



Richland County Council
Office of Small Business Opportunity Ad Hoc Committee
October 16, 2018 – 12:00 AM
4th Floor Conference Room
2020 Hampton Street, Columbia 29204

COMMITTEE MEMBERS PRESENT: Norman Jackson, Chair; Paul Livingston, and Gwen Kennedy

OTHERS PRESENT: Michelle Onley, Michelle Rosenthal, Melissa Watts, Cheryl Cook, Erica Wade, and Brandon Madden

1. **Call to Order** – Mr. N. Jackson called the meeting to order at approximately 12:16 PM

2. **Approval of Minutes**
 - a. July 10, 2018 – Mr. Livingston moved, seconded by Ms. Kennedy, to approve the minutes as distributed. The vote in favor was unanimous.

3. **Adoption of Agenda** – Mr. Livingston moved, seconded by Ms. Kennedy, to adopt the agenda as published. The vote in favor was unanimous.

4. **Items for Discussion/Action**
 - a. Staffing of OSBO – Mr. Madden stated, at the previous OSBO Ad Hoc Committee meeting, there were some questions regarding the staffing of the OSBO Office. We were able to check with Finance, Budget and Human Resource Departments, and the office is fully funded. There are no frozen positions. There are a total of 5 positions, in the office. We have a new OSBO Manager, Erica Wade.

Mr. N. Jackson inquired if the office is fully staffed.

Mr. Madden stated it is not fully staffed. There are 2 vacant positions in the office. One is the Finance Resources Coordinator, and the other is the Assistant OSBO Manager position.

Mr. N. Jackson stated there were some emails that there were frozen positions, and there were some concerns about that.

 - b. Status of Mentor Protégé Program – Mr. Madden stated there is a draft mentor protégé program included in the agenda packet. August 22nd the OSBO staff met with a group of small businesses, for a focus group. They provided some feedback, which was included in the draft. It is being presented as information, and feedback from the committee. It is a lengthy program to go through and give feedback

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now. If you want to give it now, or later, staff will go back and adjust, as needed, and bring it back to the committee.

Mr. N. Jackson stated it has been going on for a while. Is there any recommendation, or suggestion? He thinks in the ordinance it included mentor protégé to also go with the SLBE program for those businesses that may be at a disadvantage or trying to get bonding, financing, or certification. The mentor protégé program was also to help, and he thinks approximately 20% of the contracts were to be awarded to the mentor protégé program, which has not happened yet. It is important to move forward with the mentor protégé program. He stated Ms. Tanner is here. She worked on developing that program. He wants to know what the recommendation is, so we can let Council how to move forward with it. He stated it has been held up for a while.

Mr. Madden stated staff would recommend approving this draft program, and allow us to implement that fully. One particular item that arose during the work session was maybe piloting the program with one of the industry categories and seeing if we can develop a relationship with one of our primes, that is working through our Program Development Team, and one of our small businesses. That is something that we think could be viable, but the first step we would recommend is approving the actual program and allowing us to implement it.

Ms. Kennedy inquired about how far with the implementation, and the program, has staff gotten.

Mr. Madden stated, unfortunately, the OSBO Office has never been fully staffed and never been to a place where it can fully implement all of the items prescribed in the ordinance. We are just now reaching that point to where we can take this program and push it forward. The first step with this, would be draft program that we have. Once Council blesses that, and no changes are needed to that, then Ms. Wade and her staff will move forward with implementing that. The office has been in existence since 2014, and he does not think it has had more than 2 – 3 people in the office, until now.

Mr. N. Jackson stated it has never had an opportunity to be fully staffed. Because it was not fully staffed, it caused some problems with it being effective in what it is supposed to do to help the small, local business enterprise.

Ms. Kennedy inquired if staff feels ready to move forward with implementing some of this stuff.

Mr. Madden stated, with the guidance of the new OSBO Manager, Ms. Wade, we are in a position now where we can move forward quickly.

Ms. Kennedy stated it is important that we have progress in these areas instead of being stagnant and standing still with all these different things. She stated that has been a problem for a long time.

