in mind, responded

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that is what she intended to do. Do I have a motion to approve with corrections and changes?

Made by: Commissioner Dr. Weber

Second by: Commissioner Chaske

VOTE: PASSED (Yea-9; Nay-0)

Item 3: PUBLIC COMMENT – AGC Lawsuit by San Diego Chapter:

Rosalind Winstead spoke about the need for increased accountability by the CEOC and enhanced transparency regarding the City's EO efforts. She mentioned two things. One, she shared her thoughts on the local Chapter of the AGC filing a lawsuit challenging a disparity study and secondly, her concerns that EOC staff be more attentive with regard of its' impact on the Commission's ability to meet and act in a timely manner to address critical issues, particularly given the stimulus funds that will be allocated through block grants.

City Attorney Singer: Suggested to the Chair that AGC comments could be presented with AGC agenda item as it appears last item on agenda in the meeting.

Commissioner Llewellyn: Asked that if Ms. Winstead was able to be present for the item later on the agenda and could she hold the AGC comments until then.

Ms. Winstead continued with her public comment indicating that was all at the moment on AGC. She concluded the minutes do not reference the lack of a performance baseline for EOC in FY 2008 or the unsubstantiated performance assertions for FY 2009 and 10. She presented EOC staff, Laura Davis, a typed page of her entire August 5, 2009 public comment which is attached to these minutes for the record.

Commissioner Llewellyn: We are going to change the order of the agenda. We have two staff reports tonight that we have eagerly been waiting for. I would like to go to item 6.

Item 4: ACTION ITEMS: Small Local Business Enterprise Program

City Attorney Singer: Debra Fischle-Faulk and I have been working on fine tuning the draft small local business program and revising the policy. We are also working together to figure out the best way to amend the Municipal Code to accomplish that program if that is the direction council chooses to go in. We will be returning to you with revised program and a

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draft ordinance when we are done with our process. I'm not sure when that is going to be, but we are on task.

Commissioner Llewellyn: I had in my notes that you were going to define small business, has that been done yet?

City Attorney Singer: Actually, that definition is still in flux. We got a lot of community input on how best to define that. Debra also said that we're trying to pull poll together all the community input and that in form of some of our revision so that particular definition is a complex one and we're still working that out.

Commissioner Dr. Weber: My assumption in your process, so that we are clear. Is that you are working on this draft and whatever code regulations that have to be adjusted that will come to us before it goes to City Council for our input, is that correct? So we can take a position, in favor of or not in favor of the report. That we won't get it after the fact, but prior to going to Council or any other committees that it needs to go to, is that correct?

City Attorney Singer: Yes, Rules committee specifically requested that we get stakeholder input before we went back to them.

Commissioner Llewellyn: When?

City Attorney Singer: I don't know that is a question for Debra. I don't know.

Commissioner Llewellyn: I had AGC lawsuit as an action item. I personally as the chair, I do not want to write a letter because this lawsuit is in a court. I think the court should rule before I comment. Do you want to comment?

City Attorney Singer: Yes, just to comment before we go into any sense of discussion on this item, previously the commissioner had asked me to look into conflict of interest question regarding Commissioner Barnum. Whether or not he should participate in the discussion prior to the vote, our office did look into this issue. The CEOC Bylaws state that the CEOC will abide by Council Policy 000-4, which is our Code of ethics and ethnics training policy. I actually brought copies for everyone. This is the Council policy that governs the Commission. The key portion in the council policy that applies in this situation reads, 'no elected official, officer, appointee or employee of the City of San Diego shall engage in any business or transaction or shall have any financial or other personal interest direct or indirect which is incompatible with the proper discharge of his or her official duties or which would tend to impair his or her independence or judgment or action in the performance of such duties'.

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And pursuant to that portion of Council Policy, we advise on this item that Commissioner Barnum we recommended that he abstain from vote and abstain from the discussion.

Commissioner Barnum: I do agree with that. She sent this to me this morning. I do have a clarification that I would like to ask. I will step down and listen to the discussion. The actual language that she just read to us, our chair woman is a woman business owner and works for contracts for Caltrans. This lawsuit one way or the other could effect if she would be advantaged in UDBE situation. I am just questioning if she is in the same situation as I am. So, it is a vote on the lawsuit. I'm stepping off stage and going to listen. I'm not sure what the attorney says about this.

City Attorney Singer: I would say essentially, the Code of Ethics Policy is not a clear black or white answer whether or not someone is conflicted or someone is not conflicted. There's always an insinuated examples, hypothetically theoretically would someone benefit from the lawsuit being successful or unsuccessful. So you have to look at how direct, the interest is. Essentially, our office could give advice, but it is up to you all as a commissioner, do you feel comfortable that you can abide by this code ethics and not be biased in your decision on this particular item? If several of the commissioners feel that they couldn't give an unbiased vote on this item, another option would be for the commissioners to write individual letters if that is one way that they wanted to go. But essentially, you the commissioners need to abide by the policy and so I could give you my advice but it is ultimately up to you whether you are comfortable voting on it or not. I would say if there is a substantial interest which is pretty clear in the outcome of the litigation, if the decision is to abstain from the vote we recommend also abstaining from the discussion because the discussion can influence the other commissioners in their vote. That would be my recommendation there, does that help?

Commissioner Llewellyn: What is the pleasure of the Commission?

Commissioner Salas: At the last meeting, there was discussion about having a resolution to have the commission send some sort of position relative to the lawsuit. I have no problem addressing that in more detail when there is something to review. I sort of personally said I will not volunteer myself to draft such a letter. But I think maybe the appropriate way to deal with this is to continue this as an action item, unless someone else as something to propose. Then have the Commission actually review a proposed statement that is more specific. My personal view is I don't know if I feel comfortable voting on anything in a vacuum unless someone has a more specific motion.

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Commissioner Corbin: I thought that the action item at the end of the last meeting was that we were going to get a draft letter tonight, of a statement that we were going to review. That is what was agreed to. So, I know there was some conversation between the two of you about who was going to draft the letter. Had I known, I would have been more than happy to draft the letter. We are now here and we don't have anything to review, so therefore we don't have anything we can vote on. It is a little frustrating to have had that conversation and then not have an action.

Commissioner Llewellyn: Are there any other comments commissioners?

Commissioner Corbin: More than happy to draft letter. We'll have the letter at the next meeting, September meeting.

Commissioner Dr. Weber: I am making an assumption that the Commission wants to make a statement of some sort. Is that correct or incorrect? I think we need to know that. Then we can decide if we really want the specific statement.

Commissioner Barnum: I think it was a response to the AGC letter.

Commissioner Dr. Weber: We did receive a letter from AGC to the Commission, so I assume we are going to do a response. Corbin is going to draft a response for us. I think we are basically arguing the moral issue of such an action in the environment in which we exist as a City and as we struggle with these issues of equal opportunity that we are constantly bombarded with. It sends a chilling effect on the City.

Just to give you some information, I have been involved the last three days with the National Bar Association that is here in San Diego. This organization brings hundreds of thousands of dollars into this City. There are about 3000 African American lawyers here down at the Hilton on the bay front. It is interesting I remember when they were trying to get the Bar to come here to San Diego, they were scheduled to come and they canceled because of Prop 209. They decided after 10 years now and they are still asking questions about equal opportunity. At Opening event on Monday night, everybody got up and talked the 'Finest City', this woman leaned over to me and said, 'but you folks have a whole lot of lawsuits here against equal opportunity, don't you?' I said, 'we have more than we need given the lack of equal opportunity in this City'.

