

Nevada Committee of Blind Vendors (NCBV)

Minutes of the Meeting

September 10, 2005

Call to Order:

Chairman Richard Saperstein called the meeting to order at 10:17 a.m. PST on September 10, 2005.

i. Roll Call and Confirmation of Quorum

Committee Members Present:

Richard Saperstein, Chair; Harold Petrofsky, Secretary; Gene Wilson, Southern Representative; Bill Schley, Northern Representative. Mr. Saperstein mentioned Bert Hansen is absent and confirmed a quorum was present.

Staff Members Present:

Gayle Sherman, Deputy Administrator; Maureen Cole, BEO II; Cecilia Colling, Deputy Administrator; Kevin P. Jones, BEO I, Rochelle Trotts, Administrative Assistant III.

II. Verification of Posting

Maureen Cole verified that the agenda had been properly posted and that Certificates of Posting are on file.

III. Discussion/Possible Action on the Approval of the June 11, 2005, NCBV Meeting Minutes

Gene Wilson moved to accept the June 11, 2005 meeting minutes and seconded by Bill Schley and the motion carried unanimously.

iv. Introduction of Guests

Guests Present:

Audrey Saperstein; Lindsey Hendricks; Amy Allen, Richard Dreitzer, Nick Driscoll; Annette Dickey; Ben Giron; Gloria Giron, Phillip Campbell; Beth Perring; Gary DeFalco.

VIII. b. Update on Installation of Quickbooks Software & New Accounting Procedures

Lindsey Hendricks and Amy Allen were present from Solari and Sturmer, the contracted organization to do the monthly review of the profit and loss statements.

Amy Allen: I am a partner with Solari and Sturmer and Lindsey is one of the professional staff members. A review was done on one month's profit and loss statements from four selected vendors. Looking at just profit and loss statements for one month for a business is like reading a chapter out of the middle of a book. We can tell you what we read in that one chapter but without the context of historical information, it is hard to identify any ongoing problems. One of the thoughts was to have some work done on the instruction manual of the profit and loss process so the instructions are clear and a resource available for anyone who has questions about transactions, if they should or should not be reported, consistent answers given to all vendors.

Gene Wilson: I had an interview with Intuit and my recommendation was to develop within Quickbooks a report to adopt our profit and loss statements.

Richard Saperstein: What Solari and Sturmer are talking about is the overall profit and loss structure and what they have found as far as keeping our profit and loss forms consistent.

Amy Allen: That would be the goal. The underlying problem here is the standard set up books that any business keeps, you prepare several types of reports. A profit and loss report for the business might have a different bottom line figure than what you pay income taxes on because there are certain disallowances for income tax purposes. What you all are struggling with is the bureau has another profit and loss statements disallowing different items than what might be allowed for income tax purposes or back to the first step, for standard financial accounting reports, deciding what is the easiest way to report all three reports. Decisions have to be made about filtering your basic accounting information so everyone is taking the same approach.

Richard Saperstein: I have been told by the bureau, the profit and loss statements we use are simply a tool for determining the amount of set-aside we pay back to the program. Understanding that obviously, we cannot equate what we report to the bureau with what we report to the IRS or any other agency.

Amy Allen: I would agree with you, other than if there are items of income that are the same. For example rent expense, the bureau and the federal government allows it as a deduction, a good accountant would expect that number to come from the same set of numbers.

Richard Saperstein: You are not concerned about anything outside of the profit and loss.

Amy Allen: From a business standpoint I would think you would want to derive all of the reports from the same set of books.

Richard Saperstein: There are many people here that are not savvy in accounting or any of the principles associated with it. Let us try to keep it understandable as possible, if we can take everything that pertains to just the profit and loss.

Cecilia Colling: The reason Quickbooks is being used is for internal reasons within the bureau to keep track of the Profit and Loss (P&L) when you report them to the bureau and that we can exchange information to you more readily.

Richard Saperstein: Why doesn't the bureau provide all vendors with Quickbooks and a computer and have them file the P& L's electronically.

Gene Wilson: I second that motion. I have been talking about that for a number of years.

Cecilia Colling: If we can get this going right, we would be happy to do that.

Gene Wilson: The biggest problem the bureau has to their defense is not everyone in the program is computer literate and of those who are not computer literate, some do not wish to become computer literate.

Richard Saperstein: Or who have other people preparing their profit and loss statements. We are looking for consistency. We want to know from month to month or from vendor to vendor what we are reporting on operating expense is always the same.