Ms. Tanner stated, even with the initial mentor protégé program, the program, as it was developed, was already vetted out by many representatives in Richland County, as well as the public. It seems like have duplicated the efforts that was already done when the program was developed. Staff recommended a draft, but if she is not mistaken, Council already approved the mentor protégé program.

Mr. N. Jackson stated Council approved it, but he thinks Mr. Madden is recommending a pilot project to see how it worked, and how to tweak it.

Mr. Livingston inquired if that is staff's recommendation.

Mr. Madden responded in the affirmative.

Mr. Livingston moved, seconded by Ms. Kennedy, to approve staff's recommendation regarding the mentor protégé program. The vote in favor was unanimous.

- c. NAICS (North American Industry Classification System (Code Funding Limit)) – Mr. Madden stated, during the previous OSBO Ad Hoc meeting, there was a request to review what our current thresholds are for the different industry descriptions, and compare that with other municipalities, including the State, and any Federal size standards. He directed the committee's attention to p. 14 of the agenda packet. Staff provided a table that outlines the County's size standards, and compares it with Charleston County, the City of Savannah, SBA and the SCDOT. In particular, the County's size standard varies, per industry category, with the max in construction at \$7 million. In comparison, Charleston County's is \$7.5 million, across the board, with those same categories. He stated staff is requesting the committee to accept this as information, or let us know if there are any changes the committee would recommend to those size standards.

Mr. N. Jackson stated, from the industry, the concern was that whenever they reach a certain level they are graduated from the program. We are limited with the amount of small, local businesses in Richland County, so we would have to go out of Richland County, and it was really designed to help small, local businesses. Ms. Tanner could shed some light on it because she was one of the architects that worked on this program.

Ms. Tanner stated the purpose of the NAICS Code maximum dollar amounts being established, as they are, is to allow local firms to participate, versus other counties. Their NAICS Codes were much higher, and we suggested not to use the SBA Codes because those codes are much higher. The SBA used the national listing of disadvantaged firms around the country versus those in South Carolina. If you adjust your codes to be higher than what they are, that would defeat the purpose of the program. It would allow much larger firms to come in and participate versus where the status is right now with the lower amounts. They submitted that to the County, if she is not mistaken, and those were already approved in the ordinance, to accept the codes at the dollar amount.

Mr. N. Jackson stated we have been hearing from the industry that it is too low. You might get a \$1 million contract, but after you sub out everything, you may only end up with \$250,000. Then, you graduate from the program, which is not a true situation.

Ms. Tanner stated we looked at that as well. When there are other portions of the work to be subbed out, to non-minority firms, or non-local business firms, then you would take away those dollars, and only credit the dollars that is actually paid to the local, small business firm.

Mr. N. Jackson stated, at one point, some companies had 2 codes, or were doing multiple projects, and they wanted to use 2 codes, but they were limited by the value of the codes. The SLBE Program was designed for small and local business in Richland County. If we did not have enough small businesses to apply, then it moves 50 miles out, per the ordinance. If it cannot get enough, then it goes out of state. The concern was that because it was so low, they graduate from the program, they cannot get back on the program, so they start moving outside of Richland County. That is the reason there is a

recommendation on p. 14, where it shows Charleston County and Richland County. There is some concern that, if you raise it, the bigger companies would get in. There is a concern in how to reach that number. There is a recommendation from the business community to raise it. Not necessarily to the level of Charleston, but to raise it somewhat so they can stay in the program longer. Once they graduate, they cannot come back on the program, and we do not have enough suppliers to really address or apply for those contracts, so it goes outside of Richland County. The other counties are set up with a higher level to prevent us from getting into their counties. He stated that was one of the main concerns. Charleston has \$7.5 million, across the board. He stated he would not recommend that, but he has some concerns about Engineering at \$2.5 million. He thinks that should be a lot higher. He stated he has concern with Architectural and Professional Services too. He recommends going as far as \$5 million to increase Architectural and Professional Services. Construction could stay at \$7 million.

Ms. Tanner stated they only identified 2 minority architectural firms in Richland County. At the time this was put in place, the \$3 million was more than fitting.

Mr. N. Jackson stated the program was race neutral also, so even though it is 2 minority firms.

