



Business Enterprise Program Council
CERTIFICATION SUBCOMMITTEE MEETING MINUTES

Monday, November 26, 2018

1:30 pm – 3:30 pm

James R. Thompson Center

100 W. Randolph Street, Suite 4-404

Chicago, IL 60601

SUBCOMMITTEE COUNCIL MEMBERS IN ATTENDANCE

Karen Eng, Edward McKinnie, Sharla Roberts, Bola Delano

SUBCOMMITTEE COUNCIL MEMBERS NOT IN ATTENDANCE

Sheila Hill-Morgan, Derrick Champion, Beth Doria, Jaime Di Paulo, Larry Ivory

OTHERS IN ATTENDANCE

Ngozi Okorafor

COUNCIL SECRETARY

None

CMS STAFF IN ATTENDANCE

Ben Jones, Carlos Gutierrez, Elias Ricks Ngwayah II, Terrence Glavin



**Business Enterprise Program Council
CERTIFICATION SUBCOMMITTEE MEETING
Monday, November 26, 2018
1:30 pm – 3:30 pm
Chicago (JRTC Room 4-404);
Via Teleconference Number - 888-494-4032
Access Number - 2587213722**

AGENDA

- I. Welcome
- II. Call to Order
- III. Roll Call
- IV. Posted Business
 - Approvals of Minutes for the September 24, 2018 Meeting Minutes
 - Appeal:
 - Elete Construction
 - Envirox
 - McGuire Iglesias & Associates
 - Mosiac Associates Inc.
 - La Marche Mfg. Co.
- V. Suggestions for BEP Council meeting agenda
 - Next BEP Council Meeting – December 3, 2018
 - Next Subcommittee Meeting – January 28, 2019
- VI. Public / Vendor Testimony
- VII. Adjournment

I. Welcome

Chair Roberts welcomes all.

II. Call to Order

Chair Roberts called the meeting to order at 1:30pm and proceeded with roll call.

III. Roll Call

Roll call conducted. Quorum was not established.

IV. Posted Business

○ **Approval of Minutes for the September 24, 2018 Meeting**

Approval postponed due to the lack of quorum.

○ **Appeals**

○ **Elete Construction**

Mr. Ludwig Banket from Elete Construction and Environment Inc. started by saying his application was denied because in the haste of submitting his No-Change Affidavit renewal application he forgot to put the breakdown of how his Corporation Board of Director votes are tabulated. He said in the initial application that was sent to Mr. Gutierrez, he did not do the breakdown satisfactorily. He accepted the fault. He brought with him corrected documentation showing how the Board of Directors voted and how he has control of the company. He also brought along copies of his stocks certificates. He said he has been certified for 8 years with BEP. He explained that in the haste to get the application done, he forgot to put the documentation in his No-Change Affidavit renewal application. He said this document answers how the Board of Directors vote which was the reason the denial was given.

Chair Roberts wants to know how many owners are there. Mr. Banket said there are two of them. He said he is 60%, and his partner is 40%. He also said there are two Board of Directors. He said the minority member is a Caucasian.

Member McKinnie wants to know what the nature of the business is. Mr. Banket said general contractors and are carpenters. Member McKinnie wants to know about X-treme Pyro. Mr. Banket said it is his partner's side business and it has nothing to do with Elete Construction.

According to Mr. Gutierrez, the documentation submitted shows that the By-Laws states that the power rest with the Board of Director which has quorum which from our standpoint the applicant does not have control.

Mr. Banket countered that there are only two Board of Directors, but they vote the shares that they have in the company thereby putting him in control of the company. Mr. Gutierrez said this is not spelt out in the By-Laws.

Member McKinnie wants to know how much the company made last year and this year. Mr. Banket said they made \$80,000 last year and \$150,000 this year. He said he is the person who manages the projects. He said they are mainly small projects. He claimed he has done some work for CPS and UIC.

