

Equal Opportunity Review Commission

MINUTES

Wednesday, January 18, 2016

12:00 PM

City County Building

Sixth Floor City Stats Room 646

414 Grant Street, Pittsburgh, PA 15219

Commissioners in Attendance: James Myers Jr., Tracey McCants-Lewis, Barry Nathan, Jessica Bellas, Florence Rouzier, Karen Hall, Justin Laing, Erin Conley, Demeshia Seals

Absent Commissioners: Ralph Bangs

Staff in Attendance: Emily Pontarelli, Ricardo Williams, Josh Rolon, Oliver Beasley, Valerie McDonald Roberts

I. Introduction-

1. Vote for Chair- Freddie Croce has resigned from the Commission which leaves the chair for the Commission vacant. Erin Conley and Barry Nathan have been nominated for chair of the Commission. Pontarelli handed out ballots, commissioners voted between Conley and Nathan, Pontarelli picked up ballots and tabulated with Conley receiving three votes and Nathan receiving six. **Nathan is selected as the chair for the Commission.**

II. 90- Day Reviews-

III. **New Contract Plans- None**

IV. **Resubmittals- None**

V. Committee Report Updates

1. WBE Committee- Hall said that the event will be March 9th at Chatham and the WBE committee is seeking commissioners to volunteer at the event. Hall said that volunteers would meet at 7:30am and the event would run from 8:00am-12:00pm. Pontarelli gave an overview of the event with a round robin networking to hear from City procurement officers and that there is a cap of 100 attendees with 5-6 tables each with procurement officers. Seals asked if there will be a conversation at the WBE event about becoming certified or will event organizers direct attendees to a certification event hosted by Chatham happening later in March. Pontarelli said that since the WBE event is being scaled back to focus only on procurement, they would send attendees to that meeting later in the month.

Seals asked how many commissioners are needed and what they would do. Pontarelli said that they would help with registration and getting everything together for the event. Seals asked what the time commitment would be for

volunteers, and if commissioners would need to stay for the entire event. Pontarelli said that commissioners would not need to stay the entire time and she would know more after talking with Chatham later in the week.

2. Policy Committee- Laing said that the Bangs sent an email about city code 177A to commissioners and City Council members. Laing said that Councilwoman Gross agreed to meet with a policy committee member and Laing said he planned to go as the vice chair of the policy committee since Bangs, the chair of the committee, was out to town. McDonald Roberts said that Councilman Gilman also responded to the email. McDonald Roberts said that Gilman had reservations about venue of meeting with commissioners without EORC staff or the Commission chair. McDonald Roberts said to the chair that there needs to be a sense of order and as protocol the chair should represent the EORC.

In reference to a recent meeting between Mayor Peduto, EORC staff, Croce and Bellas—Laing said the Mayor has expressed that the Commission is independent and Laing added that he will emphasize that it is not for the Mayor or Council to say how the Commission should conduct itself. Laing added that it makes sense for Nathan, as chair, to attend the meeting with Councilwoman Gross. Nathan agreed.

Seals said that McDonald Roberts did not appear to disagree about the Commission's autonomy, but she is hearing from the City is that there is a better way to communicate issues, not that the Commission cannot make decisions independently from the City. Laing said he heard that as well and recognizes the opinion of the City, but in terms of how the Commission is structured that is a different question. Nathan asked if Laing was referring to the city code for the EORC. Laing said that he was and said that the Commission is an independent body and it is not the place of the City to tell the Commission to act in a certain way, though he agrees with the City in this case. Laing said that he saw from the Mayor's summary of the meeting with Croce, Bellas and the EORC staff that the Commission is an independent body.

Williams said that the email summary overstated the point about EORC independence and that the Mayor did not directly say what was written. Conley asked how that commissioners could say they were a separate entity if they were appointed by the Mayor's Office and interviewed by City Council.

Laing compared the process in which the U.S. Congress confirms Supreme Court appointees, but then the Supreme Court is its own body. McCants-Lewis compared the Equal Opportunity Review Commission with the Commission on Human Relations and said that the Commission needs to have some kind of independence to function and similarly to the Commission on Human Relations, the Equal Opportunity Review Commission is governed by the City of Pittsburgh. Conley agreed and said that it is preventing the fox from watching the hen house.

Rouzier said that the Commission's committees were created without a conversation about if they could act independently, but she was fine with Laing meeting with City Council members. Laing said that he is not suggesting that the committees are independent of the Commission since they are subcommittees of the Commission and it is up to the Commission to determine how its subcommittees behave.

Seals said that what McDonald Roberts was saying was that the manner that the Commission reached out to City Council was not protocol. McDonald Roberts said that the Mayor's Office follows a protocol to reach out to City Council. McDonald Roberts said that she would advocate against commissioners individually going to elected officials representing the Commission because it causes confusion.