Ms. Tanner stated she said minority out of habit, but it really just local.

Mr. N. Jackson stated there should be more than 2 architectural firms in Richland County.

Ms. Tanner stated they only identified 2 that fit in.

Mr. N. Jackson inquired as to what is considered to determine if a business is small.

Ms. Tanner stated the gross receipts. Since this program was initially developed, even that has changed. It was established to get 2 years' tax returns from the businesses, now there is a requirement for 3. We do not know where that came from. Your program now has more stringent requirements than the Federal government. She would think someone might need to look at that again.

Mr. N. Jackson inquired if Council changed or amended the ordinance.

Mr. Madden stated not that he is aware of.

Ms. Tanner stated the ordinance stayed the same, but internally the administrative requirements for certification were modified since it was put into place.

Mr. N. Jackson stated there was a recommendation to modify it, but he told Administration that only Council could do that.

Ms. Tanner stated she attended a meeting about a month ago and picked up a copy of the requirements, and the submittal requirements have changed.

Ms. Kennedy stated we do need to look at that because we need to know who changed it if Council did not change it.

Ms. Tanner stated, to answer your question, you look at the average of their gross receipts.

Mr. Livingston requested staff provide him a copy of the ordinance approved by Council, and what is currently being used, so he can verify what is being said.

Ms. Kennedy stated she would like a copy as well.

Mr. N. Jackson requested the information be forwarded to all of the committee members.

Mr. Livingston stated, if he remembers right, staff's recommendation was not to change the dollar amount, and he thinks it even came before Council. He inquired if Council took action on it.

Ms. Tanner stated it was brought before Council. There were 2 firms that brought it to the attention of Council because they would no longer qualify to meet the requirements of size standards. It is her recollection that Council decided not to increase it.

Mr. N. Jackson stated we had a meeting with Chao & Associates, Cox & Dinkins, and DESA, and we requested staff to make a comparison. If all of these people graduate out of the program, then it will go to Lexington and other counties. That is why we sent it back to staff to see if we could make adjustments in the gross receipts, or use another formula. For example, you may get a \$1 million contract, but after you sub it out, it really works out to \$250,000.

Ms. Tanner stated, based on that example, that is why we have looked at taking the amount they sub out to other firms, and not credit that toward the amount direct to the DBE firm.

Mr. N. Jackson inquired if that was done. He recommended getting some information on that, and see if that was changed if it could help these firms from graduating.

Mr. Livingston stated he would like to know, when this item came before Council, what the decision was at that particular point, because that could affect how we would proceed. He stated he has been concerned on both ends. He wants to see the companies expand, but he is still concerned about the small ones left behind, and if it becomes too competitive for some of them. He stated it does help, if we are going to credit the amount that they transfer to someone else. They may be okay with not having an increase, because we do not know the effects of that yet.

Mr. Andy Tolleson stated one thing to be aware of is, with the Penny Program, as it stands now, we have moved through most of the consulting side. Most of the contracts, and obligations, to the County now are in construction. One thing that he has noticed is the goal standards set for the non-sheltered markets are kind of small. They are not aggressive at all. What he is hearing back, on the construction side, is that we have very few SLBE contractors. If you could find some creative way that encourages the more established SLBEs to pull in some of the emerging SLBEs. When you have 2 small companies working together, quite often the dynamics are that they are almost mentored by necessity.

Ms. Tanner stated, if you will look at the history, when the sheltered market process was first implemented, that is exactly what happened. We looked at the opportunities that came about, and we slated those for sheltered market projects because they qualified. The local businesses were very active in participating. There were several awards to those local firms. She does not know what happened to that. And, these projects were awarded at 100% of the dollar amount. The lowest goal that was set for those was approximately 50 – 80 % sheltered market. She has only see 1 or 2 sheltered market projects

awarded for the past year. She stated it is a shame because this is the only program, in the State of South Carolina, where you have legally authorized, set asides for local, small businesses. You are talking about an advantage that could be the upper hand up for local businesses.

Mr. N. Jackson stated that is why he would like staff to look at it. As Mr. Livingston said, backing out certain money, and give us a recommendation, so we can make an informed decision on how to move forward with that.

