



THE CITY OF SAN DIEGO

**CITIZENS' EQUAL OPPORTUNITY COMMISSION
SPECIAL MEETING**

MINUTES

Wednesday, June 10, 2009

8:00 A.M.

**City of San Diego – Metro Operations Center (MOC II)
Conference Room 1D
9192 Topaz Way
San Diego, CA 92123**

ATTENDANCE: Commissioners:
Debbie Day, Daniel Salas, Sarah Young, Rebecca
Llewellyn, Alden Salcedo, Stamp Corbin, Dr. Shirley
Weber, Ph.D.

MAYOR'S STAFF: Debra Fischle-Faulk – City Administration Department
Director, Claudia Abarca – EOC Associate Management
Analyst

Item 1: CALL TO ORDER

The meeting was called to order at 8:16 a.m. by Commissioner Rebecca Llewellyn.

Item 2: APPROVAL OF JUNE 3, 2009 MINUTES & TODAY'S AGENDA

MOTION: To approve the June 3, 2009 Minutes and Today's Agenda

Made by: Commissioner Corbin
Second by: Commissioner Salas

VOTE: PASSED (Yea-7; Nay-0)

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- Item 3: ACTION ITEMS:**
A) Proposed SLBE Program
B) CEOC 2009 Quarterly Report

Commissioner Llewellyn stated:

There would still be a quorum although the City Attorney is not present. Started the meeting with the following quote: "Give the world the best you have and the best will be given to you," in hopes that everyone would have a good day. She announced the birthday of Commissioner Young to which all Commissioners and City Staff wished her a happy birthday.

Commissioner Young questioned:

Why there was no item where the commissioners could provide individual reports and updates.

Director Fischle-Faulk recommended:

That if the Commission's subcommittees had a report they would like to present they inform staff a week prior to the following CEOC meeting so that it could be added to the agenda.

Commissioner Weber noted:

That a section on Commissioner's Reports be added to the agenda.

Commissioner Llewellyn stated:

That it should be in writing so information wasn't being pulled out of the air.

Commissioner Weber recommended:

That it be changed from reports to more of a discussion or announcement section in the agenda without having to provide such a report.

Commissioner Llewellyn stated:

That they would have to consider the restrictions in regards to the Brown Act and time.

Director Fischle-Faulk recommended:

That the commission add a section entitled "Commissioner Comments or Announcements" in the agenda where announcements and such could be made as is done in the City Council meetings. There would be no action taken on these announcements.

Commissioner Day stated:

That there should be two sections one in regards to comments and the other regarding reports. Reports should be submitted on time prior to the meeting so that everyone would have enough time to review them.

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Commissioner Weber stated:

If there are going to be reports they should be in relation to what the committee is doing not what everyone is doing on a personal note. She also noted there should be two new additions to the agenda on for subcommittee reports and the other for commissioner comments. If there is an idea produced within a commissioner's comment that is relevant to the commission then they could docket that item for the following meeting.

MOTION: Motion to add "Subcommittee Reports" and "Commissioner Comments" to the monthly agenda.

Made by: Commissioner Weber

Second by: Commissioner Day

Commissioner Corbin asked:

Why the section would be called commissioner comments if they comment on everything.

Commissioner Llewellyn stated:

That hence forth the meetings would not get out of hand and that commissioners would only speak when called on for announcements.

Commissioner Weber rescinded:

The motion from "comments" to "announcements".
Commissioner Day seconded the motion.

Commissioner Salas noted:

That there was a previous meeting a year ago in which this idea was brought up but never added to the agenda. Feels that this is a good step forward for the commission and hopes it will work out especially with the outreach that has been going on.

VOTE: PASSED (Yea- 7; Nay- 0)

Commissioner Llewellyn stated:

She would like to move forward with the SLBE program that is on the agenda.

Director Fischle-Faulk distributed:

Handouts of the findings that went to the rules committee along with the City of Oakland's L/SLBE program.

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Commissioner Corbin noted:

There was an error in the report that was created by Commissioner Salas and Commissioner Llewellyn. Why would the commission want to increase disparity? Shouldn't it be decrease?

