



THE CITY OF SAN DIEGO

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

**MINUTES**

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**Wednesday, September 2, 2009**

**6:00 P.M.**

**City Administration Building**

**Council Committee Room**

**202 C Street – 12<sup>th</sup> Floor**

**San Diego, CA 92101**

**ATTENDANCE:** Commissioners:  
Rebecca Llewellyn (Chair), Brad Barnum, Daniel Salas,  
Dr. Shirley Weber, Ph.D. (Vice-Chair), Maurice Wilson,  
Stamp Corbin, Alden Salcedo, Eileen Chaske

**MAYOR'S STAFF:** Debra Fischle-Faulk, Director City Administration; Hildred  
Pepper, Director Purchasing & Contracting; Terrell Breaux,  
EOC Supervisor; Claudia Abarca, EOC Associate  
Management Analyst; Laura Davis, EOC WPO

**PUBLIC SPEAKERS:** Rosalind Winstead

**Item 1: CALL TO ORDER**

The meeting was called to order at 6:13 p.m. by Chairperson Rebecca Llewellyn.

The Chair spoke raised concerns about the August meeting minutes.

Staff proposed that future meetings follow the protocol of City Council Committee. Minutes will be brief, capture action items and include any documents presented by the public and/or Commissioners. The summary will posted and EO staff will create a CD that can be duplicated as requested. Staff will also work with the City Clerk's office to determine the feasibility of posting the recorded minutes on line as well.

**ACTION: Staff to provide Minutes as described above.**

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The Chair requested a motion to approve the minutes for August 5, 2009 and the agenda for tonight's meeting.

Commissioner Barnum requested Item 6 "Report to Rules Committee" of the current agenda be moved up so that it could be discussed alongside the SLBE discussion.

The Chair stated she preferred the agenda as is, but asked if there was any other discussion in regards to the agenda.

A small discussion occurred in regards. The Chair confirmed the agenda would be followed as is.

Commissioner Salas requested that the "request to adjourn" be removed under item 4 in the August 5, 2009 minutes and motioned to approve the minutes along with the agenda.

**Item 2: APPROVAL OF AUGUST 5, 2009 & TODAY'S AGENDA:**

**MOTION:** To approve the August 5, 2009 and September 2, 2009 Agenda

Made by: Commissioner Salas

Second by: Vice Chair Weber

**VOTE: PASSED** (Yea- 8; Nay-0)

The Chair asked if a motion was required to approve the new method staff introduced for minute taking or if there was any discussion needed. Commission agreed staff proposal was a better method.

**Item 3: PUBLIC COMMENT:**

Ms. Rosalind Winstead - Distributed a handout (attached).

Commented on the Rules Committee meeting held earlier. Expressed the following concerns: the absence of statistics from Purchasing & Contracting for commodities; the timeline for implementing the SLBE program (next year - too long); discrepancies in the Minor Construction program and would like staff to conduct an analysis on the stats and would like to know if placing a 5% preference to minority business would change the awarding process; the Vendor Registration program to be implemented in Spring 2008 will not be done until January 2010 and; the need for a shift in focus on Compliance and related activities.

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Staff was asked to respond to the comments and to report out on the Rules Committee meeting.

Staff updated the Commission on the following: the off-the-shelf contract compliance and reporting software program and implementation has been delayed. It is anticipated that an award will be made by September. All firms being considered could be implement their program within six to eight weeks from award. All programs looked very promising and the hope is to be able to provide the Commission with substantive data.

Commissioner Corbin inquired about the specifics of the software and expressed concern regarding the length of time it has taken to implement it.

Staff provided a brief summary of the history including the initial vendor registration program implemented in 2008 that lacked significant capabilities, the need for compatibility with the City's ONESD program and the shift of the contract compliance element from P&C to EOCP.

Commissioner Corbin inquired about the availability of statistical information. Staff responded that semi-annual reports are provided to the Mayor and Council, however, it is a manual effort. The new software provides staff the ability to prepare reports electronically at any point in time which would allow submission of monthly reports as requested by the commission.

**Item 4: ACTION ITEMS:**

A) Small Local Business Enterprise Program (SLBE):

Staff provided a brief overview of what occurred at the Rules Committee in response to the SLBE program. EOC is to return to Rules October 28, 2009, to present the final proposal. Final Proposal will be presented to CEOC prior to Rules Committee meeting.

