

MINUTES
***workforce*CONNECTIONS**
EXECUTIVE COMMITTEE
Tuesday, December 22, 2009

Members Present

Councilwoman Gerri Schroder, Local Elected Officials-Chair
Mujahid Ramadan, *workforce*CONNECTIONS-Chair
Ken LoBene, Youth Council-Chair
Charles Darling, Sr., Adult/Dislocated Worker-Chair (via telephone)
Margarita Rebollal, Budget-Chair
Pat Maxwell, Emerging Markets/Partnerships/Resource Development-Chair
Laurie Luongo, Brand & Value-Chair (via telephone)

Staff Present

John Ball, Executive Director	Suzanne Potter
David Jefferson, Chief Operating Officer	MaryAnn Avendano
Cornelius Eason	Debra Collins
Jenaya Butler	Ted Watkins
Tameca Ulmer	

Others Present

Matt Cecil, Atty., Legal Counsel
Helicia Thomas, GNJ Family Life Center
Capucine Holmes, GNJ Family Life Center
Sharon Nelson, Nelson Law Firm
Nick Hamilton, Nelson Law Firm
Ron Hilke, DETR
Sigrid Mohrhardt, Easter Seals Southern Nevada
Bruce Rogol, Solar Forces, Inc.

(It should be noted that not all attendees may be listed above)

Agenda Item 1 - Call to Order, confirmation of posting, roll call

The meeting was called to order at 9:45 a.m. Staff confirmed the meeting had been properly noticed and posted in accordance with the Nevada Open Meeting Law. Roll call was taken and a quorum was present.

Agenda Item 2 – ACTION: Approval of Agenda with the inclusion of any emergency items and deletion of any items

Motion was made to approve the agenda as presented by Councilwoman Gerri Schroder and seconded by Ken LoBene. Motion carried.

Agenda Item 3 – ACTION: Approval of a contract to Nevada Public Education Foundation to support the statewide Ready for Life Initiative, including an initial startup amount of \$20,000

John Ball gave a brief update on the status of the Ready for Life Initiative. This action is an interim measure to begin the program upon approval by the Board of Examiners in January 2010. *workforce***CONNECTIONS** will be reimbursed the \$20,000 startup cost from the State fund.

Ken LoBene provided additional background information on the Ready for Life Initiative and its purpose to connect young people to education and employment before they are 25.

Laurie Luongo expressed concern regarding the program's deliverables and timeline as shown on page 7 and 8 of this agenda. Discussion ensued.

A request was made to have the Ready for Life Executive Director make a presentation to the Board and answer any questions.

Motion was made to approve with the condition that the Ready for Life Executive Director make a presentation to the Board and answer any questions by Councilwoman Gerri Schroder and seconded by Ken LoBene. Margarita Rebolal and Laurie Luongo opposed. Motion carried.

Agenda Item 4 - ACTION: Accept the recommendation of staff to award a contract extension to Easter Seals Southern Nevada PY '09 contract in the amount of \$386,692.62. These funds will be used to place 81 dislocated Southern Nevada residents in on-the-job (OJT) training activities with furniture manufacturer Foliot Furniture.

Heather DeSart gave a brief background on Easter Seals Southern Nevada, an overview of the proposed contract extension, and presented the details of the spread sheet as shown on page 11 of this agenda. Following, Sigrid Mohrhardt, the Director of Employment & Rehabilitation at Easter Seals Southern Nevada answered questions regarding the amount of funds requested, recruitment, and outreach.

Motion was made to approve as presented by Ken LoBene and seconded by Pat Maxwell. Motion carried.

Agenda Item 5 – DISCUSSION and POSSIBLE ACTION: – Approval of settlement re: Balint vs. SNWIB

Verbatim provided at the request of David Jefferson.

John Ball: Mr. Chairman, Matt Cecil, the Board's Counsel is to answer any questions you may want to ask. The Board is familiar with the nature of this complaint for a year or so. If Matt has anything else to say, he may, and we are open for questions.

Matt Cecil: Does anyone have any questions?