Commissioner Salas stated:

Disparity should actually be diversity.

Commissioner Llewellyn stated:

That the commissioners were not on topic and needed to move forward onto the SLBE program.

Director Fischle-Faulk proceeded:

With discussing the handout of the City of Oakland's L/SLBE program is about and how it may have been misunderstood by Commissioner Barnum's comment from the previous meeting in regards to the thresholds for the program. This handout would be able to provide clarification. Director Fischle-Faulk will also be following up with the City of Oakland to verify her interpretation of these thresholds.

Commissioner Corbin stated:

His interpretation of the language agreed with Commissioner Barnum based on the handout.

Director Fischle-Faulk stated:

That she felt it was inaccurate due to the discounts and other preferences within the City of Oakland's program. She would follow up with the City of Oakland in regards to the different preferences in place and to get a better understanding of the incentives.

Commissioner Day asked:

What an informal contract was?

Director Fischle-Faulk stated:

This was a construction contract of \$100,000 and below.

Commissioner Salas asked:

Who the proposed San Diego program would reach?

Director Fischle-Faulk stated:

That the proposed San Diego program, based on what the Rules Committee has instructed the City to do, is to come up with an amount where the bid discount would apply for construction projects under \$1,000,000 (example by City Attorney, not yet determined) and projects over \$1,000,000 would have the mandatory subcontracting amount and

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not a bid discount.

Commissioner Day asked:

Who would determine the percentage of this goals and whether or not there would be an engineer working on this.

Director Fischle-Faulk stated:

That there would be a goal setting committee which would include an engineer who would determine these amounts.

Commissioner Day asked:

Where these members would come from?

Director Fischle-Faulk stated:

That it would be comprised of city staff along with an engineer.

Commissioner Day asked:

If there is there a process where a contractor could question the required amount should they feel those numbers are not correct?

Director Fischle-Faulk answered:

By saying there will be a waiver request that a contractor can fill out which will then be reviewed and will be granted if it is substantiated.

Commissioner Corbin stated:

That one of the items missing in the definition of a local business enterprise is that it does not state the business is "headquartered" in San Diego. Because without this language a branch of a large company can win a contract without being headquartered in San Diego.

Director Fischle-Faulk stated:

That this was exactly why she needed feedback. She asked if the commission would like a clearer definition in place.

Commissioner Corbin referred:

To the City of Oakland's definition of a small business.

Director Fischle-Faulk asked:

If they would like to use the City of Oakland's definition.

Commissioner Corbin said:

No, but that it would be something to look at when determining San Diego's definition.

Commissioner Day stated:

That the City needed to be careful in determining a definition because it could possibly hurt the small local business that they were trying to assist.

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Commissioner Llewellyn agreed:

With Commissioner Day's statement because of loopholes that might be created or companies that may be disqualified due to the definition.

Director Fischle-Faulk asked:

If the commission's recommendation is to make sure that the definition for local business includes that the company be headquartered in the city or county of San Diego.

Commissioners agreed.

Commissioner Salas stated:

That he liked the City of Oakland's definition.

Director Fischle-Faulk read:

The local business definition of the City of Oakland to the commission.

Commissioner Llewellyn stated:

That the only issue she sees is that the definition needs to say county of San Diego because of the geographic boundaries and the cities within San Diego. It should not be limited to the City of San Diego.

Commissioner Day asked:

About the prequalification process and who would qualify in terms of how long the business has been established.

Director Fischle-Faulk stated:

She would follow up on that.

Commissioner Corbin asked:

If the City was currently doing certifications.

Director Fischle-Faulk stated:

That there was one individual within the staff that was being trained to do Caltrans certifications who will be doing this in the future, once the program is in place, full time.

Commissioner Salas asked:

Why there was a threshold for each of the two programs and why it couldn't be across the board for all construction projects.

Director Fischle-Faulk stated:

That there were legal ramifications in placing something like a bid preference across the board and that is why it could not be done. She further stated that the recommendation could be made and it would be

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taken to the rules committee.