It was interesting that is uppermost in the minds of individuals as they come to the City and participate in activities around the City. It not only comes from those, the woman sitting next to me was from Los Angeles, but another woman from Philadelphia who raised the issue, and one from Chicago. They are aware of what goes on here. And at the same time they were celebrating activities by Microsoft and Sony that have these

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major projects to increase diversity in legal profession in the corporate area. They are providing incentives for their vendors to hire African American attorneys, women, in order to begin to bring them into the corporate environment. Other places are doing and some real innovative things and we are once again back in the Stone Age dealing with 209 and all the dragons attached to that.

I think it's important that there is some kind of moral statement and I glad Corbin is going to address that for us. As a Commission we are constantly struggling uphill. In every event I go to, whether it's this one or vendor thing I went to the other day, I hear these horrible stories about how difficult it is to do business in San Diego. Our numbers are not good and even though we look at the small percentages someone constantly reflects me back before Prop 209 before the AGC lawsuit the large number of people who were doing business with the City. The hope and opportunity that's there, I had a group of college students who were coming to university today on a tour that were asking the same question, are there really opportunities for people of color in the City of San Diego? Start businesses, to do business, to grow, to develop, but work with either the City or the County. The general atmosphere is no it's not. For me as a parent of professional children, who don't think about coming back here because there's not much opportunity to come here, it is difficult to talk about this City growing and our numbers keeping dwindling so we are looking at a point 9 or point 1 whatever business is out there. Because the reality is that the word is out there, that this is not a place for people of color come to do business. When we are constantly confronted with lawsuits, it compounds the struggle to create an atmosphere that would promote more opportunity. So even though we can talk about the right the wrong at some point the think the commission has to address the moral issue that we face. In this City as diverse as it is in terms of population, yet not having the same level of level or vision of opportunity for people of color. It is imperative that we make a statement. And that we have or statement, if we want to defend in press I have no problem, but I think it is important that we do that. We are constantly struggling with these numbers, this reality, the commission is going in circles and we are trying to make a difference. A lot of what happens in making a difference initially is perception that difference is possible. And if you do not believe it is possible, it will not happen.

Commissioner Llewellyn: Equal opportunity is certainly very important to me and I would certainly recue myself if the AGC feels that I am a threat as the chair of this. I have a co-chair that would be very pleased to chair meetings, maybe that is the best way to go and then there is no question.

Commissioner Barnum: Rebecca, I would just like to clarify that. I'm not saying that you are a threat.

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Commissioner Llewellyn: Let's just leave it like that for the minutes, and I'll hear a motion to adjourn.

Commissioner Salas: I would just like to finish with comments, I know Stamp didn't need to take any notes but I think that what we are thinking about is a letter which recites almost to the word what Dr. Weber just said in terms of the importance of the mission of this commission and the perception of the City of San Diego does not enjoy outside in terms of whether we provide equal opportunity of a diverse nature. I look forward to seeing a draft.

City Attorney Singer: A point of clarification, the letter should be addressed, because this is an advisory body, to City officials the Mayor and Council members and Rules committee.

Commissioner Corbin: It will just be the letter.

Commissioner Salas: I suppose in terms of a lead in. What we are suggesting is that the CEOC has been discussing these issues and that they advise and recommend the City Council in essence take the same position that we are going to propose.

City Attorney Singer: I am just commenting, when drafting a letter it's nice to know who your audience is. That's the context of which it would be appropriate.

Item 5: DISCUSSION ITEMS:

Commissioner Weber:

Item 6: STAFF REPORT: Beth Murray - Deputy Director, Economic Development, Deputy Director City Planning & Community Investment and Angela Nazareno - CDBG Program Administrator

Beth Murray: Ms Murray greeted the commissioners and said she oversees the CDBG program. She introduced Angela Nazareno as the City's CDBE administrator of that program indicating Ms. Nazareno should be able to answer their detailed questions. Reference was made to a spreadsheet of the micro enterprise recipients provided for commissioners. The summary of 15 different agencies that have been funded under micro enterprise dating back to 2007 through the current fiscal year 2010, what's portrayed for each of these agencies as their goals for CDBG application submitted and what their award and expenditures were. At this point, do I need to do an overview for the group? CDBG program has been going

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through a tremendous amount of reforms over the past two years based on audits we have received from HUD, Office of Inspector General, for practices how we loan money through the program to agencies has been under scrutiny for two years. Ms. Murray state she has been with the program since Jan 2009 and Angela is a returning City employee has been CBDG administrator for about one year. We are trying to totally revamp the program to make it more compliant with HUD regulations. Many practices that the City has done in the past and been found not totally compliant with HUD we are reviewing and revamping. With that said we can go through the spreadsheet or we can just take questions on the agencies.

Commissioner Llewellyn: Let me ask the commissioners, do you want a history update more than she has given you?

Beth Murray: In terms of how the CBDG program has gone, I can touch on that but may have to turn to Angela to get into more details, basically the what the HUD findings and Inspector General findings the City was woefully not in compliance with regulations. We lacked proper procedures for monitoring sub recipients in terms of when we would grant out money to agencies, we did not have proper protocol in place, we I mean the City failed to make adequate on site monitoring visits, failed to document appropriately as required by HUD as you may know like several all federal programs a key portion of compliance is document, document, document. And over years the City had dispersed responsibility of the CBDG to various City departments lacked centralized control over these funds. We are talking funds in the range of 14, 15, 16 million dollars a year, from this program. HUD came down with one of their findings that we need to reform and centralize the program. In 2007 steps were taken, the Mayor reorganized the program was placed in City Planning Community Development under the Economic Development Division. We have closed up some of the loops on decentralization that we were practicing. So for those programs or contracts that other departments handled we have formal memorandum of understanding, which is one of the reforms. We have also tightened up the Council Policy, in terms of the amount of the awards. The City use to grant out small amounts to a variety different agencies, meaning as little as \$5,000 and \$10,000 so staff was required to do a lot of contracts to monitor which made it more difficult to get out and do the site visits and such. So one of the reforms was to increase the minimum threshold of awards to \$25,000, and the City also put into place that the money needed to be spent within 3 years. A lot of times we would award the money and it was not quite enough for the agency to do the program, so they would bank it. So the next year they would ask for more funds and that may not have been enough so they would bank it, so we would not see the money getting into circulation and doing what the things it was suppose to do. So we have tightened up on

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that as well. Those are the major things. I am turning to Angela now to see if I have forgotten any of the major reforms we have done so far.

Angela Nazareno: I would say at this point we are still under the rest of the reforms, and at this time, we haven't taken anything to our PS&S committee or Council for discussion but they are just topics that we are thinking about. We are looking at ways to eventually go to a performance based contracting as we stand today we do not have that. The application allows for folks to put in a scope of work and budget. And we hold them to the scope as far as just getting the documentation in and hoping and crossing our fingers that they get as close to the number that they said they were going to do by the end of the year. In the future we are looking to go to performance contracting which would mean that we could issue RFP's asking for a certain number to be served for a certain dollar amount. If you don't meet that you will not get paid for the service that was not met or the goal that was not met at that point.