Assistant Director Jones said according to Article 2 of Section 7 of the Shares Holders, he said for quorum it requires a majority of the outstanding shares. This he said puts Mr. Banket who has 60% shares in control.

McKinnie asks why it was necessary to have meeting when you have the majority shares. Mr. Banket said they are only two and they do the work together.

In his final statement, Mr. Banket reiterated that the denial stamps from his haste to complete the renewal application.

Member McKinnie asked Mr. Banket how he in control of the company when he is subject to the decision of the Board of Directors. Mr. Banket said he is in control because he makes the decision, and also goes out and find jobs and buys material. He further said he is the Board because of his majority shares according to the By-Laws.

Chair Roberts thanked Mr. Banket for showing up for the appeal hearing and said he will be hearing from the Council after a decision is made.

- **Envirox**

Chair Roberts welcomed Eric Jewsbury and explained the procedure of the appeal process.

Mr. Jewsbury apologized for Diane Stewart not being able to attend the appeal hearing. He said he is the Chief Financial Officer for the company and a minority owner in the company. He started by referencing a letter sent to Mr. Gutierrez on

October 24, 2018 by Ms. Stewart rebutting the denial. He said this letter has to do with cleaning out some old files that were incorrectly submitted and setting the record straight. He urged the letter to be entered into evidence. He said he was here to answer questions.

Chair Roberts wants to know if Envirox is 100% owned by Ms. Stewart. Mr. Jewsbury said Envirox LLC is part of an Envirox Holding that is 100% owned by Ms. Stewart.

Chair Roberts wants Mr. Jewsbury to explain Mr. Patrick Stewart relationship to Envirox Holdings. He said there are a number of owners in Envirox Holdings and Patrick Stewart is one of them. He said Mr. Patrick Stewart owns 26% while Ms. Diane Stewart owns 51%. He said there are 4 other minority owners. He said the percentage of ownership in the Holding company is reflected in the percentage in the LLC. Mr. Jewsbury clarified that 49% is owned by non-minority. He said when he said minority owners, he meant according to the number of shares not ethnicity.

Chair Roberts needs an explanation of why it is stated that Patrick Stewart is the sole owner of the Holding company. Mr. Jewsbury said he does not know where that is stated but it is inaccurate. He said he has other documents to submit and also that the website has been updated to reflect the correct ownership.

Chair Roberts wants to know who the owner was that was reflected on the Secretary of State website at the time of the application. Mr. Jewsbury said the ownership in the company hasn't change since 2016. He said the Secretary of State website is not showing owners but rather the LLC manager. He said before the denial it reflected an inaccurate information that was corrected when he became aware of it.

Mr. Gutierrez said he only received documentation for ownership for the Holding company and not the LLC. Assistant Director Jones pointed out that the owners of the LLC are reflected in the Operating Agreement dated March 2017 and the denial was not until September 26, 2018 which means it predates the denial.

Chair Roberts wants to know if we have the Article of Organization of the Holding Company that was filed with the Secretary of State. Mr. Gutierrez said we do not have that copy. Chair Roberts said we need the copy of the original paperwork

that was filed with the Secretary along with the amendments made subsequently. Assistant Director Jones said Ms. Stewart joined the company in 2012 with 20% ownership and in 2016 she became 51% owner. Mr. Gutierrez said the denial was based on the information from the Secretary of State documentation which conflicts with what the company has submitted to BEP.

Chair Roberts requested copies of all annual reports filed by the companies and all amendments done.

Assistant Director Jones pointed out that in exhibit #2 of the LLC agreement states in the initial capital contribution dated December 31, 2015 has Patrick Stewart with an initial contribution of 2.3 million and Diane Stewart with an initial contribution of 1.1 million. He asked Mr. Jewsbury whether that has changed considering Ms. Stewart is now the majority owner. Mr. Jewsbury said it has changed and that he will be providing an updated schedule.

In his final statement, Mr. Jewsbury thanked the subcommittee and said he will be working with Mr. Gutierrez to provide additional documents and information.