Ms. Wade stated they just approved sheltered market project.

Ms. Tanner stated the contracting community still associate her with this County, even though she has been gone for many years now. There is an issue with them receiving payment, so they will not participate as much with the sheltered market projects because it takes too long to get paid.

Mr. N. Jackson stated that is something they have been working on with the B2G program.

Ms. Kennedy stated, if it is possible with the history, who stopped it if it did not come to Council, and Council stopped it.

Ms. Tanner stated the business contracting community would fill the rooms up when we had pre-construction meetings. They were excited about set asides where they could compete amongst themselves.

- d. Small Business Focus Group – Mr. Madden stated the focus group was held on August 22nd. A debriefing report was included in the agenda packet outlining what was discussed.

Mr. N. Jackson stated Mr. Dinkins and Mr. Tolleson sent emails also about some points and the discussion. He inquired if staff had any recommendations or comments on how to move forward.

Mr. Madden stated they gave input on a variety of topics. One in particular, was considering the pilot program for the mentor protégé program, and including a cross functionality component. They also provided feedback on sheltered market, and many of the other programs the office offers. Staff plans to share the report with the businesses that participated in the focus group, and would encourage having future focus group meetings.

Mr. N. Jackson stated this program has been lax, and not moving forward.

- e. Sheltered Market/Goal Setting Ordinance Amendment Recommendations – Mr. Madden stated one item that we realized when we were going through our process for goal setting was the lack of a defined formula for setting those goals for SLBE participation. What you have before you is a draft of a formula that staff would like to use moving forward, when we set goals for SLBE participation.

Ms. Wade stated the methodology that she presented, when she came in, is used at the SCDOT and the City of Columbia. What it does, it talks about the scope of work and identifies the NAICS code. We looked at how many certified firms we have internally, as far as the SLBE, along with how many firms are actually registered out in the Census. We used the formula to calculate our availability. We also look at the scope of work that comes from our estimator. From that we come up with our project goal. She

stated it give us some teeth. If we are ever challenged on how we came up with the goals....

Mr. N. Jackson inquired about what we were using prior to this. Was there a formula or anything?

Ms. Wade stated, as far as she knows, she had not seen any.

Ms. Watts stated she did this for months, and this is exactly what they used before.

Ms. Tanner stated her firm developed the goals. They developed the goals from estimating approximately 10 – 15 projects. They developed the goals for all of the sheltered market projects. They did not use the quote from the Census Bureau because the majority of the firms, in the Richland County area, were not registered with the Census, so they could not use that. They used the firms were actually registered, and certified, in Richland County. She stated that less than 80% of the firms registered in the program had not registered with the Census.

Mr. Madden stated staff is requesting to put this in the ordinance.

Mr. N. Jackson stated, for clarification, Ms. Watts is saying this is the formula we are using.

Ms. Watts responded in the affirmative. She stated this is what they have always used. They used the number of available firms in Richland County, as provided by the Business License office, total number of certified firms, and we even took it a step further, if we knew a NAICS code was fairly generic, and there was a specific line item, in a project, and they knew Mr. Tolleson's firm could do that under that overarching engineering NAICS code, then we would add him in. If they had an overarching code, we included them in line items that were below that NAICS code or fell into that category.

Mr. N. Jackson inquired if they have a history or copy of the program Ms. Watts used.

Ms. Watts stated they used to do it on an Excel spreadsheet, and all of those are in their files. She stated we did not have this particular form, but the Excel spreadsheet did the math for you. The program would be duplicated very easily.

Ms. Wade stated they will continue to do the process that is similar, but they feel that this is more reliable, and nationally used.

Mr. N. Jackson stated he was concerned about the tweaking and adjusting to a firm...

Ms. Watts stated as long as the NAICS Code fall within an overarching NAICS Code. That is why the goals were so low. If Mr. Tolleson had the overarching engineering, and it called for a sub-code of that (i. e. bridge construction, and he just had construction, he would not get calculated in those numbers). As long as that was a particular project he could perform then we would include him in that number because we were excluding all these firms that had the capability because the NAICS Code was so restrictive.

