

## MINUTES

### NEW HIGHMARK STADIUM COMMUNITY BENEFITS OVERSIGHT COMMITTEE

April 22, 2024

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Downtown Central Library  
1 Lafayette Square  
Buffalo, NY 14203  
Monday, April 22, 2024

The CBOC met for its second meeting on Monday, April 22, 2024, at the Downtown Central Library. The meeting was conducted and public notice was posted in accordance with NY Open Meetings Laws. The meeting was called to order by CBOC member and Bills Stadium and Events Company, LLC's Community Benefits Director, Penny Semaia, at 11:00AM ET, and followed by a roll call. The following members were present, constituting a quorum:

- Mo Sumbundu
- Rhonda Frederick
- Maria Whyte
- Reverend Mark Blue
- Sean Mulligan
- Penny Semaia
- Todd Starowitz
- Toni Cannady

Absent: Franchelle Parker

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#### **AGENDA ITEM NO. 1**            Call to Order, Roll Call and Establish Quorum

Member Semaia conducted a roll call and established that a quorum was present. Additionally, Member Semaia noted that the committee intends to stick to its agenda items, but has the right to omit items, combine items and address agenda items out of order.

*Member Semaia closed Agenda Item No. 1.*

#### **AGENDA ITEM NO. 2**            New Stadium Project Update (by Bills Stadium and Events Company, LLC) and New Stadium Community Engagement Update (by Developments by JEM and Gilbane | Turner)

As part of the New Stadium Project Update, Member Semaia, in his capacity as the Community Benefits Director appointed by Bills Stadium and Events Company, LLC ("Developer") provided an interim report, outlining Developer's progress regarding the MWBE/SDVOB business participation and workforce hour objectives relating to the New Highmark Stadium. *Member Semaia reported as follows:*

- Workforce Update:
  - As of March 31, 2024, Developer has exceeded its workforce hours goal, reporting 19.32% for minority work hours (which exceeds the 15% goal); 5.99% for non-minority women work hours (which exceeds the 5% goal); and 13.52% for apprentice work hours (which exceeds the 10% goal).

- Business Participation Update:
  - As of March 31, 2024, Developer has awarded a total of 216 MWBE/SDVOB contracts or OCSD-4 commitments. Additionally, a total of 116 individual MWBEs/SDVOBs have been awarded contracts or OCSD-4 commitments, with 57 individual regional MWBEs/SDVOBs being awarded contracts or OCSD-4 commitments. At the request of Member Whyte, Member Semaia clarified that regional is defined in the Community Benefits Agreement as the 100 mile radius from Orchard Park that is within the State of New York.
  - Solely with respect to proposal releases #1-2, Developer has exceeded its business participation goals with respect to MBEs at 17.4% (which exceeds the 15% goal). Developer also reported the following percentages with respect to the WBE and SDVOB business participation goals: (i) 8.4% for WBE participation (which falls below the 15% target) and (ii) 3.1% SDVOB participation (which falls below the 6% target).

Following Member Semaia's portion of the presentation, the CBOC heard from Cherelle Syph (Economic Inclusion Manager, Gilbane | Turner) and Janice McKinnie (Lead Project Manager of Developments by JEM, the Community Engagement Coordinator for the New Highmark Stadium project). ***Ms. Syph reported as follows:***

- Diverse and local business and local workforce participation is a key criterion reviewed by Gilbane | Turner during proposal reviews.
- To date, Gilbane | Turner has hosted:
  - four (4) contractor information sessions (i.e., early outreach sessions providing an overview of the project and procurement process);
  - ten (10) meet the prime sessions (i.e., an opportunity for local MWBEs/SDVOBs to network with Prime/Tier-1 firms actively seeking partnerships on proposal packages);
  - six (6) opportunity and awareness huddles (i.e., an opportunity for local subcontractor, vendors, suppliers and professional services providers to meet the Gilbane | Tuner project team and prime contractors to hear about upcoming opportunities); and
  - one (1) capacity business program (i.e., a program to prepare small, local and diverse contractors for the prequalification process, define requirements and enhance the overall quality of proposals).

***Ms. McKinnie reported as follows:***

- Developments by JEM has participated in six (6) community and career events since March 2024;
- Connected with thirty (30) contractors regarding New Highmark Stadium project opportunities;
- Has provided referrals to prime contractors, made connections among MWBEs/SDVOBs with ESD, internal operations, etc., and fielded calls from the project website.
- Developments by JEM has hosted four (4) engagement events: (i) Capacity Building Workshop; (ii) Be Your Own Hero Career Fair; (iii) NYS ESD WNY MWBE Roundtable; and (iv) WIC Week Women and Girls in Construction Career Exploration Day. Additionally, Ms. McKinnie noted that there will be (i) an SBA Small Business Matchmaker event on May 1, 2024 at Salvatore's Italian Gardens'; (ii) a Purchasing Initiative's Construction Matchmaker on May 3, 2024 at the EOC Gateway Building; and (iii) additional Gilbane | Tuner opportunity huddles to be hosted in South Buffalo, East Side and Cheektowaga.