Commissioner Corbin: On that point there was some discussion at the last meeting that we had. We had some concern that there are these large awards that are not being used and we were told that is it because they are reimbursement grants. So you have to spend money in order to get money back. Is there a process where there can be pre-approval for these expenses? So that these organizations do not feel that they are out on a limb before spending the money that they have formal approval that it is going to get approval by the City. It is clear to me that when you give someone \$74,000 for example the alliance for African assistance and they do not spend any of that money there is a problem with the process. So Beth has said she wanted to see the money out there and be in circulation. Well it seems that we still have that problem based on how we are reimbursing the organization, so if you could address that.

Angela Nazareno: Sure, our contracts are all reimbursable contracts. The Federal government does not allow us to advance any of the funds at all. It is only for the services provided or let's say if it's what we call a brick and mortar project, public facility, tenant improvement they have to have the improvement done prior to us paying them. On that note though, if they have a scope of work and they say they are going to do XYZ and they do ABC and they disregard their scope of work and the budget that they presented to staff and we route it through the City and everybody approved it and what the 1544 process is and the City Attorney, purchasing and everyone's agreed to it and they don't follow that scope of work and they do not hold to that budget we are not required to pay them.

Commissioner Corbin: I wasn't assuming that they were not adhering to the scope of work. The issue is I can imagine being the executive director of one of these organizations. I want to go spend the \$74,000 but based upon my history with the City there may be some issues even though I'm

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adhering to the scope of work that I don't get certain services paid, so is there a pre-approval? That I go and say, here is the brick and mortar project here's the contractor I'm going to use. Here is what the bid is. Can I submit it and you will tell me yes I will pay it as long as it adheres to that?

Angela Nazareno: That is the scope of work. That includes if you are doing a brick and mortar project which would be a public facility improvement or an improvement into a non-profit facility. As long as their bid meets the criteria that is set by HUD and by the City and everything is signed off and it's in that contract and they say they are going to perform and use that contractor. If they change contractors that is a change in SCOPE and they do not notify us and they pay a different contractor and we do not have that vendor on the SCOPE that was approved then we cannot pay them. If it is everything in the SCOPE like you said, that's their assurance that we will pay them if they follow the SCOPE. The SCOPE is very detailed.

Commissioner Corbin: So why do you think the people are not spending the money?

Beth Murray: There are also the documentation requirements that our Contract Administrators will require. We have a checklist of everything that the applicant or recipient or agency needs to abide by so whether it be, the Davis-Bacon requirements.

Angela Nazareno: It could be City insurance. We have got a lot of requirements with City insurance.

Commissioner Corbin: Why would someone not spend \$74,000 that you gave them?

Angela Nazareno: I can tell you that a lot of the non-profits that we work with right now can't afford to front the cost, period. They do not have the physical capacity to do the required reimbursement schedule that we have for them. This is where we are going. One of our reforms last year was, all of our agencies had to pass a fiscal audit. In that fiscal audit, they had to show that they at least had three 3 months of cash to hold them over between the time that they incurred the cost, paid their vendor, submit their request for payment to the City, the City reviews it, the City submits it to the Comptroller, the Contract Administrator submits it to Comptroller and Comptroller cuts them a check. We have got to allow enough time for the City to do what they need to do and the agency to pay that person to then get reimbursed and still have enough operating cash to allow them to continue and stay afloat. What's been happening is that these agencies are applying for funds that they cannot afford to do that. In the past, there have been advances to these non profits which we are no longer doing. In

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the past, a lot of different departments ran these projects for these non profits and the City fronted the costs. We are moving towards not doing that kind of system either. So these sorts of things will stall it. Also a change in staff, lots of non profits have come to us and said hard times changes staff, scaling down hours, personnel everything like that. So there's a myriad of reasons why, but that is typically the one at the top.

Commissioner Corbin: It is just very disconcerting to see that the City has \$540,000 in block grants and \$141,000 was spent last year. So that clearly indicates that there is a problem with the program that needs to be addressed. If what you say is true, 'we want the money out there working in the community, it clearly is not happening. Something needs to change. If you are looking at community development at micro enterprise projects and to expect someone to have \$75,000 plus their operating expenses for their organization and to wait 120 days to get paid. The program doesn't work. Any small business person will tell you that. If I had that kind of money I wouldn't be coming to you.

Angela Nazareno: There are some non profits that do this and that's all they do. Then there are other non profits on this list that that's not the only thing they do. And for those, that only do micro enterprises many of those non profits could afford to do this. Those that do a lot of different things, you're right, they can't. One of the ways we can tackle this, and we're looking at very closely and you bring up some very good points, is that this kind of activity would probably go out for an RFP. To find out with the requirements that the City has, and to meet all these Federal guidelines, and to get the work done and the money out to the community as fast as we can, we need to know who has the capacity to do that, and that's in through an RFP.

Commissioner Dr. Weber: Could you address what communities these program are targeted for? Because, I think that is one of the challenges and one of the issues that the Feds came down on you that we were distributing money into communities that did not meet the requirements. Is that correct?

Angela Nazareno: Actually, there are two parts to that. There are some activities that you can do citywide, that do not have to reside in what HUD would call low to mod census tract. A low to moderate income census tract that is where the majority of your CDBG funds need to fall. South of the 8 you have district 3, district 4 and district 8 making up a majority of those low/mod census tracts. You want to get the money out and into those communities. That does not mean that other districts do not have those census tracts as well. So there again, just depending on the activity. Micro enterprise is what we call a limited clientele. Which means that we ask the person that is receiving the money are you a low income household? And if they are, it doesn't matter where they reside.

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Therefore, this could be a citywide program. If we do a public infrastructure improvement like streets, curbs, gutters you need to have that kind of activity in a low/mod census tracking. You cannot go outside a low/mod census tract. To go into all detail on all those activities we would be here for quite some time. But to give you just the down and dirty, that how a micro enterprise would look you can do it citywide.

Commissioner Dr. Weber: With the assumption is that the majority will be in those low income areas. Is that correct?

Angela Nazareno: The idea of micro enterprise is to create jobs. That is what we are counting. And we want to know from these micro enterprise folks are you creating jobs to low/mod residents. And that is what we are counting. Again, we are not here to say that person has to reside in district 3 or district 4 or district 8. We are simply saying that they need to create a job and you need to show us proof that you created a job and that person qualifies.

City Attorney Salcedo: Yes, you mentioned that you do conduct an audit when looking at the various agencies for issuing of block grants. What other criteria do you use for approval aside from the financial audit?

Angela Nazareno: Well, again it is not performance based so some of the criteria we look at is, are they a 501C3? The non-profit cannot be debarred, they must meet the City Insurance requirements along those lines they must have a single fiscal audit. It can be their I believe we will accept their last year tax return as well, but anything over \$500,000 needs a single audit. The activity has to be eligible. This also can be viewed through our application, which is online right now on our CDBG web page. But, that's just most of the criteria we look at right now is a minimum. In order to really go to a performance based contracting, 99% of the other cities that receive CDBG funds will take it out for an RFP. If you know what you are looking for and you want to get the work done and you know what qualifications need to be met and you have some strict rules unfortunately that they need to follow you are going to have your best success through an RFP.