Cecilia Colling: There are two different topics, one internal for the bureau to have a better tracking system when we want to see what is going on; the other relates to the way you all report.

Richard Saperstein: I would really like to find out, Amy and Lindsey, what was found when comparing the four P&L and if the reported figures were or the items that were reported under different categories were the same to P&L to P&L.

Amy Allen: We were provided limited information. If you pick up someone's profit and loss statement and there is a line that says rent and you pick up the next guys profit and loss statement and there is a line that says rent, without the back-up general ledger we do not know if that is one check for rent for your office space or perhaps for the next guy it is two checks one for rent and one for storage. That is why in our original

proposal we had asked for more information to back-up the profit and loss. We did notice people make different decisions when you have expenses, what one person perceives to be rent maybe storage space rent, the next person calls it office expense. What one person calls a supply the next vendor calls it repair and maintenance. The overall scheme of things those are significant there needs to be a clearer definition of what the meaning of each line item on the profit and loss statement is so that people are able to accurately put expenses in the right cost.

Richard Saperstein: In order for you to do your job properly and what the bureau has asked you to do, you need number one a firm set of rules that apply to all vendors so everybody knows exactly what is supposed to go on each statement. If I were to submit a P&L with rent expenses and included my mortgage payment in there that would not be good and you would be able to pick that up as everybody had a clear-cut definition for what goes on the line for rent.

Amy Allen: Now we would not be able to pick it up if all we saw was your profit and loss statement and there was a line item for rent, we would have to know at that point enough about your business to know that you are getting your space rent free.

Richard Saperstein: You need supporting documentation.

Amy Allen: Yes. For those who are using Quickbooks it would be the general ledger and when you print the general ledger it is going to say office supplies for the month and say it was with five checks then the breakdown as follows, one to purchase water, one to purchase paper, one to pay A-1 storage, etc. That gives a better idea of the detail that went into it with stopping short of showing us the invoices that proves all that, that then goes into the audit process.

Richard Saperstein: What does the bureau feel this is going to accomplish if we cannot determine the accuracy of the items being listed on the P&L's without all the supporting documentation.

Gayle Sherman: The first purpose the bureau wants to accomplish is to have Amy and Lindsey provide clarity in the P&L process so there is one menu of definition for each field on the P&L so everyone is reporting the same thing. I suspect people are reporting P&L's differently from person to person because the bureau has not provided that clarity in the past and needs to, however we are not Certified Public Accountants (CPA) and need assistance in order to do that. The second issue to accomplish is to provide greater consistency in the reporting from month to month and we may require back-up which was not required before as Amy has said the general ledger back-up and not the actual invoices but the basic menu of

what the items were issued on the P&L so that the bureau can look at it with some degree of certainty that what is being reported is what is in the ledger that is what the bureau wants to accomplish by this process. The P&L process is very loose and inaccurate. I suspect the bureau is under and over collecting in some situations and this effort is designed to provide consistency in the process so that people pay what they are supposed to pay with nothing more and nothing less.

Amy Allen: I hope the audit process gets streamlined by looking at the P&L's and one step further back which is the general ledger that supports it, so we can get a feel for what transactions that are generating the profit and loss on which the set aside payment are calculated. If there is something going a little sideways in somebody's accounting system not intentionally but because it does happen that it could be addressed quickly so it is not an ongoing problem and could result in an audit adjustment two years down the road.

Richard Saperstein: In the review of the four P&L's that were conducted, were you able to determine anything at all without supporting documentation?

Lindsey Hendricks: If we are looking at just four P&L's and do not have any of the underlying information as to what items went into the different line items and there is not a lot we can tell just on the P&L's themselves.

Richard Saperstein: I could theoretically write a check to my mortgage company and list it in my check register as being through my landlord for my business and rip off the bureau. You would not be able to tell unless you actually either the check or the invoice for the rent for that month.

Amy Allen: That is a perfect example of fraud, the distinction between problems in an accounting system and fraud. What you just described is fraudulent. Obviously, even if we were to get the general ledger and you had coded it in Quickbooks as being payable to your landlord but then had written on the check the name of your mortgage company, we could not catch that by looking into the general ledger which is an audit function. Our goal is to take the general ledger on the assumption that it is not fraudulent and we are looking at the transactions of your business and all we are excepting are the accounting decisions that were made as to where various transactions got recorded summarized and ultimately recorded on the P&L assuming the raw data in the general ledger is correct.