Councilwoman Gerri Schroder: I have a quick question. Are we approving this here or does this go on to the full Board?

Matt Cecil: No this will just get approved here; I'll explain that in a second.

Councilwoman Gerri Schroder: Okay.

Mujahid Ramadan: Probably go to that one there because I was under the impression that everything we confirm had to go the Board.

Matt Cecil: Under the By-Laws, the Executive Director has authority to indebt the board to twenty-five thousand dollars without signature approval. The reason we came before you here is because at the request of the Attorney, theirs, they just wanted another approval to request confirmation. We can present it to the regular Board, if this Board would like; however we can proceed.

Margarita Rebolal: Where is that in the By-Laws?

Matt Cecil: In section...its article six of the By-Laws. I've reviewed the By-Laws and with also the LEO's attorney, Ron Sailon, and discussed this matter with him in quite detail and we came to the same conclusion that we were well within the By-Laws to proceed.

Margarita Rebolal: Also in the same section it says that twenty-five thousand for an allowable expense, and my question is, where is this money coming from because as far as I know this is not an allowable expense to come out of our funding? Where is the money coming from?

David Jefferson: Well, fifteen thousand I know for sure, if you look at it, if it's going to be considered as back pay, like payroll, that would fall under our personnel line and if we are to pay the legal that would fall under our legal line. I would take a look at our allowable cost policy, that's kind of how it would fall on our budget.

Matt Cecil: This won't come under the employee funds because we are not paying this as back pay, it's a settlement for a tort claim, which is negligent infliction of emotional stress.

Margarita Rebolal: Where does the money come from?

Matt Cecil: From the legal fund, which is an allowable cost. The other option is, and I'll go into this, maybe it'll answer some of your other questions as well.

Margarita Rebolal: The legal funds that we have in the budget?

Matt Cecil: Correct. The reason why we are settling the claim, and there is a couple of avenues to look at, settling litigation at twenty-five thousand dollars is a relatively low cost considering the cost of litigation all the way through to trial or even worse going all the way through the trial and settling at that point in time. It's very easy for legal fees to accrue in the matter with discovery and evidentiary, procedures, as well as, motions and whatnot. Something of this matter is able to increase quickly and surpass twenty-five thousand dollars just in legal fees alone. This matter is relatively fresh and young and by settling for twenty-five thousand dollars we save the Board a considerable amount of time and expense in legal fees and time also in taking away from staff for different things, such as depositions. By the time you go to court, the court will try and direct us to settle anyway. Before you go to trial, generally a Judge will ask is settlement possible on this and direct you to a settlement conference. Luckily for us in this matter the court directed us to try and settle before this took off and we were able to sit down and come to an agreeable amount without incurring a significant amount of legal fees in the entire matter. It is advantageous to the Board and to save funds to settle something like this instead of going through a full out trial. There is always the possibility of losing. We feel our position is strong but obviously the opposing side and opposing attorney also feel their position is strong too. There is always the possibility that we could go out and incur, at a very minimum, twenty-five thousand in legal expenses and then we lose the case at trial then we may end up having to pay eighty to one hundred thousand dollars in damages or something

like that and that money has got to come from somewhere and it's going to end up coming from the WIA budget, which will be a proportion among all the different LEOs and their organizations.

Mujahid Ramadan: It's disallowed, that's what you're saying.

Matt Cecil: No it's allowed, we can be sued and we can sue, but it would have to come out of our funds, out of our budget and it will come from, I don't know the proportionate rate, but, 60% from Clark County, 20% from Las Vegas, whatever the rate is, but in the end, this money comes out of money we could spend somewhere else. It's better to spend a small amount now and be done with it than spend the same amount and risk losing later; or even spend more than this in legal fees. In talking also with the LEO's attorney, this is an advantageous settlement.

Councilwoman Gerri Schroder: And according to the settlement agreement, have both parties agreed to this?

Matt Cecil: Correct.

Councilwoman Gerri Schroder: So if both parties are agreeing, then why would we want to spend any more money than what we have to?

Matt Cecil: That's correct.