Commissioner Llewellyn: Could I ask, the insurance you say that you have to have City insurance. Is that the same insurance as the contracting?

Angela Nazareno: I believe it is the citywide, forgive I am not really well versed on all the City insurance. We go through the Purchasing and Contracting department. We have a liaison there that reviews all the insurance. What they have to do is indemnify the City, that we are second or third in-line for any liability that happens and a lot of times that is extremely expensive. So if you are giving someone \$25,000 and they are

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spending \$5000 or \$6000 on insurance by the time they are ready to do the project it is just not feasible.

Commissioner Llewellyn: But it is not a standardized insurance policy?

Angela Nazareno: The City does have standards, yes. Again that could vary too on construction. On the construction side, we have project managers over in Engineering Department that will be running that and have their own set of requirements.

Commissioner Llewellyn: I know but that makes it very difficult when you have different processes.

Hildred Pepper: Actually for construction has set of insurance standards. There are a set of insurance standards that are lesser than the construction standards for a project of this nature and it depends upon the project that will determine the actual insurance requirements for each one on those types of contracts. So these would definitely be significantly less than those for this type.

Commissioner Llewellyn: And what about bonding? Do you require people that receive these to be bonded?

Hildred Pepper: Yes, if it is a construction contract depending upon the dollars. It would require bonding if it reaches the limits that would require bonding. Usually, if these are smaller contracts so a performance bond would not necessarily be required, but may require a payment bond. But in certain cases depending upon the dollar as long as they are paid at the end of the project, will receive one payment, inspection and certification that the project is complete then we could look at waiving those requirements again depending on the dollar amount.

Commissioner Llewellyn: Are there other questions, now is your chance to get all of your questions answered. Since this is Federal, is it all prevailing wage?

Angela Nazareno: Yes, it is. Yes and again that depends on the type of activity you are doing. Obviously, if are doing we have what we call Public services which basically is providing a service to a at youth risk the agency is not required to pay their staff all prevailing wage. If you are doing construction, yes.

Commissioner Llewellyn: Since this is Fed are there any goals for it to go to minority business. Do you try to make it go to minority businesses or minority organizations, women organizations?

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Angela Nazareno: Yes, we do have reporting requirements that we need to submit to HUD annually. And we are working very close with EOC to make sure that our reports are up to date and current. We do collect that information from each project. The agency that receives the money they may hire subs. Those subs are required to turn in documentation, workforce reports for the non-profit and the subs to determine, who are hiring, and who they are bringing on board and demographic information as well.

Commissioner Llewellyn: Now is all that information after the fact? You do not go out and do field inspections?

Angela Nazareno: Yes, we do field inspections. We are required to do onsite monitoring visits. We are required to go out and see what is going on to make sure request for payment match what is actually happening at the facility that the activity is taking place. So, yes we do.

Commissioner Llewellyn: Do they have to fill out a final utilization that shows everything that went on in that project?

Angela Nazareno: We ask for a year end close out report. And that close out report captures everything that happened during the year. Obviously, within twelve months we get quite a few narratives and help us report to HUD which is called our CAPER report. The consolidated annual performance evaluation report, we capture all that information to HUD.

Commissioner Dr. Weber: Are those issues in terms of who's getting contracts? And who's being hired? And so those kind, are those variables that are utilized before the project begins, in other words, will that determine who gets money and who does not?

Angela Nazareno: No, it is something that we look at but it's not something that other than HUD requirements reporting that this time the City doesn't use that, well EOC may, but from the CBDG perspective for the program we capture it because it is required by HUD.

Commissioner Dr. Weber: But it is not done in advance to say that this qualifies you for funding because you have committed to do certain kind of work or you are a minority business or woman business or something of that nature?

Angela Nazareno: At this point, we don't have any RFP's to do performance based and that would be a reason to go out for an RFP. We could actually RFP out for minority owned woman based businesses to receive money from micro business enterprises activity. We could do that but at this time we do not.

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Commissioner Dr. Weber: Who determines who gets this money? Is it the specific City Council; is there a committee that evaluates who gets the funding?

Angela Nazareno: The Council determines who receives the allocations right now currently there is a 60/40 split. The 40% of it goes to the Mayor's office. 60% goes to the Council districts and based on the percentage of the low/mod census tracts that reside in each of the districts money is split up accordingly.

Commissioner Dr. Young: I've got to ask, what are the requirements for disabilities and disability owned businesses?

Angela Nazareno: At this time, anyone is eligible to apply. We have no particular requirements for disability owned businesses.

Commissioner Dr. Young: No tracking?

Angela Nazareno: The tracking would occur if that particular business was funded, then we would do a workforce report and other reporting requirements to HUD to capture that information.

Beth Murray: The City does prioritize ADA in terms of our allocation per year though. In the past several years, it has been a little over \$1 million every year that we allocate towards ADA projects citywide.

Commissioner Dr. Young: Is there outreach, a category or is it just kind of oh by the way?

Beth Murray: We work with our disability services staff to help identify projects eligible to be funded through CDBG. It is through that office to help us prioritize the projects that will get allocated.

Commissioner Dr. Young: I take that has a NO by the way. There is no category. There is no outreach. There is no tracking.

Beth Murray: Is that required by HUD?

Angela Nazareno: There is a certain level required by HUD that we are required to do. But again everything that occurs within the CDBG program is based off of what we call our consolidated plan. That is our five year strategic plan and our disabilities coordinator which is also recognized as a section 504 for the CDBG program is Susan Madison. She has been very instrumental in giving us feedback on what we should do and how the ADA money should be used. I will note that one of the priorities, right now, for the CDBG program is to have ADA transition plan completed and that will identify a lot of the priorities.

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Beth Murray: It is in the comprehensive plan to finish the transition plan. A part of our five year goal and our five year planning, we can provide you with a link to our con plan, if you would like.

Debra Fischle-Faulk: I just wanted to give you some additional information about CGBD grant funds. It is not awarded in the same manner that City funds that go out to competitive bid. So they don't have goals for minority businesses or small businesses or sub contracting goals. That is not incorporated into HUD requirements. However, they do have a requirement section 3. A requirement where you are required to report hires. Section 3 hires are different defined as low/moderate income in a certain area. We work with them to identify and provide those reports. It is the hiring of low/mod individuals. Those are HUD's requirements and like I may have told you a couple of meetings back, when the stimulus money came in. I called HUD and said, can we put goals because it is Federal money? I still keep asking them and I'm not getting any response because it is not a traditional thing that they have done. So you will not get the same types of reports on CDBG as you would on City competitive bid process, but there is a requirement for HUD section 3.

Commissioner Salas: I have a question about the micro enterprise project summary. When is our fiscal year 2009?

Beth Murray: July 1 2008 –June 30 2009, so fiscal year 09 just ended on June 30 and we are in fiscal year 10.

Commissioner Salas: I am looking some of the companies/entities that were awarded grants. I take it for example that in fiscal year 2008, if there was an award but there was no expenditure, it is too late to be reimbursed in 08. What is the reporting requirement in request?