Richard Saperstein: A questions to the bureau, if your intent is to make this process of filing the P&L so you are actually getting accuracy in the reporting of the figures, what does this process really do?

Cecilia Colling: The former practices was for the Business Enterprise Officers to go out and review the P&L's on a regular basis but because there are so many other activities to assist you in to be successful of which do not always occur. One of the things the bureau is noticing is that there might be an overuse of certain categories like other expenses. There are a lot of things going into other expenses that should not be going into other expenses. Very rarely should the other category be used.

Richard Saperstein: Everything that is reportable should be delineated on the P&L on its own separate line.

Gene Wilson: I happen to use the other line and what I have done on my P&L is put what it is for on the explanation line.

Richard Saperstein: If you have anything, which is vague in the other category there should be something that supports that category.

Cecilia Colling: There are some issues and with limited resources we have been able to address it and talk a lot about it and end up with some long expended audits with large audit charges. The bureau thinks this is a more manageable approach to assist us in the report process, which is the objective.

Richard Saperstein: A questions of Amy and Lindsey, the process that you are undertaking for audits or examinations of the P&L's, in your opinion will this process reduce the overall costs to the bureau?

Amy Allen: I would like to say yes but I really do not know. There is always a risk that the audit will uncover something fraudulent. I can say it should if that is a fair enough answer. If it work's as it is intended to it should reduce the cost of the audit. The auditors would go in and really look for fraud. There are always two errors that go on in producing bad financial reports; one is there is intentional fraud; and the other is people do not understand how things should be accurately reported. This is only meant to correct the first one and by doing that it allows the auditor to focus on the fraud side. For everybody out there doing it right, you just sailed right through your audit. The auditors always start with a report and they say lets look at the numbers, historical, do I see any areas that look funny. If you do not have a good financial report in the first place then they know there is a problem and what they do not know is it intentional or is it just bad bookkeeping.

Richard Saperstein: Back track to the origin of what you are looking for.

Amy Allen: Then the auditor spends a lot of time wading through the incorrect accounting to get back to the heart of the problem.

Richard Saperstein: In this process, are the vendors going to be required to submit invoices so they can actually determine that these numbers reported are legitimate?

Cecilia Colling: The general ledger could be sufficient but as the bureau gets into this it may occur that in some case we may request that.

Richard Saperstein: As you may all know my big thing is reducing the cost of this program to the vendors. If it means that their examination and the money we are spending for those examinations will indeed lessen the cost of doing audits on big locations by providing them with invoices so they can do their job better and say this looks really clean, so when you do an audit on these guys you do not need to look for a whole lot versus needing invoices and coming back and saying we found several mistakes and to be more careful when you do an audit, then I am all for providing them with all the documentation they need. I want to reduce the cost of all this bookkeeping and accounting and compliance to the best success possible. If that is what is required for them to do their job and that in turn will reduce the cost of the audit then by all means give them the invoices.

Amy Allen: Submitting all of the invoices is hugely cumbersome for all of the vendors every six months. It is written in the Nevada Administrative Code (NAC) that you will have bi-annual audits done and at some point you will have duplicated efforts and it seems too much under the current legal requirements to have the audits done. Let's work on the accounting issues that the vendors may or may not be having. My suspicion is the first few times there will be a lot of work, dialogue and communications back and forth but once they are resolved and there are not significant changes, then it is a quick check to make sure nothing has changed. As we build a database of information then that starts to give us context so that we are not looking at a chapter without knowing what went on before and what the expectations are.

Richard Saperstein: To streamline your job the provision of the general ledger would help?

Amy Allen: It would allow us to give useful feedback.

Richard Saperstein: Obviously you are looking at something where it comes from. Let us start this process with the provision of a general ledger and if that help streamline the process then they can give you the type of information that you are looking for that is great. If we cannot provide the information you are looking for with the general ledger then you need to start conducting your audits. Does the committee have a problem in

providing the general ledger when examinations are conducted? I need a motion from the committee to back this up

Harold Petrofsky: Make a motion that a provision of a general ledger be included with the submission of the P&L for examination by Solarium & Sterner.

Beth Perring: Are we going to include the general ledger starting next month with every P&L?

Cecilia Colling: It would be every month

Beth Perring: Would this be standard accounting practice?