Conley said that she was concerned about former commissioner Freddie Croce speaking with the Mayor when he had resigned from the Commission prior to meeting the Mayor. McDonald Roberts said that the Mayor is very accommodating to the general public and former commissioners, and the acting Commission chair Jessica Bellas also attended the meeting. Nathan said that it appeared that the Mayor framed the meeting with Croce and Bellas as a courtesy to an existing commissioner. Nathan said that there needs to be a better protocol for the Commissioner to reach out to elected officials since the Commission has a collaborative relationship with the City though it is independent.

Conley said that it is more important for the Commission to be united, before reaching out to elected officials. McDonald Roberts said that she had a conversation with Councilman Gilman that it appeared that there was a disconnect within the Commission and it appeared that there was confusion and potentially division.

Laing said that it was ironic that the City does not follow its own code to interact with MBE/WBE, but tells others that they do not have their house in order. McDonald Roberts said that the lack of cohesion within the Commission causes pushback from other City agencies. Not that the City agencies want to do this, but they don't know what else to do.

Seals asked what were the consequences for City agencies that do not follow the Commission's process. Seals referred to a moving contract from the December 2016 Commission meeting where commissioners had not approved a contract plan, but the vendor was already doing the work for the contract. McDonald Roberts said that issue was brought up to the Mayor's meeting with Croce and Bellas. Conley said that some authorities do not present to the Commission and that authorities have said that presenting to the Commission is a courtesy. Conley asked whether or not authorities were required to present to the Commission. McDonald Roberts said that the authorities are able to argue legally that they do not need to present in front of the Commission.

Nathan said that there is an opportunity to take a break from the past and make new relationships with the authorities. Nathan suggested listing out Commission concerns. Laing said that the Commission has already created a policy and approved them, but was told by the City that the policy could not go out to the authorities and the Commission was not given a process by which the policy could go out. McDonald Roberts said that there will be a process and that was an issue that was brought up at the Mayor's meeting with Croce and Bellas. McDonald Roberts said that the issues Seals has voiced have been concerns since the '90s and the City needs the Commission's participation to get things done. Nathan asked what McDonald Roberts to clarify what she meant by "get things done". McDonald Roberts said to have accountability and address issues that Laing talked about, especially now the commissioners have the ear of the Mayor to resolve issues.

Bellas said that she wanted to emphasize what McDonald Roberts just said that she and Croce met with the Mayor and made the issues outlined now clear. Bellas said that the Mayor suggested creating a pre-approval form to bring accountability. Bellas asked where does the Commission go from there since the issues outlined now have been brought to the top. McDonald Roberts said that the Mayor wants to have a meeting with the authorities and departments to create an executive order type of statement will be made. McDonald Roberts said that everyone is expected to comply, but this will be a collaborative meeting and not have a top-down order. Rouzier asked how the Commissioners would be involved in the meeting. McDonald Roberts said that she believed two commissioners, including the chair, would be appropriate to attend the meeting.

McCants-Lewis, referring to Bellas's recap of the meeting with the Mayor, asked if the plan was to distribute the policy to the authorities and hold a press conference following the meeting. Bellas said that was the plan outlined by the Mayor and added that the email she sent to the Commissioners was a summary made by Croce and sent to the Mayor and City staff. Bellas said that it was up to the commissioners to keep this plan on track since the Mayor had an ambitious timeline of 90 days to implement changes that is followed by a press conference. McCants-Lewis said that she approved of the press conference since it increased transparency and potentially the public may see implications of potential ethic violations if City code is not being followed. McDonald Roberts said that this might be another entity at the meeting with the authorities as well. McDonald Roberts said that if the Mayor, Chief of Staff, Commission and City Solicitor are all on the same page or can get to the same page at this meeting then they may get the teeth they need in enforcement.

Laing said that these changes were made because of work by commissioners and at no point had the City tried to rally the commissioners to bring about this change. McDonald Roberts said that it is about moving forward and that the

Commission on Human Relations had more issues than the EORC has now. Hall said that the Commission does not have the same issues as the Commission on Human Relations.

Conley said that the Commission needs to continue these conversations and keep the authorities involved, but the main issue is that meeting goals will be difficult since there are not enough M/WBEs in the architecture, engineering, and construction fields. Conley said that if the Commission wants to make these goals standards then it is going to be difficult. Laing said that the Commission will only view the goals as goals and all the Commission can assess is good faith effort. Conley said that she is confused about whether the policy is asking that the Commission not approve if a contract does not meet the goal. Laing said that this wasn't the intent of the policy and that the issue of approved contracts coming to the Commission as Seals said.

Nathan thanks Laing and Bellas for their work. Bellas said that the Mayor's plan may not be perfect, but it is the best the Commission has seen and this it is a plan coming from the top down and in a year if this plan doesn't work out then the Commission can meet again and make another plan.

Bylaws- McCants-Lewis

McCants-Lewis said that Bangs would like to add a section to the bylaws that would require EORC staff to complete meeting minutes five days before the next EORC meeting and prevent the EORC staff from distributing or posting the minutes on the EORC website and have the EORC staff remove minutes on the website for the 2015 and 2016. McCants-Lewis asked if there were any comments.