Commissioner Llewellyn mentioned:

That there was an example of a subcontractor becoming a prime based on the bid preference program and is in favor of it because she has seen it through Caltrans projects. There have to be goals established by the City on projects and a program that will work to help small local business. Businesses should be encouraged by the City of San Diego to reach out and meet local businesses to create relationships.

Director Fischle-Faulk stated:

That she had met with the Asian Business Association and they were pleased with the program that was presented and saw it as a good step forward to help the local business economy.

Commissioner Corbin asked:

How the size for small business got determined?

Director Fischle-Faulk stated:

That the consultant took the size from another city but she felt that it should be determined by taking the federal government's determination and pairing it down to fit San Diego. The Small Business Advisory Board is currently taking a poll to see who is doing business in San Diego and the company size. The Board advised that the City be cognizant when determining the size constraint is before it completely takes small business out of the picture.

Director Fischle-Faulk stated:

That the Small Business Advisory Board is looking at companies with 12 employees or less. Perhaps the City would have to look into the definition of a Micro Business as well.

Commissioner Young asked:

If the ABA would be interested in speaking with her about the internship program she is trying to create?

Director Fischle-Faulk stated:

She would provide Commissioner Young the contact information for the ABA.

ACTION:

Director Fischle-Faulk asked

If the CEOC would like the definitions for the state, Caltrans, federal government and other cities in regards to small business and micro business to help determine a definition for San Diego.

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Commissioner's concurred.

Commissioner Weber stated:

That what would be helpful to the commission would be something that provides the percentage of small businesses in San Diego who actually are awarded contracts because there might be only a very small percent that the City is dealing with. What the commission needs are the definitions, the amounts of businesses available and the percentages of those who have actually won a contract.

Director Fischle-Faulk asked:

For clarification in regards to how many businesses Commissioner Weber is referring to. Does she mean how many businesses have bid versus how many have won the award?

Commissioner Weber stated:

That it would be helpful to know if this program is really only appealing to a very small amount of small businesses. Without having data, the City or Commission cannot accurately provide a definition of small business for the City of San Diego. The City should not rely on just definitions from other cities as they may not apply.

Commissioner Day stated:

That this should also be considered for different segments of the industry, like consultants, not just how many there are, but how many want to do business with the City.

Director Fischle-Faulk asked:

The commission if they would like her to obtain a copy of Caltrans disparity study because they might have already done the research and analysis on this. Stated that Commissioner Day was correct in stating that there needed to be a division done by segments of the industry and the disparity might be easier to obtain rather than try to accumulate all of this data by herself.

Commissioner Llewellyn stated:

She felt there was a problem with the good faith efforts process. Primes will still meet the goals by turning in their GFE documentation and not have to use any of the subcontractors they have listed which is unfair and not resolving the outreach issue.

Commissioner Salas stated:

That the definition of small business needs to be based on data so it doesn't create a problem like SCOP and then no businesses will want to work with the City. It's a very delicate walk.

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Commissioner Corbin stated:

That the City needs to have constant, vigilant, monitoring to ensure there is an accurate number of business that are available to do work and that want to do work for the City. There seems to be a loop in the definition of the SLBE program on page 8 of the draft.

Director Fischle-Faulk reviewed:

Her action items. They were: to provide the Caltrans disparity study; provide all of the definitions for small business from the state, other cities, the federal government, and Caltrans; to find out what the prequalification requirements were of how long a business needs to be established in order to be a part of the program; to follow up with the City of Oakland to make sure she understands who their program applies to and would report back to the commission.

Commissioner Salcedo asked:

What the deadline was to approve the SLBE program?

Director Fischle-Faulk stated:

That they told the Rules Committee that they would return in September with a crafted program. She would have to do a second round of this draft to work out some issues prior to turning it in to Rules.

Commissioner Day mentioned:

Unanswered questions in reference to the AGC meeting. When can she expect answers to those questions?