Amy Allen: If you are running your accounting records on Quickbooks or any type of business software, the general ledger is a standard report.

Beth Perring: The motion is to attach the general ledger to the P&L, is that correct?

Richard Saperstein: Yes.

Gary DeFalco: Is the chairman allowed to second a motion.

Cecilia Colling: There is a provision you could turn it over to the vice-chair to second it. Bill Schely could second it.

Richard Saperstein: There is no vice-chair

Bill Schely: Second the motion.

Richard Saperstein: There is one in opposition and it is a split vote. The motion will not carry however, I do believe in saving the program money if this does provide that function and would be in favor of it.

Amy Allen: One alternative is if you do not want us to look at your whole set of books the pieces of it that support what is in the profit and loss statement currently would give us the information we need to comment on that part of it. The down side for the vendors is, we are not able to see areas where you might be missing things that you could include. Without the general ledger there is no way our piece of this could reduce the audit cost later on. I will retract my statement that it should without the general ledger because then all we are working from is literally a review of the numbers that you submit in comparison of the prior months and could be very limited.

Gary DeFalco: It was mentioned the instructions needed to be changed. If the instructions were more defined and specific wouldn't that help as opposed to having a general ledger?

Richard Saperstein: It would help make it more consistent from location to location.

Gary DeFalco: Should we not work on that first?

Richard Saperstein: Absolutely, they had mentioned that was their first order of business.

Gayle Sherman: It is important to understand as a state licensing authority we do have duties associated with the Randolph Shepherd Act (RSA) apart from the regular process of the day to day business. There are regulatory, fiduciary and supportive duties. One of the fiduciary financial duties of the FLA is to adopt and maintain accurate accounting procedures. If we are unavailable to verify the information on the P&L that is provided, we are not able to actually fulfill that responsibility which is our charge from the federal government to the Randolph Shepherd Act.

VIII. Discussion/Possible Action on the Recommendations from the NCBV Regarding the Proposed Changes to the Set-Aside Schedule & Update on Unassigned Vending Revenue

Cecilia Colling: The committee proposed a reduction in the set-aside by establishing a new formula. The concern is could we continue to pay the overall expenses as budgeted for the program. It was believed at that time unassigned vending contracts that were new would off set the changes in the set-aside and we waited approximately seven months since we have had the contract in place. What we see in this stage is we are tripling our revenue from unassigned vending. When I look at this from an overall financial prospective I wanted to make comparisons of what would happen between the two formulas. We ran these formulas for 2004 with both formulas and compared them. The circumstances that it is listed under 2004 approximately what that would be and I used that to try and do a projection for the next few years. I would like to go through the analysis for the Business Enterprise of Nevada projections for budget account 3253. The first thing I did is looked at the actual budget that was passed by the Legislature for 2006-2007 and we are now in base fiscal year 2006. The balance forward is supposed to be in for carry forward and you are budgeted at \$750,875. The budget for the program fee \$1,100,000, which is set-aside. There is a small budget for counties of \$3,348 and the vending commissions are \$158,438. Treasurer's interest is \$27, 476 and loan re-payment at \$92,759 for a total budget 2,232,896, which is your revenue budget this year. The actual 2006 revenue, which also needed to look at

because of large carry over due to the fact we budgeted for a project that has been held up for legal or other reasons. The actual balance forward is \$1,303,501 and we have been informed because we just closed the fiscal year that amount is actually two million two. You have a very large reserve, which is a comfortable at this point. The other figures remain the same and it actually gives you a budget of three million six. We are looking at the first year is \$309, 671 for personnel, \$685 for out-of-state travel, \$10,624 for in-state travel, operating expenses of \$30,628. For the BEN program that is for all the expenses that we expend on the operators themselves is \$678,183, vendor benefits is \$465,000 and information services is \$1,631, position allocation is \$78,118, reserve of \$410,995, purchasing assessment is \$570, transfer to the general fund is \$10,715, and the attorney cost allocation of \$135,576 for a total budget of \$2,132,396.

Richard Saperstein: Why do we pay the Attorney general's \$135,576.

Cecilia Colling: We use the attorney general's office for several issues, contracts, operating agreements for litigations.

Gene Wilson: Would that not be considered legal fees. Are the legal fees prohibited by the Randolph Shepherd Act?

Richard Saperstein: We cannot deduct the legal fees from the P & L but there is nothing to prevent them from charging us \$130,000.00.