Laing said that from his understanding Bangs feels that he has been misquoted and feels strongly about removing the 2015 and 2016 minutes from the website. Laing said he believes that the commissioners should be sympathetic to fellow commissioners who feel that have been misquoted on the public record and right now there is no control to change a misquote. Seals said that commissioners have the opportunity to approve the minutes at the beginning of the meeting. Laing said that he remembers the instance Bangs is referring to and there was not a process to approve the minutes. Various commissioners said that minutes were never approved until this meeting. McDonald Roberts said that there should be an agreement to amend the minutes before meetings instead of impacting the bylaws which are very broad. Laing said that there should be an informal agreement that commissioners can adjust any misquotes in the minutes before they will be posted. Rouzier said that as long as minutes can be amended before approving, the minutes should be posted online for transparency.

Bellas asked if there was any follow ups in the past meeting about improving the technology to call in for meetings or allow video conferencing. McDonald

Roberts said that the City did not have the capability for video conferencing and no other commissions have video conferencing. Bellas asked to change the number of allowed call-in meetings from 3 to 4. Nathan said that he thought that there should be fewer allowed call-in meetings. Laing said that if you assume that commissioners plan to attend 9 meetings then 3 call-ins seem like a lot, but not if a commissioner is trying to attend all 12 meetings. Beasley said that staff suggested 3 call-ins since it required commissioners to attend half the meetings in-person since commissioners also were allowed 3 absences.

Clarification: Bylaws listed that there are 12 commissioner meetings, 9 of which commissioners must attend since there are 3 allowed absences and commissioners are required to attend 6 meetings in person and allowed to call in to meetings 3 times.

Rouzier asked if Bellas could make 6 meetings in person. Bellas said that she is not sure if she can make the requirement and she doesn't understand why it is a concern given that she attends meetings for her work remotely. Nathan suggested voting now and amending later if necessary. Seals said that at the last meeting the Commission wanted to come to a consensus, because commissioners did not want the bylaws to be ever changing.

Bellas said that she is participating in the Commission meeting now and is not missing anything. Conley said that this meeting does not have presenters and if presenters were expected to attend meetings then it is respectful for commissioners to be there in person to hear them present. Nathan motions to have a straw vote for those in favor of keeping the language in the bylaws that allow commissioners to have 3 call-in meetings annually. Seals seconds. Straw vote had Myers, McCants-Lewis, Nathan, Bellas, Rouzier, Hall, Laing, Conley, and Seals in favor and Bellas against.

Laing said that the meeting should be aimed for an hour long and should not be running the full 2 hours. Conley said that the responsibility of the chair is to keep the process moving. Williams said that some meetings require a longer meeting times. Nathan said that as he understands that as the chair he should move the items on the agenda expeditiously.

Nathan asked if the monthly meeting with the manager is in-person only. Williams said phone or in-person in fine. Nathan asked if the Mayor could remove commissioners without approval from the Commission. McCants-Lewis said that the Mayor appoints the commissioners and has the power to remove. Laing said the Mayor can unless there is an exception for 177A, of the City code that is the legislation for EORC. McDonald Roberts said that there is only one commission that Mayor cannot unilaterally remove commissioners and that is the Commission on Human Relations. Laing said that the bylaws say that the Mayor can remove commissioners unless it goes against 177A. McDonald Roberts said that the Mayor does have the ability to remove commissioners from the Commission. Laing said that commissioners should read the 177A

since it will supersede the bylaws since there must be some **checks and balance**.

McDonald Roberts said that the Commission should have the bylaws so strict that it may lock in commissioners, and in real life there are going to be exceptions. Laing said that what city codes says will supersede the bylaws. Nathan asked if the Commission should review the language and postpone the vote or vote as is. McDonald Roberts referenced language on process for removing commissioners and said that it has the ability to have negative political effects. Rouzier said that there must be some sort of accountability. Laing said that without accountability the Commission loses the ability to enforce the bylaws.

Laing said that it is importance for an independence for the Commission that is not for antagonism for the city, but just to be able to approve bylaws. McCants-Lewis said that being able to approve these bylaws shows City entities that the Commission has a structure. McDonald Roberts suggested having language that the Commission is subject to removal as according to the Pittsburgh City Code. Laing asked Nathan as chair what was the process to approve the bylaws right now. Nathan said he was unsure as well and asked if McDonald Roberts had language she would recommend for the bylaws on commissioner removal. McDonald Roberts said that she deferred to the committee chair, McCants-Lewis.

Seals motions to approve motion as is. Justin seconds. **Motion passes. Bylaws approved.** In favor: Seals, Hall, Myers, McCants-Lewis, Rouzier, Nathan, Conley, Laing. Against: Bellas.

- VI. Chairman's Remarks
- VII. Manager's Minute
 - 1. Williams said that the EORC staff will do the year in review next month to show progress.
 - 2. Conley asked if the phone technology could be improved and purchased by the City.
- VIII. Adjournment- Nathan