Director Fischle-Faulk stated:

That she would be compiling the information and creating the program based on these questions and suggestions. There would not be any specific answers sent out. Also mentioned that Commissioner Barnum left her a message in regards to the SLBE program as a representative of the AGC, not the commission that the AGC would not be weighing in on the program until they see the full program return to the Rules Committee.

Commissioner Salas stated:

That all comments should be made now so that a good program could be put in place. One question he had now was how this was going to work alongside SCOP?

Commissioner Day stated:

That she understood that there would be a choice as to which was going to be used.

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Director Fischle-Faulk stated:

That at the moment each was going to be applied on a case by case basis depending on the project.

Commissioner Corbin requested:

That a soft copy of the SBLE program draft be sent out so that they could track changes.

Director Fischle-Faulk stated:

That she would do so. She proceeded to hand out copies of the state of California's bid preference program.

Commissioner Llewellyn stated:

She would like to move on with the meeting and proceed with the CEOC Quarterly Report. She thanked Commissioner Salas for capturing what CEOC has done in the past and what they hope to achieve in the future. She noted that there would be a change on page 7, second paragraph, last line, where "disparity" would be changed to "diversity."

MOTION: To approve the CEOC Quarterly Report.

Made by: Commissioner Salas
Second by: Commissioner Salcedo

VOTE: **PASSED** (Yea-7; Nay-0)

Commissioner Llewellyn requested:

That Director Fischle-Faulk prints the report on City letterhead. She also requested that Commissioner Weber sign the report.

Commissioner Weber asked:

If this was the Spring or Summer Quarterly Report.

Director Fischle-Faulk stated:

It would be the Spring report.

Commissioner Corbin requested:

That all documents regarding the SCOP program, SLBE program, and the minor construction program so that he could become aware with the commission's goals.

Director Fischle-Faulk stated:

That the information could be found at the City website under Equal Opportunity Contracting.

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Commissioner Day asked:

How a prime contractor could get SCOP waived?

Director Fischle-Faulk stated:

That this was for projects \$100,000 and below and this is discussed at pre-bid meetings.

Commissioner Corbin questioned:

If there was a report that was supplied to the commission that showed who was bidding and who was winning contracts.

Commissioner Salas requested:

That this data be supplied in time for the commission to be able to include it in the CEOC Quarterly report, even if it is rough data.

Director Fischle-Faulk stated:

That she did not know how quickly this information could be gathered because everything was very manual at this point in time. The City was going to be testing a new off the shelf system and she hoped this would help get data to the commission in a more timely fashion.

Commissioner Day asked to:

Director Fischle-Faulk about the report provided by Mr. Hildred Pepper (Director of Purchasing & Contracting). She stated the report was illegible at the last meeting and Director Fischle-Faulk was to email everyone a copy of a better version.

Director Fischle-Faulk:

Said she would follow up with Mr. Pepper in order to provide the copy to the commission.

Commissioner Llewellyn stated:

That the meeting would have to come to an end because people had to leave. She mentioned that Caltrans was paying individuals \$250 to complete forms to show what subs are bidding on contracts.

Commissioner Corbin stated:

That this was probably being done in order to obtain data on sub participation.

Commissioner Llewellyn asked:

If there was any other business pending.

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Director Fischle-Faulk asked:

The commission to consider if they are to expand the agenda for future meetings, would they need extra time to conduct these meetings. Meetings are supposed to be held 6:00 PM to 7:30 p.m. as noted on the agendas that are sent out.

Commissioner Weber stated:

That it would be helpful if all documents were received when the agenda is sent out so that there is no time spent on trying to read through documents at the actual meeting.

Commissioner Salas stated:

That the commission needs to speed up the pace so that the meeting can end as noticed.

Commissioner Day stated:

That public comment should be limited to three minutes and not what has been allowed in the past so that the meetings can end on time.

Item 4: CITY ATTORNEY REPORT:

ACTION: None

Item 5: CHAIR'S REPORT:

ACTION: None

Item 6: ADJOURNMENT:

MOTION: Motion to adjourn at 9:56 a.m.

Made by: Commissioner Salas
Second by: Commissioner Weber