

Boston Employment Commission Hearing Minutes

A monthly hearing of the Boston Employment Commission (**BEC**) was held virtually on Zoom, November 17, 2021.

Commissioners Present: Commissioner JocCole “JC” Burton, Commissioner Charles Cofield, Commissioner Espinoza-Toro, Commissioner Kenell Broomstein, Commissioner Priscilla Flint-Banks and Commissioner Aisha Francis.

Hearing Begins: 1:04 PM

I. MINUTES

October 20, 2021 minutes accepted and approved (motioned by Commissioner Broomstein, second by Commissioner Cofield and approved by all).

II. SPECIAL PRESENTATIONS

A. Allston Yards

Duration: 17 mins.

Present: Jeff D’Attilio (Dimeo), Julia Hall (Dimeo), Celso Ribeiro (BRJP Monitor)

Jeff D’Attilio (Dimeo): reviewed project description and construction schedule –Expected Start date is 12/6/2021 and Expected end date is 4/13/2024. 38 Subcontractors awarded. 6 are M/WBE. **Julia Hall:** reviewed Workforce diversity and job application process. January 6, 2022, Job fair planned. Partnering with Building Pathways, Youth Build and City of Boston’s Jobs Bank. **Commissioner Burton:** Make sure the 38 contractors meet the BRJP requirements. **Commissioner Flint-Banks:** Is this under the New Ordinance and why the long time for permits? **Jeff:** Yes, it’s under the New Ordinance (51/40/12). It’s taking a long time to get through permitting (no specific reason given).

Public:

Janet Jones (Dorchester, Roxbury Labor Committee): I worked in Allston years ago at the Boys and Girls club. I recommend giving employment information for this project to the B&GC and other social service agencies/venues. **Julia:** Ms. Jones I will provide my email and phone number and we can chat offline. Our office is in Rhode Island, however, we are in Allston often. **Commissioner Burton:** Although you are in Rhode Island, we will be expecting Dimeo’s attention to the Boston requirements. **Jeff:** Dimeo has a Boston office as well and we will be honoring the Boston standards.

A. Seaport Block L5

Duration: 19 mins.

Present: Julie Gagnon (Turner Construction), Genci Leno (Turner Construction), Dave Page (Turner Construction), Kevin Reppucci (WS Development), Pablo Mejia (WS Development) and Pamela Ruffo (BRJP Monitor)

Julie Gagnon (Turner Construction): reviewed project description, work wellness, community outreach and UBEs (Underrepresented Business Enterprises). **Genci Leno (Turner Construction):** reviewed construction schedule – 36 month and awarded subcontractors. Started late September breaking ground. Excavation beginning. Volume-based completion process – 25% - 9/01/2022 / 50% - 6/01/2023 / 75% - 12/01/2023 / 100% - 7/01/2024. A.A. Will – Excavation, Turner (Self-Perform) – Laborers/Carpenters/Concrete, Permasteelisa – Curtain Wall (Upper Fl. levels 4 – 18), Ipswich Bay Glass – Curtain Wall (Lower 3 Floors), Walters Structural Steel/Boss Steel – Structural Steel (installer) and MEP and Elevator award is upcoming in the Fall. Julie will be onsite full-time. **Commissioner Cofield:** Who is Permasteelisa using for trades? **Genci:** They are working on the Upper-level curtain wall and are

signatory to the Glaciers, Iron workers and I think Sheetmetal, but will have to confirm. **Commissioner Cofield:** Keep an eye on their numbers and who they are bringing on the project. Their history at Northeastern informs this. It's important that catch up is prevented. **Genci:** Thank you for the heads-up. This is why Julie will be onsite full-time. She will be keeping a close eye on that. **Commissioner Burton:** I applaud Turner's comprehensive approach to Community Outreach (7-10 organizations) regarding employment opportunities and charitable giving back events.