Angela Nazareno: Actually, at this time our Council policy 700-02 allows any of our awardees of CDBG funds to have three years to spend the money. We are looking at that a little bit more closely because we have what is called our timeliness report from HUD every year. As a participating jurisdiction, we are allowed 1.5 times our total entitlement in our bank with the Federal government. We are at 1.49, so we need to get the money out and spend it. So we are taking a close look at anyone who has funds prior to 09 sitting out there that has not been spent. We want reasons and taking a closer look having a re-programming hearing coming up in the next few months to take a look at those funds and possibly to reprogram them.

Commissioner Salas: I take it that if you got this 3 year leeway and someone had ideas in the works and has not yet spent the money and would like to. Do I understand you correctly, that money could be spent

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in fiscal year 2010 and draw upon awards that had not been spent in 08 and 09?

Angela Nazareno: At this time, that is correct.

Commissioner Salas: When you talk about revisiting the issue, is it a possibility that any awards that had previously been made but not yet spent would be withdrawn?

Angela Nazareno: There is that possibility, but obviously we would not do that without their knowledge and without communicating with them the situation. We would look at the Council office that awarded the money to these agencies to make sure everyone is onboard and agrees to if the possibility happens to reprogramming.

Commissioner Salas: I noticed there is a couple that for fiscal year 2010, the Black Contractors Association and, San Diego Hispanic Chamber of Commerce. In the 2010 category, they both say the agency submitted CDBG applications that were determined incomplete and was not considered for funding. If an agency submits an application and it is determined on the initial read to be incomplete, is the agency then notified and given an opportunity to amend its application to correct whatever incompleteness is there?

Beth Murray: It depends on the time that they submit their application. If they submit their application prior to our deadline and we find that there is incomplete information we will allow them time to return the application with the completed information by the deadline. If they submit it at the deadline, and it is incomplete they will not have the opportunity to resubmit.

Commissioner Salas: What if an agency believes that the determination that their application was incomplete was too picky or inappropriate. What are their rights? Are there any appeal rights?

Angela Nazareno: At this time, NO there are not. The incomplete application is based off of a checklist. That checklist is given to the agency upfront they know exactly what they need to submit. I do not have all the information on this, but because it is stating fiscal, I would assume that they were not able to submit a fiscal audit. That fiscal audit would then deem their application incomplete and that is not something that even if they turned in 3 or 4 days sooner would allow them to turn around and get that done.

Commissioner Salas: It doesn't appear that these two agencies I mentioned it doesn't appear that they don't know how to do this, because

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they both got awards in 08 and 09. Has any of the application requirements changed has to 2010?

Angela Nazareno: Yes, absolutely and one of the things I want to mention is although it is not just these agencies. I could say this across the board, in the past all the agencies have been funded by Council offices. We have simply looked at the applications for the kind of activity, make sure it is eligible, make sure they meet 501C3, and the general requirements other than that we do not turn them away we submit everything and forward it to Mayor and Council. So they have been the ones that have been funding these folks, again it is not performance based so there is no criteria that is attached to those applications when they are forwarded to say these folks were performing or in compliance or the other way around not performing and not in compliance. It is a little hard to look at these and say were they in good standing or were they not in good standing? This is simply just expenditures awards and expenditures. As far as the two you mentioned, they have been funded in the past and this year the fiscal requirement put them both out of the running.

Commissioner Corbin: Does that mean they can't spend the two years prior's money because now they are fiscally solvent? So, the awards that money they did not spend within the three years, they don't get that money either?

Angela Nazareno: Correct, because one of the requirements that we have now is a fiscal audit. If they cannot give us a fiscal audit for the years prior or for whatever reason it doesn't appear to pass the fiscal audit test that our accountant runs for them. Then there is no assurance for us that they have the money on hand to manage even old funds. For the two agencies, we have been in very close contact with them and had multiple discussions about this to make that everyone understands the situation.

Commissioner Salas: So by not applying, they in essence leave that money on table?

Angela Nazareno: Correct.

Commissioner Dr. Weber: If they didn't spend one year, they get more money the next year, is that correct? Or is this carryover money, I'm looking at \$74,000 this past year didn't spend it for the Alliance for African Assistance. They have \$60,000 this year. They are getting the \$74 and the \$60, the \$60 is not coming out of the \$74, what is it?

Angela Nazareno: Again, the council offices were awarding the money and at no time were we telling the Council office you cannot fund them again because they didn't spend current year funds. You are correct, they can get funding for one year not spend it apply again for another year.

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Which seems extremely silly, why would an agency do that when you cannot spend the funds for the prior year? I want to make a comment, a lot of our folks ask for their wish list. They will ask for \$400,000 or \$500,000, Council is not required to give them that money, but that is what they see as their budget to get the activity done. If all of the sudden, Council awards them \$100,000 for that year it makes it very difficult for that agency to go back re-evaluate figure out how they are going to do it with all the staff they have and needs. Ok, we are going to do this for the \$100,000 so sometimes this money will get left on the table because they will bank it. Let's apply next year and then we will have \$200,000. And we will just keep going until we have \$400,000 and unfortunately that is not working very well for our program because it is just money sitting in the coffers for this program that could be out in the community that these non profits are holding on to. So, we are looking at that as well.

Commissioner Day: Did I understand you correctly that all of the listed groups on here are 501C3? And do you get IRS verification of that along with the application?

Angela Nazareno: They all have to meet the 501C3 requirement. We get notice from the state that they have deemed a 501C3.

Commissioner Dr. Weber: Do you ever do reports that tell us the results of all projects?

Angela Nazareno: Absolutely, that is our CAPRA and we would encourage everyone to take a look at that. Towards the end of August we will have a draft of our CAPRA out. It will be on our webpage www.sandiego.gov/cdbg that is up for everyone to review. We have a 30 day public comment period. Then we will be taking it on to PS&NS and to Council. Typically, these reports go on consent. They have not really been presented this way in the past because they are giving just highlights of what happened not a lot that you can change with those sorts of reports, but again it is a worthwhile document to take a look at.

Commissioner Dr. Weber: I think this commission would appreciate getting a copy of the report.

Commissioner Llewellyn: We certainly appreciate your coming tonight, Thank you so much. If we could have copy of your card, so that we can be put in the minutes. I would like that to start being done for any speakers. Next staff report we have from Personnel to report.

STAFF REPORT: Glenn Encarnacion – Deputy Director of Exam Management Recruiting Division/Personnel Department and Harold Barclay - Equal Employment Opportunity Investigation Manager

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Glenn Encarnacion: We plan to make a brief presentation on the following topics: Equal employment investigations office, its role, confidentiality issues, general observations veterans access to opportunities and disabled accommodation and then overall recruitment and outreach efforts then a little emphasis on City internships.

Harold Barclay: I am the manager of the EEO which is a part of the City comprehensive discrimination complaint process. Three things I would like to explain; who we are, what we do and how we do it. I have provided a packet that is the City's EO policy, several administrative regulations that refer to our complaint process procedures. The process is to authorize the investigation of charges in the City's Workforce. Initially, adopted in 1975 by the authority of the City Charter section 128. It dictates that written charges of misconduct or inefficiency against any officer or employee of the classified service may be filed with the personnel director by any person and the Civil Service Commission shall investigate any such charges. The relationship is that the Personnel Director works directly for the Civil Service Commission. My office is the investigative mechanism for carrying out that function for the personnel director. That is done with respect to personnel manual section index K-2, which is another one of those document I presented to you. That lays out procedure that a City employee can go by to file an EO compliant and have it looked into. In 1979, the Charter section was supplemented by the approval of Civil Service Commission section 16. This supplement gave the Commission authority to remedy any investigation complaints that we found that were a cause finding.