Ms. Tanner stated she thinks it is safer to do it that way, but you may want to identify those subcategories the firms can provide, if you are challenged. South Carolina has been very safe in being challenged by AGC. She has been in states where AGC will challenge you, and then you are in trouble.

Mr. Livingston stated he supports what she does, and how she does it, but let's just be make sure it is documented and being consistent.

Ms. Tanner stated you have to identify because if they come and audit you, and you have that firm with that one category, they are going to say, "Where did you get this information from?" You need to make sure you itemize all the services they provide, so they can understand why we counted them.

Mr. Livingston stated he is not suggesting you are not doing that.

Mr. N. Jackson stated he would like them to compare the spreadsheet and the formula to make sure it covers anything that may fall between the cracks.

Ms. Tanner suggested taking out using the Census data. SCDOT, and the other agencies, use the Census data, but those agencies have the Federal government backing them. This county does not have that. If you are challenged, you are going to be in big trouble without a disparity study or the government regulations. She would take the Census data out of there, and use the local base. You will be more protected by that.

Mr. Livingston requested staff to look at that and make a recommendation about removing the Census data.

Mr. Tolleson stated it seems like when we come out with our goals they seem to be about half of what we are seeing at the SCDOT. He inquired if adopting this kind of methodology will enhance the numbers so participation will be a little higher, or are we still just beat up because our population is so small?

Ms. Tanner stated, when you are developing the goals, one thing you need to make sure those firms you identify are ready, willing, and able. If you identify firms that participate with SCDOT, may not be the same firms that have an interest here. And, even if you have goals that are set at 2% versus a 10 -15%, base your information on factual identification. If Richland County consistently has goals that are established... SCDOT, at one point, were establishing goals at 4 – 5%. In working with the SCDOT for the past 18 – 20 years, they allowed us to develop goals. They had 40% more participation, as a sub-consultant to SCDOT, than SCDOT did themselves. They showed them how to do it, and things got better for years.

Mr. N. Jackson stated staff will look into it and make a recommendation back to the committee.

Mr. Livingston stated, for clarification, staff's recommendation is to adopt this particular form.

Mr. Livingston moved to accept staff's recommendation to adopt the form.

Ms. Tanner stated the form says, "Zero goal if there are 3 or fewer firms." She suggested having someone look at that. All you need is 3 – 5 firms, and you can definitely establish a goal.

Mr. N. Jackson stated that is why his recommendation was to look at both the spreadsheet they had, and this new form.

Mr. Livingston withdrew his motion.

- f. SLBE Program Graduate Recommendations – Mr. Madden stated there are 5 firms that are ready to graduate out of the program; Chao & Associates, Cox & Dinkins, Civil Engineering Consulting Services, Premier Construction and OHL, Inc.

Mr. Livingston stated this is based on not backing out what they do with other companies that you mentioned earlier.

Mr. Madden stated that is correct.

Mr. Livingston stated he would like to know if our ordinance covers backing out what they do with other companies, and the implication for that before moving forward. That might affect whether or not they have reached that threshold. He does not know how we get at, but he would like to see if the ordinance covers it.

Mr. N. Jackson stated that is why he came up with the NAICS Code earlier to see the level, and if those subs were backed out to try to help some of these programs.

Mr. Madden requested Ms. Cook to elaborate on how this is calculated.

Ms. Cook stated the gross annual revenue is received, and looked at on a 3-year basis, on an average, after looking at their tax returns. It is gross receipts from their tax returns. It is not broken down into subcontracts, how many contracts, etc. We are looking at actual returns. The number you see came from their tax return, as their gross annual receipts for that year. We add all 3 of those up, and get the average for those 3 years.

Mr. N. Jackson stated he understands you doing it that way, but he is not sure the tax return will show. In doing business with us, if a lot of their gross was subs, that means they did not actually keep that money. If it was subbed out, then, it would less. A company could get a \$3 million contract, but when they hire all the subs for parts of it, they may end up with only \$1 million.

Ms. Tanner stated they are only required to perform 30% of the work. If you sub out the rest of the work, you could easily take away from the gross receipts that they received.