Margarita Rebolal: I have a question; when you were asked if this was going to the full Board for voting, you said no, why not? According to the By-Laws it should.

Matt Cecil: Under the By-Laws it does not need to go to the full Board.

Margarita Rebolal: I have the By-Laws here and we have: Executive Committee shall only be if such urgency that failure by the Board to take timely action would greatly impede the continue workings and operations of the Board or its Service Providers. And it goes out to enumerate a number of items and one of them is personnel issues.

Matt Cecil: I understand that. Our position is we don't even need to be here to get this Boards authority, under the By-Laws the Executive Director has the authority to settle for twenty-five thousand dollars which is the amount we are settling for; we are doing this at the request of the opposing side only. We can proceed without authorizations from anybody.

Mujahid Ramadan: You mean you just have to go to the LEOs?

Matt Cecil: No the LEOs have approved to extend twenty-five thousand dollars.

Mujahid Ramadan: Oh, okay.

Matt Cecil: To go beyond, twenty-five thousand dollars and one penny, we have to get approval; twenty-five thousand dollars and below, we don't need approval. We are here as a confirmation, as a request, from the opposing side.

Councilwoman Gerri Schroder: And they haven't requested us, for this, to go onto the full Board, they are just requested that the Executive Board approve this also.

Matt Cecil: That's my understanding.

Mujahid Ramadan: The other aspect happens to be that certainly we would rather prefer avoiding any further financial liability.

Matt Cecil: Absolutely

Mujahid Ramadan: The other aspect of it also is that the amount of time that is going to be consumed just in the court process, depositions, and when you weigh out why we serve on this Board, certainly we look out for the financial and legal liabilities that we could incur but it's not to get caught up in a court system. So, if this allows for us not to have to go through being deposed and spending time like that. Now I could be saying that because I'm the Board's Chair and one of those persons who will have to go through depositions. Now, if we had to, fine, but if it's not something that I have to do, I would prefer to invest the time and energy into things that we serve on the Board for versus the other things we regretfully have to serve on. I want to be clear on the fact that you're here as informal matter ceremonial per the plaintiff.

Margarita Rebolal: Informal?

Mujahid Ramadan: Informal in the sense that you don't have to come to us.

Matt Cecil: We are asking for an approval.

Mujahid Ramadan: And we have the Chair of the LEOs here so if she's fine with it then certainly the financial liabilities falls with the LEOs as we have identified.

Matt Cecil: That is correct, all the financial responsibilities comes among the LEOs and it comes to them if, just like if there's a disallowed cost, it has to get returned. It goes among a percentage of the different political subdivisions, so you got, like I said, Clark County, you got City of Las Vegas, all the different counties and all the different political subdivisions. So, that is why I work closely with the LEO's attorney on this matter and also Councilwoman Schroder.

Margarita Rebolal: I understand everything that has been discussed, my concern is, are we going against the By-Laws that we are supposed to have approved in 2006? Because I noticed that Laurie gave us out a package at the last Executive Committee meeting and I was looking at those By-Laws then I pulled out my old By-Laws and there are a lot of changes in those By-Laws. The old By-Laws I still have and it says here that the Executive Committee Board is not supposed to be making decisions on personnel issues. That's my concern right now.

Councilwoman Gerri Schroder: We are not making a decision on a personnel issue; we are making a decision on a settlement agreement. It's not a personnel issue.

Margarita Rebolal: Okay.

Laurie Luongo: Hey Matt, it's Laurie Luongo. Let me put everyone at rest that I am in favor of this, I just have some questions. Just curious to know things like, what was this person's job title; how long was she employed; why is she no longer employed; what her salary was, and finally, why isn't there a confidentiality clause in the agreement?

Matt Cecil: Let me address the last one. Since we are open to the public, we can't really put confidentiality in things; public has the right to see, so, we can't do that. Second, Ms. Balint was a Manager of a One-Stop shop out in Pahrump. Her salary was sixty-thousand dollars a year. The One-Stop shop was, by the Board, voted to be transferred to...John knows the history on this better than I do so I'll pass it to John.