The types of findings that we have as a result of our investigations. My role as manager is to investigate promptly and equitably and resolve all complaints of discrimination that are filed by applicants, City employees and in some cases former City employees. I report my findings directly to the City personnel director. I act as the City's liaison with external agencies, such as the Equal Employment Opportunity Commission, Federal government and the State's Agency Department of Fair Employment Housing. I serve on the several City committees that deal with the issues of equal opportunity, such as the ADA and threat committee and LAC. These committees are dedicated to ensuring the safety of employees in City workplaces.

So what do we do? We receive, investigate and resolve complaints. Not only do we investigate or do resolutions, we also advise and consult management. Often times I get a call saying, this is what it looks like can you tell me is there a serious allegation here that needs investigating. I also have employees that come through the door and say the same thing. Here's what I feel, here's what it looks like, tell me what you think, so we

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do that. We also collaborate with other City departments and putting out training to City employees on discrimination issues.

So how do we do it? There are a number of ways we can receive a complaint of discrimination. Let me point out several things that I think are important and unique in the way the City handles discrimination complaints. One, City employees are provided on an annual basis the City EEO Policy Statement. This statement basically states that City is committed to making sure that equal opportunity occurs in its workplace. It is posted in a central work location for view by employees. Updated annually, it is also on our City website and disseminated at tailgate meetings for those employees not accessible to a computer. It is also important to point out what we don't do. We deal strictly with employment aspect of discrimination. We do not investigate citizens' complaints. That is done by the Human Relations Commission. Although we do investigate complaints ADA, but we do not investigate incidents that deal with accessibility, facilities, construction those types of things. That is done by Susan Madison, the City's ADA coordinator. Another important thing in our process, there is no chain of command. What I mean by that is, if an employee believes there is a violation of the City's EO Policy has occurred they can go to their supervisor, someone else's supervisor, to a department head, personnel director, to anyone and report a violation. They are not required to go through some type of chain of command. The City has in its policy a 100% response. What that means is, I cannot grantee you the outcome of your investigation, but I can grantee that it will be investigated. We have policy against retaliation. Oftentimes, when a person files a complaint of discrimination, it is not what happened at the incident itself. It is what happens afterwards. Every adverse employment action that occurs can be seen as retaliation. Lastly, another unique aspect that is law. Every employee who files a complaint of discrimination has a right to go not only to their employer but also to the State and Federal government and file a complaint also.

The process itself of receiving complaints we have a lot of processes. We have the City's hotline; K-2 document lays out step by step for employees how to file a complaint. What they should expect to see as a result of filing a complaint. What the investigation should look like and what the results should look like. We also have Administrative Regulation 96.50. A complaint process that is issued at the departmental level. I have to determine whether or not to take the complaint. The yardstick I use is the State and Federal guidelines and City policy. Things happen that do not rise to the level of a violation of EEO law.

Commissioner Corbin: Those two things seem a little to counter, first you told me that 100% complaints are investigated and now what you are telling me is that you make a determination in some cases at your discretionary whether there will be an investigation.

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Harold Barclay: I'm sorry if I misled you. When I said 100% response to EEO complaints, oftentimes I have to make a determination if this complaint is EEO related. It may fall into a labor relation issue, a management issue, and that is the yardstick I am using. EEO is based on a protected status. The question I have to make a determination is this adverse employment action occurring as a result of your protected status. It may be that two people just don't like each other and not a protected status issue.

Non-EEO related we talk to the unions and EAP a lot of different agencies we try to point the employee to. Sometime we intervene, because the employee does not trust management, sometimes we have supervisors that are not that well educated on the laws. Sometimes, we find ourselves doing career counseling. We do not let an employee walk out the door with the perception that there is no one in the City to handle their situation even if it is not EEO related.

If we have a determination, I will find myself in mediation effort between the employee and management. Sometimes in mediation with the Federal government or state, we have two findings. We have 'cause' and 'no cause'. A cause finding is substantiated by enough evidence that this occurred and it is also a violation of City policy, State or Federal Law. A no cause findings is I do not have enough evidence, however what I tell employees all the time, I am not saying what you are saying is not true. I do not have the evidence, both parties have rights and if we make the wrong call one way or the other both parties can go to a Civil Service Commission and appeal our investigation. Appeal on the grounds that the investigation was not complete, or improperly conducted, based on evidence the conclusions are incorrect based on the law. Appeals process in place, where the Commission can agree with the complainant and that EEIO did not come to the right conclusion.

The last other thing I would like to talk about is remedies. We work with the department and the employee to come up with a remedy. If there is reasonable accommodation, transfer to another supervisor, if an employee feels that they have been harmed we try to remedy that and bring it back to the point where the employee was not harmed. I am required to go back and look for compliance at a later date, how are things going. I am also required to comply with State and Federal laws to meet their burdens within 30 days.

Commissioner Dr. Young: Do you actually end up purchasing adaptive devices for the City?

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Harold Barclay: No that would be with Susan Madison or the ADA committee. What I will end up doing is resolving an issue for example this person needs a hearing aide, let's find one.

Commissioner Dr. Young: Do you have cases that resolve that way?
Good for you.

Harold Barclay: Yes, I do. In conclusion, it's a comprehensive complaint process that involves a lot of different players to get down to what the bottom line is for me, investigate the issue and resolve it. Sometimes, I have to sit on the witness stand because in some cases it can lead to litigation to resolve it.

Glenn Encarnacion: I am part of a team that is responsible for establishing eligible lists to fill vacancies in the City. Recently an area of interest that has come up is veteran's access to opportunities and disabled veterans access to employment opportunities. As background, Civil Service Commission rule 2, section 5 and Civil Service Commission Regulation C6 are the provisions that cover Veterans provisions or Veterans' preference. We have recently worked with Councilmember Gloria's office to cooperatively update and augment the lists of agencies that we have as contacts to disseminate employment information. We effectively have these types of contacts for what we hope are all segments of the community. We do not consider the list static and consider them dynamic and are constantly doing what we can in cooperation with the community to make sure we are disseminating the information as thoroughly as possible. One of the things of note that Councilmember Gloria office wanted to make sure we were focusing agencies that were assisting or working with disabled veterans. Some of the examples that are on the list are, Hire Heroes USA, Wounded Warriors Project, Wellness and Vocational Enrichment (WAVE), and the local Veterans Administration rehab section are just some of the groups that are facilitating to disabled veterans that we are getting employment information to. In addition as part of that effort, Councilmember Gloria held a public media event where he outlined the City's Veterans' outreach efforts and our director attended and supported him in that effort. One specific question; you had for us was, a disabled veteran accommodation for competition. We actually have a request for accommodation process and that application form is part of the packet you were given for any prospective applicant not just veteran, in request reasonable accommodation to facilitate test processes associated with any of our recruitments. I think it is important, to note that we consider these requests on a case by case basis. We do not make assumptions about what accommodation if any a particular individual would need. We maintain these requests separate from applications and secured so that when we provide eligible lists to hiring departments they do not have any knowledge of any individual on the list that needed or wanted accommodation. First and foremost, it is job related criteria and