Public:

Janet Jones (Dorchester, Roxbury Labor Committee): One of my neighbors is a steel/iron worker. Can I mention this job/project to him or any other African American union workers? **Genci:** Absolutely, yes! **Mukiya Baker-Gomez (Community Advocate):** Are the community/non-profit agencies and their constituents being given opportunities to tour the project for employment awareness and how many subcontractors are there in total? Also, it's important that the abutters in the community are being informed of the degree of the project and how it will impact them? **Julie:** When we ramp up, we will do tours (not much to see now). **Genci:** At this point the subcontractors named are the only ones that have been awarded. A project this size will potentially have about 3 dozen different subcontractors (varying in size and scope). **Mukiya:** I'm aware that Turner has a good track record on subcontractors' history and there's high expectation for that to continue. The community doesn't want to see contractors with habitual non-compliance. **Commissioner Burton:** A Building Pathway representative put in the chat that they often facilitate tours. Also, I want to appreciate WS Development for being on the call today. When developers are engaged and show interest in providing opportunities to Boston residents, people of color and women, it makes a difference to the success of the project.

III. Project Overview:

A. Commonwealth Pier

Duration: 23 mins

Present: Tom Walsh (Pembroke), Amanda DiLando (Turner Construction), Chris Brinser (Turner Construction), Peter Johnson (Turner Construction), Alison Stanton (Turner Construction), Eurick Dorsett (Janey Construction) and Pamela Ruffo (BRJP Construction Monitor)

Project Overview:

471,321 wkhrs, 1,137 workers, 27 Contractors, 22%BR, 38%POC, 8%F.

Pamela Ruffo (BRJP Construction Monitor): reviewed highlights and concerns: Turner Construction continues to work with various organizations to showcase the opportunities in the trades as well as connecting subcontractors to these organizations as a way to build the pipeline. Triple J Drywall has exceeded all the BRJP workforce goals working 3,403 hours with workforce participation of 58% Resident, 94% POC & 24% Female. Coastal Marine is the 4th largest subcontractor. Their Equipment Operators workforce is outstanding at 46% Resident, 51% POC & 24% Female. I use them as an example to others. Since the report was prepared and in the midst of ramping down and having to lay off workers, Ipswich Bay Glass went to the union hall and was able to hire a carpenter resident person of color, a female glacier resident person of color and an additional minority glacier and iron worker. **Commissioner Burton:** Very thorough review. I'd like to note that the Commission received additional documentation including corrective action letters and best faith efforts. Amanda, with the project at 35% and opportunity for improvement, what's the plan towards 50% of the project? **Amanda DiLando (TCCO):** We will stay on track to improve the numbers through consistent efforts. **Commissioner Burton:** What are the next few subcontractors to mobilize? **Chris:** The next 2 subcontractors for Fireproofing/MEP are Select Spray Systems and TG Gallagher (ramp up in next couple of months). **Commissioner Burton:** Will there be tours offered for this project? **Chris:** Yes, as we ramp up. We've had 3 separate in-person tours in October with up to 40 Madison Park Vocational students (Sophomores, Juniors and Seniors). The students had engagement with various trades workers. We've discussed with the Madison Park team about continuing this partnership over the course of the project. **Commissioner Burton:** Overall 8% female performance is close, but what are you doing to address any challenges to get women on this project? **Amanda:** We work with the Care that Works program, Tradeswomen luncheons, PGTI and Build a Life that Works. Out of some of these interactions there's an organic networking that

happens.

Public:

Mukiya Baker-Gomez (Community Advocate): I'd like to encourage Turner to consider other Outreach mechanisms such as CDCs, Property Management Companies, Neighborhood Associations, Local Main Streets. Introducing one another to each other is essential to growing our economy. These are ways to inform the residents and businesses of employment opportunities and to extend tours of the project. **Janet Jones (Dorchester, Roxbury Labor Committee):** I agree with Mukiya. Folks need to see what's going on down there and have opportunities to work on these projects. Especially if they can't benefit from living there. **Amanda:** We do have a relationship with ABCD and will reach out to CDCs. **Commissioner Burton:** Amanda, you mentioned the organic aspect and that is a good point to note. **Chris:** Thank you Ms. Gomez and Ms. Jones for those recommendations. I want to acknowledge the developer, Tom Walsh of Pembroke who is on the call. This is a partnership with Pembroke, Turner and Janey. We will give focus to these recommendations, in addition to the outreach and engagement we have had with the community. **Commissioner Burton:** Chris, thank you for noting the Janey partnership. Pembroke, thank you for hiring a good team. We look forward to your next review.