- **McGuire Iglesias & Associates**

Chair welcome Ann McGuire and Attorney Michael Dorf and explained the appeal process.

Ms. McGuire said she is an Architect and have been practicing since the 1970s. She said since 2001 the firm had been incorporated and she has done some work with the State of Illinois and CDB.

Attorney Dorf said they had filed an appeal with supporting statement and exhibits. He said basically the denial is based on the fact that Ms. McGuire and the 49% owner put in the same amount of cash capital contribution and they both received the same W-2 income. He said the W-2 income was not the sole income on their tax returns. He said they provided their K-1s which shows that Ms. McGuire always received 51% income. He said the salaries were the same, but Ms. McGuire received more in the profits. He also pointed out that CMS might have mistakenly concentrated cash contributions instead of in-kind contribution. Her said in addition to cash, Ms. McGuire also put in receivables and contracts she was already working on.

He said they believe that this combination of cash and in-kind contribution backs up the fact that Ms. McGuire is in fact the 51% and Mr. Iglesias is in fact the 49% owner. He said in terms of control, Ms. McGuire is the only person with signing power on all the banks accounts. He also said they provided several contracts which Ms. McGuire was the one who signed these contracts. He said since the company founding in 2001, they have been certified by the CMS, City of Chicago, and the Chicago Transit Authority. He said all these certifications confirmed that this company is a female owned and controlled business and there has been no change. He said based on these facts, they request a reversal on the decision that was made.

Chair Roberts needs whether there was an explanation provided as to why the compensation Ms. McGuire was not commensurate to her ownership.

Ms. McGuire said the compensation in terms of salaries is the same but in terms of the distribution of the dividends is based on the 51% to 49% of the stock holdings. She said this shows up the in the income tax K-1s.

Assistant Director Jones wants to know why Ms. McGuire did not put up more cash contribution. Ms. McGuire said in addition to the \$20,000 cash contribution, she contributed her office, contracts, and the name of her company that have been in business for the past 15 years.

Ms. McGuire stated in her final statement that the denial was based on the contributions and she believe those questions and concerns have been answered. 1:11:49

Chair McGuire thanked Ms. McGuire and Attorney Dorf for coming in for the appeal and told them they will be hearing from the subcommittee within two weeks.

- **Mosaic Associates Inc.**

Chair Roberts welcomed Mr. Roy Mosley and explained the appeal process to him.

Mr. Mosley said he was denied because he does not seem to be the majority owner. He said his By-Law states he appoints the Board of Directors. He said there are two Board of Directors: He and Jim Wright. He said the By-Laws said there is no quorum without him. He also said there is one vote per share, and he has 51% shares. He said these things in his By-Laws

support the fact that he is the owner and in control of the company.

Assistant Director Jones asks Mr. Mosley to walk us thru the change of ownership that took place.

Mr. Mosley said when the company was originally formed, there were 3 of them: Jim Wright – 25% shares, Jason Rybek - 24% shares, and Roy Mosley – 51% shares. According to Mr. Mosley, Jason decided to take another opportunity with Goodwill Industries and Jim bought his shares making him 49% shares owner. He maintains he had always been 51% owner.

Chair Roberts asks Mr. Mosley how long he had been certified with the Business Enterprise Program. Mr. Mosley responded two years.

In his closing statement, Mr. Mosley thanked the subcommittee and said he has traveled from East St. Louis to be here. He said he been playing by the book and hope to move his company forward. He also said he hope he had convinced everyone that he owns the company and if anyone had any questions, they should please ask him.

Member McKinnie asked Mr. Mosley what kind of business he has and where is it located. Mr. Mosley said his company is located in East St. Louis and it is a construction oversight company. Member McKinnie asked what his volume was. Mr. Mosley said he has two big contracts: One is with the City of St. Louis Park District and the other is remodeling McDonalds. He states that he also does demolitions.

Chair Roberts thanked Mr. Mosley for attending and said he will be hearing from the subcommittee within two weeks.