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anyone who has met our requirements and gets on the eligible lists are judged on that and should be judged on that alone. Some of the examples of accommodation that we have provided to applicants in the past to facilitate their testing efforts with us is enlarge font versions of our printed materials, the use of sign language interpreters, and additional time as representative examples but not the only options. Recruiting and outreach efforts in general in the organization, one of the analogies; if you could imagine a room full of people as opposed to walking around individual pockets within the room and whispering the available employment opportunities to these individual groups where I might miss somebody in the room, our approach is a broad based one we prefer to stand up at the head of the room and make sure that everybody in the room can hear us and to announce as loudly and broadly as possible the employment opportunities that we have with the City. It is also a triage type of circumstances. We have limited number resources to accomplish our duties. I have one Senior Management Analyst of 13 staff members that is dedicated exclusively to recruiting efforts by attendance of job fairs, provision of job counseling, and those types of efforts in the attending a broad spectrum of events and coordinating with a number of contacts throughout the community. An example of that is, this Senior Management Analyst or dedicated recruiter sits on a number of committees one in particular is the committee of San Diego Committee on Employment of People with Disabilities and is also a member of the subcommittee which facilitates the implementation of Jobtober Fest. That is Theresa Radiez. Our general advertising efforts, with the expansion of the internet the City's website presence has become a major if not economical way for us to disseminate our employment information. In early 2007, we finally got an online job application system tool to facilitate our broad outreach efforts. In the first year of implementation, we doubled our application flow rate. On any given calendar year, we will receive between 20,000 -30,000 applications for employment and run upwards of 200 different recruitments and various examination processes associated with them. Considering that the City has over 600 types of jobs and a workforce that fluctuates between 10,000-12,000 employees even in bad economic times, we are pretty proud of the work that we do. We are certainly not perfect. We certainly acknowledge and recognize that there is a lot more that we can do. And we hope that through interaction with agencies like yours that you'll give us ideas on how we can be better.

Commissioner Dr. Weber: Could you tell us how diverse are we?

Glenn Encarnacion: I can, but it would probably be more effective for me to do that when I bring a copy of our Equal Opportunity Report. We are required to report to our Civil Service Commission on an annual basis the ethnic and gender representation in the organization. I brought that report to this commission before. We do not have a current version of that report. We are fully engrossed in the OneSD project or the BPR, Business

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Process Re-engineering effort that the City is working on and a significant component of our organization including our IT staff are dedicated facilitating that effort. We have not been able to bring a revised version of the EEO report to our Civil Service Commission since the middle of 2007.

Commissioner Dr. Weber: If someone asked us, unlike other agencies that are often asked about the diversity of workforce without getting down to the last person in the room, we couldn't say that we approximately X number of individuals who are African American, Hispanic, Asian, so forth and so on and that we have a increase or decrease in our workforce with regards to diversity. We cannot say that has a City, I assume that is what you are saying?

Glenn Encarnacion: I would not be comfortable in representing a number because the number I would, wouldn't be current. But, I certainly can provide you with an EEO report that is a record if authorized by our commission work on getting you updated numbers at least in aggregate form as to oppose not specifically by occupational category within each department.

Commissioner Dr. Weber: You wouldn't have by department; I would or wouldn't know the diversity in management versus just the overall workforce?

Glenn Encarnacion: I have it for the entire organization as well as by department but again the data was put together in summer of 2007.

Commissioner Corbin: You don't track that on an annual basis as the Equal Employment Organization within the City? You can't tell me, how many disable people we have?

Glenn Encarnacion: Using that example of disabled, no. We don't track that information, but for ethnic and gender representation.

Harold Barclay: With respect to keeping track of people who are disabled, no. That's Federal, something we are disbarred from doing because oftentimes disability is something the person not disclosed.

Commissioner Corbin: I'm sure we track through the employment through our HR department the ethnicity of everyone that works for the City. I do not see what is so difficult about providing that.

Glenn Encarnacion: At the end of the day, ethnic and gender representation doesn't mean much if we don't have accountability. And one of the biggest difficulties that we have in particular over the last few years has been the very dramatic changes that have been occurring in the organization of the City. It's about tracking what program and what

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individual was in that program were eliminated and went to this department went to this section went to this division. The short answer to your question commissioner is, we can and we will bring that information to you. What I am telling you today is, I don't have it here with me right now.

Commissioner Dr. Weber: We have not done it for 2 years?

Glenn Encarnacion: No, our focus has been on OneSD and BPR efforts, it is difficult for us to maintain our day to day operations.

Commissioner Llewellyn: Are you going to do a report this year for the Civil Service Commission?

Glenn Encarnacion: I cannot answer that question for you. I have my request into IT along with of a number and waiting to get my raw data to do my reports.

Commissioner Dr. Weber: How do you know if you are winning the game if you do not keep score? Diversity is really not a priority at this City, it may be written in all of our documents but it is not a priority because you can't begin to talk about how well you are doing or not doing if you do not know what you're doing. That has been the question we have asked at this commission on a regular basis since the beginning. We are slowly getting data but it is impossible to talk about change, or improvement, or new direction, or anything if you do not know what the heck you are doing where you stand. Obviously, we stand nowhere

Commissioner Llewellyn: We would like to make a request so that this commission would like to see those figures.

Glenn Encarnacion: Yes, Commissioner

Commissioner Dr. Young: No offense but under Rich Snapper we never got any information. I am glad to see this information. Seeing you at stuff and bringing stuff and putting yourself in front of people, it is called outreach. It has an effect.

Glenn Encarnacion: We appreciate those comments commissioner. My goal though is to hopefully satisfy all the commissioners and their desire for information.

Commissioner Wilson: Gentlemen, just a brief question. What's your case load? In terms of the complaints you are working on right now.

Harold Barclay: I can't give you the numbers, but what I can tell you the caseload has gone down this year from 2008. What we have is a higher

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number of people coming into our office and speaking to us informally. I would hope that means that I'm resolving things in peoples' minds and hearts before they go out and start litigation or EEO complaint or investigation. But overall, our caseload for this year 2009 is considerably lower than it was in 2008.

Commissioner Wilson: Can you put a number to that? Anyway?

Harold Barclay: I would hate to give numbers and here is the reason why. Numbers doesn't tell the story, because a number of the complaints we get are not EEO complaints. They are perceived to be EEO complaints, but at the end of the day, it is really a dispute between employees in the workplace.

Commissioner Wilson: How would you measure your effectiveness?

Harold Barclay: I would measure my effectiveness by looking at other agencies, number one. We do a survey look at other agencies. And we compare ourselves to comparable agencies cities of Los Angeles, and I will tell you we are very low compared to Orange County, Los Angeles, Long Beach, that another way we measure. I also measure by how many resolutions. What do we do to satisfy the employee? I think I spoke about picking up phone and actually resolving a complaint. That's how I measure the complaints. But to just throw numbers out there, that doesn't tell the story. Here is another real important aspect, in my office we consider ever complaint a dispute between employees and that is a private matter and we are very strict about confidentiality.

Commissioner Corbin: But for example, you don't talk about numbers but then you at what at the numbers from Los Angeles and San Francisco are to determine whether we are performing better than them or not which has to be based upon something. It's not qualitative.