B. 650 – 660 Commonwealth Ave (Kenmore-Beacon)

Duration: 24 mins.

Present: Paul Maneen (Commodore Builders), Kellie Thompson (Commodore Builders), Michael Morrow (Related Beal), William Dickerson (BRJP Construction Monitor)

Project Overview:

27,404 wkhrs, 289 workers, 12 Contractors, 21%BR, 26%POC, 2%F

William Dickerson (BRJP Construction Monitor): reviewed highlights and concerns: Percentages are low in all categories with Carlyle Engineering, Charles Services and Cox Engineering, registering 0% in the Boston residents' category. Carlyle Engineering, Charles Equipment, Cox Engineering, HB Foundation, New Hampshire Steel and The Welch Corp are recording 0% participation in the female category. The equipment operator's Trade has 0% participation in all categories with 3,107 hours recorded. This is weighing heavily on the bottom-line percentages. Select Demo is exceeding the goal in the POC category at 51%. There are a number of contractors with minimum hours thus far which presents an opportunity to increase diversity moving forward. **Commissioner Flint-Banks:** How far along is the project? **Answer:** 20%. **Commissioner Flint-Banks:** The numbers are not good as I'm sure you are aware. **Paul Maneen (Commodore Builders):** Agreed. There are few trades on site (Ironworkers). We are at a point in the project where we are starting to get more trades. **Commissioner Burton:** Are you saying that Commodore Builders has given a lack luster approach to this first phase? **Paul:** No, we do need to be more pro-active in other avenues of outreach. There was outreach to local BAs with no success. We will reach out to community resources as has been suggested in previous projects, today. **Commissioner Burton:** Are these regular contractors you work with all the time? **Answer:** Yes. **Commissioner Burton:** 0% is unacceptable in any of the categories. It's very different from falling short of the goal and it signals subcontractors are not taking the policy seriously. There's 0% mostly in the female category. At 20% complete, you have a lot of opportunity for catch up. **Commissioner Flint-Banks:** How will you get up from 0%? How many projects has Commodore done with the City of Boston? **Paul:** We've done many throughout the city and they are doing better or have done better. We're not proud of these numbers by any means and realize it's unacceptable. I expect these numbers will be higher the next time we meet. **Commissioner Flint-Banks:** The fact that you have worked with the city means you are aware of the BRJP requirements which means the subcontractors are ignoring it and you must do better to hold them accountable. **Commissioner Cofield:** Before reaching to community groups, you must reach back out to the union halls. There are people in the union halls waiting to fulfill these positions. Manafort needs to step it up. As Commissioner Burton stated, 0's in any category is unacceptable as is ignoring the BRJP's quest to meet or exceed the goals. I've never seen your company present numbers this bad. Commissioner Burton, we need to know when this job will ramp up and have them come back for another review. **Commissioner Burton:** I agree with another review and the Commission is requesting a written project plan on how Commodore will move forward to improve these unacceptable numbers. Please submit by January 4, 2022. **Paul:** We will. **Mukiya:** How many of the current subcontractors on this project have you used on previous projects and has compliance been successful? **Paul:** 80 – 90%. Yes, compliance has been successful. **Mukiya:** What is the core problem? **Paul:** There's no one specific

answer. I will find out. **Commissioner Flint-Banks:** We expect improvement on the numbers when you come back.

Public:

Janet Jones (Dorchester, Roxbury Labor Committee): This is one of the worst compliance reports and there's no excuse.

Commissioner Burton: Before the start of the next phase, we'd like this project to come back for a review. Please rely on your construction monitor and the best practices you heard during earlier presentations today.