Commissioner Corbin requested a copy in writing a week prior to the meeting for review.

**ACTION: Staff to provide proposal as requested.**

Commissioners discussed the possibility of scheduling a special meeting should be held in order to review and discuss the final SLBE proposal.

**ACTION: Special Meeting scheduled October 12, 2009.**

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The Vice-Chair requested feedback about Rules Committee reaction to staff report #09-121.

Staff indicated their desire to receive, review and implement a plan quickly. The plan needs to be legal, mandatory and improve the City's performance. In addition, the Committee was very unhappy with the statistics that were presented and Councilmember Donna Frye requested something be implemented immediately.

Commissioner Corbin noted that the report did not address any outreach to GSTBA of San Diego (LGBT not recognized as a minority group) and it should be done. In it was requested that the proposed final plan be forward to GSTBA for their input.

**ACTION: Staff to forward the document as requested.**

Purchasing & Contracting staff reported that as of July 1, 2009, LGBT would be tracked in the vendor registration for data purposes.

A discussion was initiated by Commissioner Barnum regarding the CEOC report included in staff's report to Rules Committee. The question was raised whether or not discussion was held and a formal request was made to the Commission to weigh in on the Small Local Business Enterprise Program. Commissioners concurred that there was discussion at a prior meeting and the concept was approved by the Commission.

Commissioner Salas requested an update on the Rules Committee's position regarding a disparity study.

Staff reported that the Rules Committee would like to move forward with a disparity study if feasible.

### B) San Diego AGC Lawsuit Against Caltrans Race and Gender Goals

The Chair and Commissioner Barnum recused themselves from this discussion and the meeting was then turned over to the Vice-Chair. The Chair also indicated that both commissioners could remain in the room, however they would not be able to vote or address the subject matter.

Commissioner Barnum requested confirmation that he could not speak as a member of the public.

Commissioner Corbin stated that he could speak as an individual citizen or as a representative of the AGC if they have authorized such an action, but he could not speak as a commissioner.

Staff read an email from the City Attorney's Office regarding the matter.

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Commissioner Barnum decided not to proceed with speaking as an individual.

The item was opened for public comment by Vice-Chair Dr. Weber.

Ms. Rosalind Winstead anticipated responding to Commissioner Barnum's position, but did not as he did not speak to the item. She indicated she had already said what she needed to earlier in the meeting and hoped the AGC failed with the lawsuit.

The Vice-Chair asked if there were any questions or concerns with the letter Commissioner Corbin had drafted on behalf of the CEOC.

Commission Corbin previously provided the Commission with documentation that supported the basis of the information in the draft letter.

Several commissioners provided positive feedback on the letter requested the language be strengthened. They further discussed ways to strengthen the letter and came to a consensus. The Vice-Chair suggested that the item be moved to the end of the meeting to provide time for staff and Commissioner Corbin to revise the letter for approval at this meeting. The Vice-Chair invited the recused commissioners to return to the meeting.

**Item 5: DISCUSSION ITEMS:**

Chair's Memo to Commissioner's Regarding Reports

The Chair asked Commission members if they had all received a copy of the memo requesting reports the Commission would like to receive. Staff was asked to make copies of the memo for immediate review. The Chair indicated they would return to this item once ready.

**Item 6: STAFF REPORT:**

Rules Report

The Chair indicated that this topic had already been covered earlier, but asked if there was anything else to add.

Staff informed the Commission that a copy of the final report to the Rules Committee was forwarded to the Commission. The Rules Committee and various public speakers were displeased with the statistics presented. The

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City Attorney was directed to return on September 16, 2009 with memo to address legal actions that can be implemented immediately. EOC is to also return in October with the final version of the SLBE Program. The off-the-shelf contract compliance contract should be awarded within the next few weeks and once implemented will allow EOC to produce reports for the CEOC commission on a monthly basis.

**ACTION: Staff to provide the Commission with a copy of the memo City Attorney memo responding to Rules Committee once it has been approved.**

### Final Summary Report

The Chair provided positive feedback on the Final Summary Report and that staff had something in place to monitor payment to subcontractors.