- **La Marche Mfg. Co.**

The vendor is not present, but the appeal is reviewed by the subcommittee.

According to Mr. Gutierrez, the vendor had restrictive language in the By-Laws and the vendor came back and modified all the points that we had concerns with. The vendor admits she took corrective actions on our findings.

Chair Roberts wants to know how long they have been certified with one. Mr. Gutierrez said this was their first time applying with us. Chair Roberts asked what the percentage of ownership for Ms. Julie La Marche was. Mr. Gutierrez said 51%. Chair Roberts asked what kind of business this company was. Mr. Gutierrez said power supply, power surge protector, back-up system, batteries charges, converter and inverter powers. He further said the other 49% is owned by an ineligible partner. Chair Roberts wants to know if there is a relationship between the owners. Mr. Gutierrez said none that was evident in the documents received and reviewed.

Assistant Director Jones asks Mr. Gutierrez to state his reason for why he felt that the applicant did not have control of the company.

Mr. Gutierrez said according to section 2 of the By-Laws provided, said the decision rests with the Board of Directors, of whom there are seven of them He said it is a family owned business.

Chair Roberts asks when did Ms. Julie La Marche get 51% of the company. Mr. Gutierrez apologized for not having that answer available.

Member Eng noted that one of her concerns was that the applicant lives in Florida and the company is in Des Plaines, IL. The applicant claims she can maintain and control the company even though she does not live here, according to member Eng.

According to Assistant Director Jones, the By-Laws states that the majority of shares shall constitute a quorum, which implies with the applicant ownership of 51% shares, she is in control of the company via proxy or by votes.

Chair Roberts want to know who runs the day-to-day operations of the company since she lives in Florida.

According to Mr. Gutierrez, the bulk of them are non-minority. He said estimating is done by Don Esipotel; marketing and sales operations are done by non-minorities; hiring and firing done by non-minorities; responsibility for Julie La Marche is 10%; management and non-management are mostly Caucasian males; supervising and field production are all ineligible males; personnel are mostly Caucasian males; contracts and signing

are Ms. La Marche and 3 other males; signing checks are Julie and 3 non-minorities.

Chair Roberts wants to know who has the signing authority according to the bank signature card or resolution. Mr. Gutierrez said he will have to get back to her on this issue.

Assistant Director Jones wants to know whether the applicant understood how to fill out the application because the percentages were adding up to 100%. Carlos said it was not an issue because the percentages were not required. Chair Roberts countered that it leaves many unanswered questions as to who is doing it when she is not doing it.

Chair Roberts asks if we say it seems as though she did not understand how to fill out the application, should we ask for clarification. Assistant Director Jones said he believes we should. Counsel Glavin said there is nothing preventing us from doing it.

Executive Session:

Motion to go into executive session by member McKinnie. Seconded by member Eng. Vote taken, motion passes.

Deliberations held, and the following recommendations were made:

- Elete Constructions and Mosaic were recommended to be overturned.
- Recommended additional information from Envirox.
- Recommended additional information from McGuire Igleski & Associates
- Recommended additional information from La Marche Mfg. Co.

Vote will be held at a special session on December 3, 2018.

Motion made by member McKinnie to get out of executive session. Seconded by member Eng. Vote taken, motion passes.

Regular Session

Member Eng motioned to a vote to allow the exception and approve Total Med Staffing for BEP certification. Vote taken, motion passes.

Motion to get out of executive session passes. Motion by member Hill-Morgan to uphold the denial was upheld.

Member Eng motioned for a vote to approve the BEP certification for Pier Group. Vote taken, motion passes.

V. Suggestions for BEP Council Meeting Agenda

- Next BEP Council Meeting – December 3, 2018
- Next Subcommittee Meeting – January 28, 2019
- Special Subcommittee Meeting December 3, 2018

VI. Public vendor testimony

None

VII. Adjournment

Meeting adjourned at 3:40pm.