IV. BEC Commissioners' Follow-up Requests/Concerns

- 650-660 Commonwealth Ave (Kenmore-Beacon) – Written Project Plan due January 4, 2021
- One Congress St. at Bulfinch Crossing – Update at January 19, 2022 BEC Hearing on Community Engagement/Workforce Diversity and Boston resident performance. Commission received BFE information/invitation to tours with student engagement (Need more advance notice). BEC Coordinator expressed feedback to GC.
- 41 N. Margin St. – Boston Resident Verification pending

V. BEC Sanctions Policy

Mukiya Baker-Gomez (Community Advocate): For information purposes to all the contractors in this meeting and to the Commissioners, there was an article written by the Banner on October 2, 2021, regarding small contractors paying workers illegally. The Mass Dept of Labor Relations is investigating. It's important to make sure that you are aware. **Commissioner Burton:** It is an important issue, and the Commission takes it seriously. **Commissioner Cofield:** The Carpenters union has a research department that uncovers such things.

Commissioner Burton: Domonique will review the recent draft updates. This was a few months of working groups process with City staff, Commission and Community. Commissioners will begin discussion and Community will follow. **Domonique Williams (Deputy Director Office of Equity):** We spoke with city legal team on Commissioner Burton's concern regarding fines in all categories (BR/POC/F). We cannot change the ordinance. **Commissioner Burton:** For clarification, can a fine be given if meeting 2 out of 3? **Domonique:** Yes. **Commissioner Francis:** In regard to #4 under Consideration to Determine fine, Is there a need to give suggestions about additional factors? What satisfies a reason for non-compliance (example – detailed plan, circumstances beyond contractor's control). **Commissioner Burton:** What's the best way to provide color and content to not issue sanction if there's need for provision? **Domonique:** We could add a section that includes a narrative to be considered and maybe goes through the construction monitor. **Commissioner Burton:** I agree there should be a secondary set of items to identify. We need actual data and not just a narrative (more robust efforts to satisfy the non-compliance. **Domonique:** We want to keep it general. **Commissioner Burton:** Data is stronger than a narrative of charts/drafts. **Domonique:** I can add a 5th point – any data contractors want to be considered. **Celina Barrios-Millner (Chief of Equity and Inclusion):** I'm hearing 2 points. One relating to criteria (whether to sanction and how high the sanction should be). The other relating to the process of deliberation with the BEC (presentation by construction monitor and rebuttal/explanation by contractor). Prior to determination, a request for data should be submitted. **Commissioner Flint-Banks:** This feels like another passive approach where the developers/repeat offenders are dictating the sanction process. **Commissioner Espinoza-Toro:** I realize we are working under legal requirements, but I agree with Commissioner Flint-Banks. **Commissioner Burton:** The policy was amended in January of 2017 and this is the first time we've been able to enact any type of sanction. **Mukiya:** I'm very disappointed that the city's legal department hasn't helped Domonique with language. I notice the contractor language as "he". There are female contractors. Therefore, it should say "he/she". There should be a cross correlation on debarment/disbarment language. If there's habitual non-compliance, why should they be able to continue getting work with the city. **Janet Jones (Dorchester, Roxbury Labor Committee):** I agree with all those who commented regarding habitual non-compliance. All this construction is overtaking the city and gets worse closer to the waterfront. **Mary Vogel (Building Pathways):** I agree contractors should be held accountable. Where would fines go? It should not go into a general fund but to a workforce diversity program(s). **Domonique:** To my understanding it goes back to the general fund. **Celina:** Right now, it goes to the general operating fund. The policy does not address this issue. We are working on these concerns (repeat offenders). **Commissioner Burton:** I