*Following the New Stadium Project Update, CBOC members posed the following questions (see the corresponding response below each question) regarding the Developer's workforce and business participation updates:*

1. Member Whyte:

- a. **Q:** With respect to the workforce update, do any of the numbers reported on minority, women and apprentice workforce hours represent an overlap in reporting (i.e., a business being reported 3 times in each of the categories)?
  - i. **A:** In response, Community Benefits Director, Penny Semaia noted that the numbers reported do not represent any double reporting.
- b. **Q:** What is the reporting protocol and does the information presented represent a snapshot in time?
  - i. **A:** In response, Community Benefits Director, Penny Semaia noted that Developer has scan-in cards that track through EMARS the workforce hours being reported. Semaia also noted that he would report back on the timeline and snapshot inquiry.
- c. **Q:** With respect to the business participation reporting numbers, the proposal indicates that the numbers correspond with proposal releases #1 and #2. How many bid releases are left and how much time remains to move the needle on things? Member Whyte noted the importance of the CBOC being able to assist the Developer to help achieve the goals set forth in the CBA.
  - i. **A:** In response, Community Benefits Director, Penny Semaia noted that bid packages in proposal releases #3 and #3.5 are now open. Semaia noted that he would report back to the committee to confirm whether proposal release #4 would be the last group of packages.

2. Member Blue:

- a. **Q:** How is the Developer ensuring that the workforce targets are being met at each stage of the New Highmark Stadium Project?
  - i. **A:** In response, Community Benefits Director, Penny Semaia noted that the targets represent the goal for the full lifecycle of the project, not individual stages.

3. Member Mulligan:

- a. **Q:** Member Mulligan noted that back in October, the Developer reported higher workforce numbers to the legislature and asked for clarification regarding the discrepancy in the reporting numbers.
  - i. **A:** In response, Community Benefits Director, Penny Semaia noted that ECSD reviews Developer's reports on hard and soft costs associated with the New Highmark Stadium Project, and that the numbers reported to the committee are based on the totality of all costs, not just the hard costs, which was the number reported to the legislature in October.

4. Member Sumbundu:

- a. **Q:** Member Sumbundu inquired whether the utilization numbers are based on companies that work on site for the New Highmark Stadium Project.
  - i. **A:** In response, Community Benefits Director, Penny Semaia confirmed that the numbers are based on companies that work on site of the project.

*CBOC members posed the following questions (see the corresponding response below each question) regarding the Gilbane | Turner's and Developments by JEM's project updates:*

1. Member Whyte:

- a. **Q:** With respect to the outreach events, is anyone tracking the number of companies attending and how many of those companies are being awarded a contract? Member Whyte noted the importance of the tracking process and understanding the outcomes.
  - i. **A:** In response, Ms. McKinnie (Developments by JEM) noted that Developments by JEM is working through how to best track processes and outcomes of outreach efforts. Member Semaia also noted that Developer has additional mechanisms in place to track information such as attendance and awards.
- b. **Q:** What are the top 3-5 barriers that contractors face in ultimately being unsuccessful with receiving a bid on a large project.
  - i. **A:** In response, Ms. McKinnie noted that, in her opinion, there are a number of barriers that contractors face with large construction projects like the New Highmark Stadium, including capacity, economic/revenue and process (i.e., having knowledge of the process).
- c. **Q:** With respect to the capacity barrier, what's behind that?
  - i. **A:** In response, Ms. McKinnie noted that, in her opinion, COVID negatively impacted the industry and resulted in increases supply costs and a shortage of labor. Ms. McKinnie also noted that some MWBEs lack capacity to take on larger projects and that businesses seeking work on larger construction projects have to consider a number of factors in operating their business, including the cost of supplies, insurance premiums to be on a large project, whether to forego other work opportunities that may be on a smaller scale project, etc. Ms. McKinnie noted that sometimes these factors deter small businesses from taking larger projects.

2. Member Sumbundu:

- a. **Q:** With respect to the labor shortage, what's being done to work with school programs?
  - i. **A:** In response, Ms. McKinnie noted that Developments by JEM is making efforts to connect with schools and students to try to bridge the labor shortage gaps.
- b. **Q:** What's being done after a company attends a meeting to help the company understand the process?
  - i. **A:** In response, Ms. Syph noted that the workshops discussed in the New Stadium Project Update are designed to help companies understand the bidding process and that there is outreach following the sessions.

3. Member Blue:

- a. **Q:** Regarding the capacity constraints of small businesses, how are small businesses being helped to partner with larger contractors?
  - i. **A:** In response, Ms. Syph (Gilbane | Turner) noted that Modern Times was engaged by Developer to help small businesses partner with larger contractors on the New Highmark Stadium Project.

Additionally, Member Mulligan noted that the CBOC is trying to capture as much data as possible, including on which companies are being engaged and how many contracts are right-sized to meet the capacity of small, local MWBEs to ensure these companies are working on the new stadium project.