Cecilia Colling: On the second page is where we began to look at the analysis of the revenue. Line A is the amount of budgeted revenue of \$2,132,396, line b is the unassigned commission and this is the difference between what we projected and what we think we are going to get this year. We averaged the income for May and June and to be conservative we took a 85% of that which could vary from month to month which gives approximately \$127,613 more than budgeted. The set aside reduction we took the difference where we rounded the two formulas for 04 and took the differences each month and placed it into the spreadsheet for each month and then took 110% of that which gives us \$146,477 which leaves you with a balance of \$2,113,532 which is just straight revenue without the budgeted carry forward. We also did a projection with the actual carry forward which increases that budget to \$2,686,658 which is closer to three million six. You have a very healthy financial climate at this point. In three years there is scheduled to have a bridge that will by-pass the Hoover Dam as it is now and we are not sure how it is going to impact the revenue for this program. About 80-85% of your annual income comes from the three sites that are located at Hoover Dam. You might want to take that into consideration when that occurs so that we have a nice healthy balance when that occurs so we can work the program until we understand exactly how that is going to impact us. We started looking at

the expenditures for one year. The budget details is the actual budgeted dollar amount of \$2,132,396, line b is the increase in the health benefits and from the conversations I have overheard you were talking about increasing those from \$10,000 to \$12,500. I have spread that across the year, which gives you at the present projected number of vendors of \$32,500. If you increase the retirement benefits from \$5,000 to \$7,000 the increase cost would be \$52,000.

Richard Saperstein: How come, if you are increasing health insurance benefits by \$2,500 and retirement benefits by \$2,000 are the retirement benefits \$20,000 more on increase than health insurance?

Cecilia Colling: You are actually looking at around two million dollars for your budget and your increasing it by another \$200,000. You have also discussed increasing the back year including travel for all vendors and that is a projection you see as a later agenda item of \$40,000. If you look at what has happened historically with health insurance we have to date not drawn all of the budgeted figures of \$10,000.

Richard Saperstein: Do you have an overall percent?

Cecilia Colling: It is about 70% of the budget. Because you are making a commitment you must budget it each year. The end result is if you make a commitment to retain the unassigned vending contracts and not pull off those sites and make them into vendor sites this is a wash and you will still have a health reserve to get you through whatever might occur with Hoover Dam. We are suggesting to you to be conservative.

Richard Saperstein: What is the bureau doing to reduce the operating cost of the program? The onus is on the vendor and the bureau is not taking any ownership in the operation of this program. We need to decide as far as the expenditures we are going to make. The bureau is not saying anything on how they are going to reduce expenses on their side.

Cecilia Colling: For the amount of money and work generated from this program it is unlikely. You are being subsidized by the 110 dollars by all of the staff support that you get from other programs from this point. If you want to look at the expansion program and do not wish to expand at the rate you have projected that is something we can look at in terms at reducing costs. It is unlikely that you can reduce your administrative costs.

Richard Saperstein: Since this program is for the blind and or disabled, is it possible we can become exempt from some of these charges?

Cecilia Colling: Not under the present state system.

Richard Saperstein: What do we have to do to change the state system? You want us to give to this program yet saying ok you guys give it all and we are not going to give anything, the status quo will remain and instead of saying we understand that in the event the Hoover Dam is affected by the bridge three years down the road and we realize the vendors are going to have to consider some expenses and maybe we can make legislative changes that will allow for some of the expenses to be reduced or go away.

Gayle Sherman: Those Legislative changes they would not happen until the next biennium. As a state agency because the Business Enterprise of Nevada (BEN) program and Bureau of Services to the Blind and the Visually Impaired under which the BEN is located which is a state licensing authority authorized by the rehab services administration, we are a state agency and we are subject to the accounting practices and the budgeting processing of the state of Nevada and do not have an option in that regard. In regards to your comment about what are we doing to reduce expenses and currently we have 5.5 staff that is actually allocated to 3253, which is the BEN program. We have utilized positions from other areas in order augment services to the BEN program. We have people that work the contract piece of this and Rochelle is not in this particular budget but she will be used on a three quarter time basis in order to augment the ability for us to provide services. We are looking at utilizing 110 dollars and have already started doing that to provide additional services to the operators and have found a way to use an element called supported employment funds to be able to off set the amount of responsibility for contracting training services so we can use vocational rehabilitation (VR) funds more effectively to be able to expand the amount of services we provide. For administrative services we have the amount of staff that are currently allocated and the amount of demand in terms of regulatory, fiduciary and supportive services and if we were to cut staff more then the only place I could see to less reduce the money, we would cut staff to the point that we would be unable to provide the services necessary to keep the program functional.