Harold Barclay: I'm giving you the results.

Commissioner Corbin: I can paint a scenario, where saying we don't have that many complaints, could be an environment where people are afraid to complain. We are just trying to assess how effective you are.

Harold Barclay: He asked me about the statistics in the numbers. I'm not prepared to give you those numbers today. AR 96.50 those numbers have gone up. So what that tells me is employees are going in to their management and saying I have an issue could you please investigate it and resolve it for me.

Commissioner Llewellyn: Thank you for coming tonight. We would hope that we could get some reports?

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Commissioner Salas: One of the issues in terms of the City's hiring of people with disabilities, ADA to make employment for people with disabilities are able to enjoy in order to enter the mainstream of American society which as previously been declined denied them. I know it is a delicate issue, but for us or any city or government agency to be able to measure whether or not they are offering adequate opportunities and fulfilling adequate opportunities of employment. What are our limitations with respect to keeping statistics about that? Do we have any tracking yet at all or do you know of any other city does, whereby you try to at least track the extent to which we are achieving the objective of employing people with disabilities?

Harold Barclay: Two points here, one is that we have the ADA committee that a function is to review what type of accommodation requests we are getting from employees and that is a way of tracking. But the most important part of that committee is to take action. I am very reluctant to talk about peoples issues especially ADA because of the self disclosure sharing information about another person's disability. The other one is the State law for ADA interactive good faith process which gives instant feedback if accommodations are occurring in the workplace.

Commissioner Salas: What I understand then when Glen prepares his report and we get a report. There is no line item that says the City of San Diego is proud to employ this many people with disabilities. Our workforce is such and such percentage of people to whom we give accommodation.

Glenn Encarnacion: That is correct, commissioner. We basically have two reporting requirements here in the City of San Diego, one is to Federal government where we follow EEO full reporting guidelines and one is to the Civil Service Commission where we provide to them our Equal Opportunity Report. That report for the most part parallels the reporting guidelines and requirements of the Federal government. That does not require us to provide that type of information so we don't collect and provide that type of information.

Commissioner Llewellyn: We will expect some reports from you as soon as possible.

Glenn Encarnacion: I will send the last report to you all through your staff. I have on my tickler already that the next time the report is updated to put us on calendar for next report.

Commissioner Corbin: We are requesting that you give us a report about when that is, and if that not something that is going to happen as opposed if we decide to do it in 2011 we'll give it to you.

Glenn Encarnacion: I understand.

Commissioner Llewellyn: We do have a committee that is handling this. We will get it back on the agenda

Beryl Rayford – EOC Program Manager

Terrell Breaux: He referenced the handouts provided to report findings and overview on CALTRANS, Copies are an overview of Caltrans program, available to the commission. He stated he could email a more comprehensive power point to them. In response to Commissioner Corbin query, that other municipalities being able to do various things where the City couldn't, I had the staff retrieve from San Diego Regional Economic Development Cooperation statistics of the ratio and ethnic composition in San Diego along with industry sectors in San Diego. Just for information wanted to provide to the commissioners, maybe it will answer questions related to that. Other staff collected a list of the certified firms in District 11, the purple and blue spreadsheet. Staff identified the NAICS codes for the types of disciplines that the City usually does projects with, not only for the Header NAICS code, but if we included it all it would be 30 pages. This information comes from the County business patterns, which is drawn from the census bureau. Again, its information to help to define the universe of San Diego region provided in response to Commissioner Corbin's query.

Commissioner Barnum: On Column B, Caltrans database total UDBE firms located in market area. UDBE is the new term Caltrans is using?

Terrell Breaux: That is correct, UDBE shows to be Asian/Pacific American, Black American, Native American, and women.

Commissioner Barnum: It indicates that 0.91% or 79 companies in District 11 are in that category and that is less than 1%.

Terrell Breaux: That is correct. The handout from Director Debra Fischle-Faulk is the Commissioners report that will be attached to staffs report to go to Rules on 9/2/09. Take a look at that. Also, you have been given partial information on the Caltrans availability and disparity study. The entire report is over 500 pages and is available via email upon request. Director Fischle-Faulk wanted me to inform you that she has the statistics in a pie chart for 2003-2006 that will be provided to you.

Commissioner Salas: The CEOC quarterly report is going to Rules, but it is addressed to Mayor and Council. Have originals been mailed to Mayor and council?

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Commissioner Llewellyn: I think that we could send it to Mayor and Council. Then, ask Debra to attach it to the report on 9/2, since it is addressed to them.

Terrell Breaux: I will relay that to her.

Commissioner Llewellyn: With this Caltrans report I just wanted comment, underutilized businesses the first contract was let with stimulus 6% goal, but they got 0.38% utilization. They had bids from 18 UDDBE's and selected 2. Out of \$58 million, only \$238,000 went to UDDBE. There's one example of what is happening out in the field with that.

Commissioner Corbin: In the area of highway, street, and bridge construction for District 11 it's 31.11% those are DBE's right and they would qualify under small or local business?

Terrell Breaux: If you are looking at column C, those are DBE's, disadvantaged business enterprises, correct if they met all the right criteria.

Commissioner Corbin: Looking at 2373, highway, street, and bridge construction there are 90 firms in this CBP database, column C says that 31.11% are DBE's participating and WBE 6.67%, and MBE 21.11% so that is what we have in the City?

Terrell Breaux: This is district 11 which includes Imperial County. This chart is not just San Diego County.

Commissioner Llewellyn: This is a little misleading because these are the only codes that are in there. There are many small businesses that these codes don't match. My business is one of them. I have no code here for my business, so this is really misleading.

Commissioner Corbin: If you were looking at the entire location that this represents, you would expect that 6.67% that would go to women.

Commissioner Barnum: You can't assume that at all because you don't know what type of work they do. You can't say that it is going to transfer into that percentage.

Commissioner Llewellyn: You are not listed under that code in your certification is what I'm saying.

Commissioner Day: Don't you take into consideration that it is a low-bid situation so you would not necessarily have that full percentage.

Commissioner Corbin: In theory, to prove a point that there are firms out

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there that represents these percentages without getting down to specifics.

Item 7: SUBCOMMITTEE REPORT:
Report was given by Personnel staff here tonight.

Item 8: COMMISSIONERS ANNOUNCEMENTS:
No announcements, hearing none move forward.

Item 9: CITY ATTORNEY REPORT:

City Attorney Singer: She stated nothing to report at this time.

Commissioner Corbin: Did you resolve the issue about the conflict of interest?

City Attorney Singer: Yes, and I will get to that when we get to that agenda item.

Item 10: CHAIR'S REPORT:

Commissioner Llewellyn: The things that were passed out, a list of things I recommended for staff reports so that we have minutes and we get a standardized way of getting reports. Since, it was not on the agenda, I'm asking you to look at all these items and we will put it on the agenda for next month and take action on it. But I think we need to give them kind of a set of reports that we expect monthly and it would make the minutes easier to take if we had certain things that were reported on. I started out with a list, if you have suggestions or ideas what we will put it has an action item for next time. We will go back to Item 4.

Item 11: ADJOURNMENT:

MOTION: To adjourn at 8:10 p.m.

Made by: Commissioner Salas
Second by: Commissioner Dr. Young

VOTE: PASSED (Yea-9; Nay-0)