

MBE Advisory Committee Meeting

Wednesday, March 9, 2011; 7:30 p.m.
City Hall Conference Room #2 South



Present: George Abram, Chair; Michael Murray, Vice Chair; Duane Anderson

Absent: Will McCracken and Shanton Bland

Others Present: Darlene Colaso, Assistant City Manager/Staff Liaison; Sharon Pearson, Committee Secretary, Charles Peterson, City Council Liaison

Abram called the meeting to order at 7:35.

Abram introduced Duane Anderson as a new MBE Advisory Committee member.

Approval of Minutes: November 10, 2010

Anderson made a motion to approve the minutes as submitted. Murray seconded the motion. Motion carried 3 – 0.

New Business

Election of Officers

Anderson nominated Abram as the Chair. Murray seconded the motion. Motion carried 3 – 0.

Abram nominated Murray as Vice-Chair. Anderson seconded the motion. Motion carried 3 – 0.

Abram explained the MBE and SBE programs to aid Anderson in understanding the goal of the Committee. MBE and SBE programs offer an equal opportunity for small and minority-owned business to participate in contracts and services the City of Oberlin offers. The original MBE program stipulated there was to be an Advisory Committee established to assist with ensuring equal opportunity needs are met. When the MBE program was initially established, any projects over \$10,000 had to be bid. Any projects or services under \$10,000 were to receive at least 3 price quotes, with one of the price quotes received from a minority-owned firm. Eventually the bid threshold increased to \$15,000 and then later \$25,000 (which is the current bidding threshold).

In 1995 (and even prior to this year), the MBE program was under attack in association with evolving affirmative action rules. The programs were put into action in the affirmative to overcome the effects of

past discrimination. By 1995, several MBE programs had been ruled unconstitutional, such as the City of Elyria's program. Oberlin's program was never ruled unconstitutional because the City had conducted a predicate study. There were some flaws in the 1990 study and the City updated the study in 1993. Meanwhile, Law Director Eric Severs had some issues with the MBE program and the MBE Advisory Committee debated back and forth with him regarding his concerns, but the MBE program remained in place during this time. Severs did not feel the City's MBE program was legally defensible. The MBE program became a target with government agencies as result of the 1995 US Supreme Court case *Adarand vs. Peña* in which there was a claim of discrimination against non-minority firms. As a result, the US Supreme Court ruled that all minority programs were unconstitutional unless there was a predicate study that indicated a government agency could prove current discrimination against minorities regarding government projects and services. The City's MBE program was suspended in the early 2000's, mainly because it was a race-based minority program and did not include other minority groups.

In the early 2000's, consultants were hired to re-write the ordinance to include other minority groups instead of a race-based minority program, which change the Minority Business Enterprise program into a Small Business Enterprise program. After years of working with the consultant without a final product, it was decided the MBE program just needed to have the race-based segments removed and make those areas race neutral to develop an SBE program. The method in which the MBE program worked was not in question as much as *who* was to be included in the program, which meant a wider range of those to be covered under the program.

Colaso reported she had an Oberlin College student assisting her with adding the race-neutral components into the document. The section left to define were for the projects and services bid out over \$25,000 and also identifying the geographical area for projects, goods and services under \$25,000.

Abram added that to participate in this program, small business owners will have to prove they are a "small business." To satisfy this requirement, they will not need to complete lengthy forms as was the case under the Minority Business Enterprise program but they can prove they are a small business using the industrial classifications which are also used by the Small Business Administration.

The Commission reviewed the geographical area as organized by MBE Advisory Committee Secretary Sharon Pearson. The Committee designated the geographic area for projects, goods and services over \$25,000. Their goal for this meeting to was identify a geographical area for purchases made under \$25,000. Abram said for the very small business component of the SBE program, the requirement for being in business for 1 year prior to participating in the program will be waived.

After a brief discussion and review of the materials submitted to them, Anderson made a motion to accept Lorain County as the geographic area for the Very Small Business Program section of the proposed Small Business Enterprise program. Murray seconded the motion. Motion carried 3 – 0.

Statewide MBE/DBE Task Force Report

Pearson announced the next Statewide MBE/DBE Task Force meeting is taking place in the Akron area on Wednesday, April 20th. Pearson currently serves as the Treasurer of this organization. This organization helps keep the City abreast of any [MSOffice1]

Abram adjourned the meeting at 8:33 p.m.



Sharon Pearson CAP
Committee Secretary

/skp