There was a discussion on what subcontractors were required to be listed on the report, with a final response that subcontractors receiving .5 of 1% of the contract amount are listed.

### Work Force Report

Staff provided the Commission with copies of a work force report analysis. The process of the analysis, interpretation of results and request for EO plans was performed was briefly explained.

Commissioner Barnum inquired if there was a report in which all construction contractors would be added up to show diversity in this work force.

Staff indicated that such a report was not available at this time.

The Vice-Chair asked what made one company better than the other.

Staff indicated s that one report was not necessarily better than the other. The assessment of the company is made with the discrepancies found in the labor categories, if any.

**ACTION: Staff to provide a copy of a Work Force Report to the Commission so they could see what questions were asked of firms in order to do analysis.**

The Chair provided positive feedback regarding staff's follow through on the forms that contractors are required to complete for EOC.

The Chair asked if there was anything else to offer in regards to the off-

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the-shelf software.

Staff indicated they had already covered most of this issue.

The Chair returned to item 5 of the Agenda, asked if everyone had enough time to review the memo and if there were any additions or suggestions that should be made.

Commissioner Barnum requested to see a list of the contractors who are bidding on contracts.

The Chair agreed to add this as item 9 to her memo and asked if this could include subcontractors.

Purchasing and Contracting staff stated that it currently is not being captured and it is not currently being put in the database. Deferred this request to Administration Department Director.

The Vice-Chair requested information on the City's diversity. She requested a report or data on who is actually employed with the city. She indicated their focus should be broader than just construction contracts. She also stated her concerns regarding individual commissioners requesting items from staff without all Commission receiving the same information. She requested that all commissioners receive the same information at one time.

Purchasing and Contracting staff indicated their understanding that the reason why Commissioner Day was receiving bid results was for publishing purposes.

Commissioner Salas indicted concerns about a potential conflict of interest based on Commissioner Day's position.

**ACTION: Staff agreed to provide bid tabulations for all projects.**

Commissioner Salcedo noted that item 6 of the memo should state "current status of select projects" rather than the "bidder registration system"

The Chair agreed with the change.

**Item 7: SUBCOMMITTEE REPORT:**

No reports.

Commissioner Salcedo indicated that the request for reports noted in the Chair's memo would be of help to the subcommittee that he and

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Commissioner Chaske headed.

**Item 8: COMMISSIONERS ANNOUNCEMENTS:**

The Chair stated that a date needed to set a date in order to look at the final version of the SLBE program.

A discussion regarding the desire of the Commission to review the program prior to staff's presentation to the Rules Committee and the need for the Commission to receive the report in time to review prior the meeting resulted in a special meeting being scheduled.

Commissioners agreed to have the special meeting date set for the 12<sup>th</sup> of October at 8:00 am, however, the meeting will be cancelled if the action item can be handled on the October 7<sup>th</sup> agenda.

**Item 9: CITY ATTORNEY REPORT:**

None.

**Item 10: CHAIR'S REPORT**

The Chair stated the Rules Committee was pleased with the CEOC's report and noted that Council President Ben Hueso agreed with the need for a disparity study conducted and requested SLBE program will be presented to Rules at the end of October.

The Chair and Commissioner Barnum recused themselves once again in order to return to item 4 of the Agenda.

The Vice-Chair, acting as chair, asked if there were any other changes to be made to the letter to the Mayor.

Commissioner Salas made final recommendations.

**MOTION:** To approve CEOC letter to Mayor Jerry Sanders

Made by: Commissioner Salas

Second by: Commissioner Chaske

**VOTE:** **PASSED** (Yea- 6; Nay-0; 2 Commissioners recused)

The Vice-Chair stated the letter was approved and was to be finalized, signed and sent to the Mayor as soon as possible and asked if there were any other comments.



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Staff referred to the Final Summary Report and corrected an earlier statement regarding what subcontractors are to be listed on the report. All subcontractors are to be listed, not just subcontractors receiving .5 of 1%.

**Item 11:      ADJOURNMENT:**

**MOTION:**           Motion to adjourn at 8:06 P.M.  
                  Made by: Commissioners Corbin and Salas  
                  Seconded: Vice-Chair Weber