Cecilia Colling: If Hoover Dam puts your stores out of business and the majority of your income goes away then there is a serious questions about what the whole program will be able to support and that all needs to be evaluated when that occurs.

Beth Perring: About the Hoover Dam area, once that bridge has changed over Hoover Dam is a destination point and a lot of people do not go to Hoover Dam because they do not want to be a part of that traffic and in actuality there may be more visitors to Hoover Dam because that traffic is no longer there.

Richard Saperstein: We will never know until that time comes.

Gene Wilson: This Hoover Dam project was being talked about in 1981 and I was the one who informed the chief at that time that they were talking about it from overhearing a conversation at the Legislature. For a number of meetings I have said what is being planned, does anybody know for sure what the feds have committed themselves to in as much as any of the facilities out there are concerned. We have heard people say we are concerned about the vendors who are here and whether or not we can believe that and I choose not to but maybe they are really concerned. I have also heard things like a parking lot with a new visitor center and have any types of these things have been looked into. We cannot wait until 2008 when the by-pass is finished and open to start decided to jump in and keep some of this stuff going. I also heard there is going to be a walkway for that bridge situation and if there is going to be a walkway with foot traffic then there should be a facility there doing the same thing that Bert, Kae and myself are doing now but I have heard nothing about that. We need to jump on this and do it now and it may off set the fact my facility will probably suffer a tremendous decrease in revenues as far as the other two facilities they may or may not. Beth could be right the Hoover Dam could become a destination point but that destination point is going to be tours or family vehicles coming from the Las Vegas area to the Dam, which they do now but they will not be allowed to cross the Dam. They will stop at the parking garage or the new parking lot area and that will be it that will be the southbound traffic. The tours that now support my facility it will be up to them, are they going to try and come across, are they going to be allowed to, where they have the opportunity to stop at my facility or because of time constraints are they going to decide to take the by-pass to the Grand Canyon or if we are going to the west or south rims of the Grand Canyon we need to take this by-pass in the interest of time. Nothing that I am aware of has been taken to the feds for the commitment or to let us know what are the options.

Richard Saperstein: That is a good point and the bureau needs to take a look at that and talk to the Department of Interior and find out exactly what their plans are.

Cecilia Colling: There have been several discussions along with legal issues. This is something on the horizon and you need to be conservative and we need to be prepared financially if we have a short fall. In terms of how we feel about the proposed reduction on the set-aside after doing the analysis, I believe the bureau is in support of your proposed set-aside.

Richard Saperstein: I think that is a realistic evaluation of where we are.

VIII. a. Report on Proposed Changes in Regulations (Nevada Administrative Code 426)

Gayle Sherman: We have done a review of the Nevada Administrative Codes (NAC) in the BEN Program and the suggestions made by the policy and procedures subcommittee have been incorporated into these suggested changes. Some of these changes that are being requested are what we feel are needed to operate the program. What I can do is synopsise why we are doing the changes rather than reading the whole thing. Let's start with NAC 426.080 and this particular regulation just defines how the committee of blind vendors is made up. Under section 4 the only change to this is the committee shall hold the meeting annually and added the language more and more if frequently if necessary. This is to come into compliance with the by-laws and actual practice because the way the current regulations is written there are only annual meetings and we have them more frequently.

Richard Saperstein: Essentially what they are doing is making the by-laws of the committee and the NAC regulations equal.

Gene Wilson: I thought the committee was to meet quarterly.

Richard Saperstein: That is what it says in the by-laws.

Gayle Sherman: What it says in the regulations is the committee shall hold a meeting annually and there was no provision for more frequently. Usually regulations say annually or more frequently if necessary and this particular regulation did not do that. The way it was written it looked like you only had one meeting a year. The next one is NAC 426.085 and the purpose of this particular regulation outlines the duties of a Nevada Committee Blind Vendor. The subcommittee of the Nevada Committee of Blind Vendors requested we make an addition, which says make recommendations to the bureau regarding disciplinary actions for operators. The additional language is make recommendations to the bureau regarding disciplinary actions for operators.