John Ball: Ms. Balint from my understanding, the history was first a member of the Board and then employed by the Chamber of Commerce in Pahrump under a contract the Board I believe issued in late 2004 to start up a One-Stop center in Pahrump. The Board took that center back in July 2005 to operate it ourselves at that time Ms. Balint was hired the Manager of the center. I think her salary eventually ended up in a range of sixty-thousand per year. Her departure from employment here is a matter of dispute but from our records she resigned in 2008.

Laurie Luongo: Had she been on a family medical leave?

John Ball: She had been out on leave. There is a matter in dispute as to whether the Family Medical Leave Act applies to the Board; we are substantially fewer members than the minimum required to be covered by FMLA. We did however have a policy that quoted, mistakenly; FMLA is applying to the Board. She was out on leave at the time that she resigned. She had made her intention to resign clear to the Board prior to going out on leave.

Laurie Luongo: Thank you.

Mujahid Ramadan: Okay, any other further questions.

A request for public comment was made by Sharon Nelson of Nelson Law Firm.

Matt Cecil: You can do it at the end; we didn't open it up to any of the other ones, we generally don't do that.

Mujahid Ramadan: Then can we hold that and we'll bring it up under public participation?

(Ms. Nelson is speaking outside range of microphone)

Laurie Luongo: Can somebody repeat that for me?

Mujahid Ramadan: (to Ms. Nelson) Step closer to the microphone for our Executive Committee member who is not available. Repeat just your last comment.

Ms. Nelson: I'm not sure I can remember them verbatim but I think the request was made to retrieval this until the public comment is made and I just pointed out that my client feels very strongly that she needs to be heard on this issue prior to a vote on the issue and that she does have the ability to revoke her acceptance of this agreement if she is not heard.

Mujahid Ramadan: Okay could we just...I need to just hold for a moment; I need to talk to the attorney.

Mujahid Ramadan: After some discussion we are going to allow for an opening up of this item for discussion, just this one item here and we are going to shape it around twelve minutes. Will you come up and identify yourself. We will have further public comments after this in reference to any other thing. In reference to this write here we are opening up at this point and you'll come by and re-identify yourself please and we'll get started.

Ms. Nelson: My name is Sharon Nelson and I am one of the attorneys for Victoria Balint. We were on the agenda item that addresses her resolution of complaint. I'm not going to go into the dirty details today; I would assume that given the fact that Mr. Ball has a position that requires him to communicate her allegations, which he has; I would assume that this Board is fully versed on these allegations. If it is not, I would be more than happy to update any of you with those allegations. Primarily at the request of my client, it was very important for her to be heard today, she's not in a position, at this point, where she can leave her job and be here; but she wanted you to understand that although twenty-five thousand dollars may seem like a bigger sum to some of you, this was not about the money. This is about the fact that she felt forced out of her position when she was on medical leave. We were able to obtain evidence in this case that Mr. Ball made specific comments that about the fact that she needed to leave because she was too old for the position; we have affidavits to that fact, we have a voice mail recording of Mr. Ball leaving a message for her trying to coerce her into leaving that position. He was telling her that she couldn't receive a certain payment for overtime wages unless she signed a release. As we found out during the course of this was not true, she is not required to sign a release in order to get her overtime payment. We are here today not necessarily to ask you to take any action against Mr. Ball, I know you can't it's not on your agenda, but we do want you to understand that this is not the end. You have another claimant coming down the pipeline against you with the very same allegations against Mr. Ball. As I have sat here today and thought about what I was going to say to you, I decided that I didn't realize that until I sat through the first part of your meeting how much power you have to effectuate change. You have the ability to change peoples' lives with what you do and so change starts here and it starts in this room. Victoria Balint stood up in this lawsuit and she did what she could what was within her power to effectuate change. I'm going to pass around at least her affidavit and an affidavit of Ann Baca, who was submitted in this lawsuit for your review. If you decide to make any changes in the future, that's your choice, but we wanted you to know that Ms. Balint loved her position, she felt forced out of it, she did not resign, and she accepted the twenty-five thousand dollars because it represented to her that's all that she could possible get and she couldn't be here today, not out of disrespect for any of you, but because she was forced to take a different position that didn't allow her time to leave for personal matter. So with that, I'll pass this around. I encourage those of you that are interested in learning the full details of what happened. If you need more information from me contact my law firm, but at a minimum, review the documents that I brought today because it's important, if not just for Victoria Balint but the future of this organization. Thank you.