Member Mulligan also noted that a lot of progress has been made since August, but that it would be helpful to the committee if there are some big-picture things that can be identified for the CBOC to help shape. Member Mulligan also noted that this process is a vessel to get as many people to the next level as possible.

***Member Semaia closed Agenda Item No. 2.***

**AGENDA ITEM NO. 3**            Discussion regarding Proposal for Annual Report to be submitted to the CBOC

Member Semaia proposed that Developer provide the CBOC the annual report (a requirement of the Community Benefits Agreement) 120 days from the end of Developer's fiscal year (i.e., March 31). Member Whyte noted that 120 days from the end of Developer's fiscal year sounds reasonable, but inquired as to the need for 120 days. Member Semaia noted that 120 days from the date Developer's fiscal year (i) allows Developer to collect any data relating to the Community Benefits Agreement; and (ii) ensures that all data has been properly vetted as Developer has reporting obligations to the NFL and ECSC, which would be fulfilled by the proposed report submission date.

Member Whyte noted that the CBOC will need the opportunity to inquire on Developer's obligations in the interim and Member Semaia confirmed that Developer will provide interim reports at CBOC meetings.

Member Mulligan noted that the Community Benefits Agreement requires the CBOC to hold an annual public hearing and emphasized that this provides an opportunity for the community to weigh in on things they'd like to see.

Additional key points raised by CBOC members were as follows: (i) it's important for the CBOC to understand what is going to be in the annual report and that there is a timeline of what the committee should expect moving forward (as raised by Member Sumbundu); and (ii) the CBOC is seeking the current balance of money that went out to organizations and a list of the organizations that received funding (as raised by Member Blue). Member Blue also emphasized the importance of transparency with respect to bidding awards.

Upon motion by Member Blue, seconded by Member Cannady, and without opposition: The CBOC approved the annual report submission timeline as follows: 120 days following the end of Developer's fiscal year.

***Member Semaia closed Agenda Item No. 3.***

**AGENDA ITEM NO. 4**            Discussion of Approach to Future CBOC Meetings

Member Semaia recommended that the CBOC meet the 2<sup>nd</sup> Monday of the 2<sup>nd</sup> month of each quarter. Member Whyte and Member Mulligan recommended monthly meetings to allow time to shape the construction process and while MWBEs remain a focus. Member Whyte also noted that it would be prudent to consider quarterly meetings at the conclusion of this year (i.e., reevaluating in December) and that the cadence of the meetings should be dictated by the work of the committee (e.g., the CBOC needs to consider bylaws, discuss the allocation of the \$3M community investment (which is defined in CBA), etc.).

Member Whyte also noted that she would like to see an agenda item for old business and new business on each CBOC meeting agenda.

The discussion concluded with the CBOC agreeing to meet monthly.

***Member Semaia closed Agenda Item No. 4.***

**AGENDA ITEM NO. 5** Appointment of CBOC Chair

Member Semaia opened the floor for nominations to appoint the CBOC chair. During this time, a member of the public inquired as to whether the public has the opportunity to comment on agenda items discussed (prior to the public comment portion of the meeting). Member Semaia clarified that the nomination and appointment portion of the meeting (as well as other agenda items that are not during the public comment section) are reserved for the CBOC's discussion and that members of the public will have the opportunity to comment on items related to the agenda during the public comment section only.

Upon motion by Member Whyte (who noted that the CBOC should be chaired by a member of the community), seconded by Member Sumbundu (who noted that Member Blue is a well-respected member of the community), and without opposition: the CBOC elected Member Blue as CBOC Chairman.

***Member Semaia closed Agenda Item No. 5.***

**AGENDA ITEM NO. 6** Appointment of CBOC Secretary

Member Semaia opened the floor for nominations to appoint the CBOC secretary. Upon motion by Member Mulligan, seconded by Chairman Blue, and without opposition: the CBOC elected Member Cannady as CBOC Secretary.

***Member Semaia closed Agenda Item No. 6.***

**AGENDA ITEM NO. 7** Public Comment

Member Semaia opened the meeting for public comment, which is limited to three (3) minutes per commenter. Members of the community provided the following comments:

- Community member, Joe Mascia, noted that he is a tradesman and did not see that trades were a part of the presentation. Mr. Mascia also noted that he believes there is a conflict between the Community Benefits Agreement and the Project Labor Agreement and posed rhetorical questions regarding the employment of MWBE/SDVOB firms, the hiring process and the value of contracts for these firms.
- Community member, Murray Holman, inquired as to how work can be brought into the public school system and also asked that agendas for meetings be printed and provided in physical copy for attendees moving forward.

***Member Semaia closed Agenda Item No. 7.***

**AGENDA ITEM NO. 8**      Adjournment

Upon motion by Member Sumbundu, seconded by Chairman Blue, and without opposition: the CBOC meeting was adjourned at 12:44PM ET.