forgot to say this in the beginning, the intent of this process is to take a vote to move forward. **Jillian Flynn (Boston Resident):** I'm a female Boston resident. I'm a plumber by trade and in the union. I've been out of work since April 2021 and it's not for lack of trying. I worked on the Casino project which had a predominant female workforce. I'm not sure what they were able to do, but I'm being bumped out as a female Boston resident on City of Boston projects. I do think that contractors who are habitually non-compliant should not be able to bid on city projects. **Commissioner Burton:** Jillian thank you for your personal testimony. Please put your contact information in the chat and the Boston Jobs Bank Coordinator (Janine McLaren) will follow-up with you. With that said, we have heard our charge from community and our own concerns, hearts and minds on the best way working diligently to safeguard the responsibility we have as Commissioners to do our part in making sure Boston residents, people of color and women are working on Boston projects. If the discussion is finished, we will now move to take a vote of acceptance of the BEC Sanctions Policy as it stands or if there is additional action needed for further discussion, we can continue. Do we have a motion from Commissioners? **Commissioner Francis:** I move to vote on the policy as it stands. **Commissioner Flint-Banks:** It's not clear enough and not enough teeth. The \$300 fine still doesn't seem sufficient. **Commissioner Burton:** To give clarity on the \$300 fine. It's not something this Commission set, it was set by the ordinance. We charged the city's team to look at how we could sanction per subcontractor and or per violation that would add to a larger amount, and it would look differently if you were a small business in construction or trades contractor. As it stands, according to the January 25, 2017, ordinance \$300 is the maximum amount. **Commissioner Flint-Banks:** It is my understanding that the amount can be changed but it would take some work in going before the state. **Commissioner Cofield:** Unfortunately, there's a pigeon hold with the policy and I'm not happy with it. I'm in agreement with Mukiya that habitual non-compliant contractors should not be able to bid work in the Commonwealth. However, it's important to be able to do something. Also, it's my understanding that the fine is for \$300 per violation, per day, per contractor. Is that correct? **Answer:** Yes. **Celina:** To give clarity, this policy is to implement the current sanctioning section of the existing ordinance. **Commissioner Cofield:** The sanctioning process starts with the Commission, correct? **Commissioner Burton:** Yes, it starts with this sanctioning document. Would you like to 2nd the motion? **Commissioner Cofield:** I 2nd the motion as moved by Commissioner Francis. **Commissioner Burton:** There's a vote to move forward with the sanctions policy as presented to us today. Can we take a vote of I's? Commissioners Burton, Broomstein, Francis and Cofield = 4 I's. **Commissioner Burton:** Any Nays? Commissioner Flint-Banks = 1 Nay. **Commissioner Burton:** Let the record show, there are 4 in support of implementing the sanctions policy and 1 Nay. We will conclude with the Director's report.

VI. DIRECTOR'S REPORT:

Duration: 5 mins.

Celina (Chief of Equity and Inclusion): As this is the month of Thanksgiving, I want to thank all the Commissioners for your service and community advocates, those who participated in the 3 weeks of working groups preparing the sanctions policy. Thank you for your time and commitment to Boston residents. This is one step we're taking to bring teeth and tools to you all and this policy. We're working on a record of non-compliance as discussed that will allow procurement decisions based on non-compliance with this policy and give direct guidance to departments of contractors, they cannot contract with based on their lack of compliance. We look forward to continuing working with you all to bring the spirit of the ordinance which is to get Boston residents, people of color and women on these projects. Thank you to Domonique Williams for her leadership in drafting the policy and the process around it. We are embarking on the second round – the record of non-compliance or the bad actors list. Thank you again and I look forward to continuing working with you. **Commissioner Flint-Banks:** Does this vote go into effect immediately? **Celina:** Good question, we will circle back with legal on how this becomes official policy (if it needs to be posted somewhere). I believe once the policy has been accepted, we can begin sanctioning general contractors. I will circle back unless Domonique has a different answer right now. **Domonique:** No, we would have to speak with the law department. Great question. **Commissioner Burton:** Celina, thank you for your director's report and for your leadership. Domonique thank you for helping the Commission deal with the ordinance as presented to us. We didn't get all that we wanted but we've come a long way since working on this in July. **Commissioner Cofield:** I must have missed William Dickerson being introduced as a construction monitor. Welcome Will Dickerson. Relax, everything will be alright. **Commissioner Burton:** Can I get a motion to adjourn? Commissioner Flint-Banks – motioned, Commissioner Francis 2nd, all I's.

Meeting adjourned: 3:16