Mr. N. Jackson stated Ms. Tanner was one of the developers of the ordinance, and worked with it, so she would have some in depth knowledge. He is not sure what has been changed. He is not sure if Council has made any modifications to the ordinance.

Mr. Madden stated he does not think the ordinance has been changed.

Mr. N. Jackson stated his concern was gross vs. net, or what was subbed out.

Mr. Livingston stated, for clarification, the ordinance says gross tax returns, and there is nothing that goes with that.

Mr. N. Jackson stated that is what the ordinance says, that is why we are trying to see how it affected the small, local businesses, and if we need to make any modifications to the ordinance to keep some of these local firms in.

Mr. Livingston stated staff's recommendation is based on the ordinance. If we are going to do something different, we will have to change the ordinance.

Mr. N. Jackson stated, when you are doing a program, sometimes there is some tweaking over time. That is why when we met with the business community to give their input, and how it is affecting them, those are some of the input we got from them. If we decide to let them go, our firms to meet those goals are not coming from Richland County.

Mr. Livingston requested staff give him an idea of what the State, City of Columbia or other municipalities are doing when they consider graduating someone from a different level.

Ms. Wade stated the City of Columbia does not have a threshold, per se. They do not have a size standard, but they do have something as far as the mentor protégé program regarding graduation.

Mr. Livingston stated, for clarification, there is not a size standard for the SLBE.

Ms. Wade stated she called to verify, and the City of Columbia does not have a size standard. The only time they have a threshold is to the mentor protégé program.

Mr. Livingston stated, if these companies were in the City of Columbia, they would not graduate. They could continue on.

Ms. Wade stated they have a minority program, at the City.

Mr. N. Jackson stated, if we work with the industry, that is why we had input from them to see how it affects them, and how we could tweak, if necessary, the ordinance or program to make it more effective for the small and local business enterprises. These are the recommendations from them explaining what they think is fair to them, or what works or does not work. In the program, we are going to do some tweaking anyhow. Nothing is foolproof.

Mr. Livingston stated the problem now in not following staff's recommendation, we are not following our ordinance.

Mr. N. Jackson stated it should be an amendment to the ordinance. Even with the mentor protégé program is required with the ordinance. This was to be addressed, is the ordinance sound, or does the ordinance need to be amended. If we go by the ordinance, that is it, and these people graduate and we look to other counties to fulfill the goals.

Mr. Livingston stated we can send this forward to Council with a recommendation. Staff going back to look at something does not serve any purpose because they are going to go back and tell you again what the ordinance says. If we do not move this forward, what guidance are we going to give staff. They have already made their recommendation, based on our ordinance.

Mr. N. Jackson stated we can adopt staff's recommendation or we could send it to full Council, and see how it affects the industry if the ordinance needs amending from the tax returns.

Mr. Livingston stated since we have some concerns, instead of forwarding the recommendation of staff,

we probably could forward it without a recommendation, so we can deal with it on a Council level.

Ms. Kennedy inquired if the motion is in line with the ordinance.

Mr. Livingston stated, when it comes before Council, staff will have the highlighted portion of the ordinance with it.

Mr. Livingston moved, seconded by Ms. Kennedy, to forward to Council without a recommendation.

Mr. Livingston stated he wants to make sure, when this comes before Council, staff will have the highlighted portion of the ordinance, which stated the graduation problems. And, also any information relative to others who have similar programs.

Mr. N. Jackson stated his concern was that we had this discussion to address concerns, how it affected the small, local business enterprises, and to get input from them to see how, if necessary, the ordinance could be tweaked to keep them from graduating from the program where they think it was unfairly done because of the use of the tax return information. When we developed the Penny Tax Program, and the ordinance, it was really to ensure keeping most of the money in Richland County, because in the past, other counties and other states came in and took everything. That is why he developed the SLBE program for small, local business. He stated it may need to be tweaked to keep small, local business here. That is why he recommended staff go back and look at it both ways to see if it should be adjusted or not.

Ms. Kennedy stated, for clarification, once staff looks at it and tweaks it, it will come back to Council.

The vote in favor was unanimous.

5. **ADJOURNMENT** – The meeting adjourned at approximately 12:58 PM