Mujahid Ramadan: Any further questions and/or comments?

Laurie Luongo: After the meeting is there a way I can either get scanned or emailed a copy of what the attorney is passing out?

Mujahid Ramadan: Staff will expedite and it will come right over to you. Actually staff, will you make sure Laurie Luongo gets one now, it should go out. Make sure hers goes out.

Laurie Luongo: What is the spelling of Ms. Sharon's last name?

Ms. Nelson: Nelson. N-E-L-S-O-N

Laurie Luongo: Thank you. And is that you Ms. Nelson?

Ms. Nelson: Yes

Laurie Luongo: I just wanted to know how old Ms. Balint was at the time of her departure from workforceCONNECTIONS?

Ms. Nelson: She was approximately 54 years old.

Laurie Luongo: Thank you.

Mujahid Ramadan: Okay any further questions and/or comments from the Executive Committee members? And understand that this is an informal matter that the attorney's have brought to us that does not require for them to come either to the Executive Board or the Board itself and that John has the responsibility by the Board to expend up to twenty-five thousand dollars. And so that's what this is really operating under. It's here, I'm saying as an informal matter because it is not one that is required of them. So I wanted to make sure we have full discussion on this to the degree that all of your questions are answered.

Margarita Rebollal: My only concern is that where is the money coming from and the attorney indicated that it is out of the legal budget and the legal budget money comes from where?

John Ball: It comes from DOL funds.

Margarita Rebollal: Excuse me?

John Ball: It comes from the same place all the rest of the money comes from, DOL Funds.

Margarita Rebollal: Okay, I just wanted to make it on record that I asked that question because it doesn't sound to me like we are supposed to be settling it; this is a not allowable cost.

Councilwoman Gerri Schroder: It is an allowable cost.

Pat Maxwell: Settlements like this, regardless of how one party feels, are tough to reach. I believe we have a settlement that both parties have agreed to in front of us now. We have been given things to read, which is on our conscience to read. Really I don't know if we really have a position here to second guess either party. Both parties have an agreement. I would typify our position is actually really validating the agreement not approving it. The agreement can be approved without us.

Mujahid Ramadan: Okay, so with that I think uh...

Councilwoman Gerri Schroder: I just have a quick comment too. Ms. Nelson, I really appreciate you coming in and speaking on behalf of your client and I appreciate the information that you brought, but, as Ms. Maxwell said, we are just validating this. I know you had brought up a comment that, a comment about a future claimant. We cannot take that into consideration at this point because there is nothing there to take into consideration. So, I will not consider that comment. And, according to this agreement, this has been signed by Ms. Balint, according to this and according to the information we have in front of us. So, both parties have agreed to this and you had made the comment before that she may not agree to this if we don't hear her out. Apparently, she has already agreed to this. So I don't understand that other comment that you had made before you had spoke because according to this she has agreed to this agreement. So, those are the comments that I have and with that if no one else has any other comments I'll go ahead and move to approve the negotiated settlement.

Pat Maxwell: Second

Mujahid Ramadan: Motion seconded; all those in favor?

Committee: I

Mujahid Ramadan: Opposed?

Committee: No

Mujahid Ramadan: Approved

A motion was made to approve as presented by Councilwoman Gerri Schroder and seconded by Pat Maxwell. Motion carried.

Agenda Item 6 - Citizen Participation

Bruce Rogol, Vice President of Solar Forces introduced himself and briefly discussed the organization's partnerships. Solar Forces is a non-profit corporation in Nevada that educates the public, business leaders and local governments about solar-energy to establish a solar-energy industry in Nevada.

Agenda Item 7 - Adjournment

The meeting was adjourned at 11:00 a.m.