Richard Saperstein: It is just an addition to the existing regulations that allows the committee to have some input to making those recommendations.

Gene Wilson: At the bottom it says note, the issues here is confidentiality, the NCBV requested this additional duty, it would be difficult to keep operators.

Richard Saperstein: There are legal questions that surround this.

Gene Wilson: Are we going to vote on these?

Gayle Sherman: No. The representative from the deputy general attorney's office can also expand on this. Under Nevada State Law when you change regulations you have to have a public hearing and a workshop. There will be a workshop the first part of October and the public can comment on the suggested changes, we also have a public hearing in addition to the workshop, which is another opportunity. In the purpose of today's discussion is not actually having you vote on this but to show them to you to give you a preview of what is going to be presented at the workshop and the public hearing. In addition to having the workshop and the public hearing the deputy attorney general's office must also review these. I am not an attorney, I am just modifying language based on recommendations so we have to have a legal overview to ensure what we propose is consistent to Nevada law and other regulations. My concern is confidentiality and my other concern on this is that the Nevada Committee on Blind Vendors is a group that is tasked with advocating for the blind vendors and I am not sure that this particular addition is in keeping with that advocacy role and may be in conflict with that advocacy role which is the primary role. The next regulation has quite a few changes made to it and it is NAC 426.180, the overall purpose of the additions and deletions was to broaden the current language. The current language only allows for suspension of an operating agreement for clerical error, which is very narrow. If we need to suspend an operating agreement for other reason other than clerical error from my reading of this it was not allowed. The choices are that you could terminate an operating agreement for a variety of reasons but you could only suspend it for clerical errors, which is a pretty narrow view. The other thing we tried to do was, the old language said you could suspend the operating agreement for 90-days, it did not allow you to suspend it for less than 90-days. What we wanted to do is make this more flexible to allow in the event we had to take some kind of disciplinary action to be able to use it more broadly not just in this case of clerical error. The old language said an operating agreement grants to the operator for a specified period the right to use a vending facility and the equipment included with the vending facility. The bureau will offer an operating agreement and all documents relating to the agreement to a person who has been selected to operate a vending facility. The person who is selected must sign the operating agreement before he takes possession of the vending facility except as otherwise provided in this subsection an operating agreement terminates upon expiration of the period specified in the agreement. The bureau may in accordance to NAC 426.145 terminates an operating agreement before the expiration of the specified period if the operator fails to comply with provisions of the operating agreement. The bureau may suspend an operating agreement for 90-days if an operator has made continuous clerical errors on record that he is required to submit to the bureau. The operator may continue to operate his vending facility but shall cooperate with the bureau to improve

the reports to submit, that is the old language. I am not going to read what has not been changed, the new language says except as otherwise provided in this subsection an operating agreement terminates automatically upon expiration of the period specified in the agreement, the bureau may in accordance with NAC 426.145 terminate or suspend an operating agreement for up to 90-days before the expiration of the specified period if the operator fails to comply with the provisions of the operating agreement. The language I have deleted is the bureau may suspend an operating agreement for 90-days if an operator has made continuous clerical errors on reports that he is required to submit to the bureau. I am deleting that line because I think continuous clerical errors is vague and it also enables us to add the suspension ability across the board instead only keeping it to continuous clerical error. The new language is the operator may continue to operate his vending facility during his suspension period provided he is actively working with the bureau to implement corrective actions. In the past we have had corrective action plans and situations where people have not performed as need be and legally we have had discussions with the deputy attorney general's that we have no reference in the NAC to be able to use a corrective action plan so we needed to reference in the regulation to be able to implement a corrective action plan which in practice is what we do. The final line that has been added if the bureau finds it necessary to suspend an operating agreement for two separate period suspensions the bureau may revoke the operator's license. That is a progressive discipline aspect to this that was not formally included.

Gary DeFalco: Some language needs to be added that the bureau is also following the Randolph Shepherd Act under 7044.d and that the bureau has made all attempts in this disciplinary action.

Richard Saperstein: Please explain what is 7044.d?

Gary DeFalco: This is not verbatim. That the bureau will actively participate with the vendor to improve any mistakes or inadequacies before they apply any disciplinary actions in order to make them a successful vendor. The bureau needs to look at 7044.d and make sure we are following the act in this particular area.

Gene Wilson: The bureau may in accordance with whatever terminate or suspend an operating agreement for up to 90-days. How do you terminate an agreement for 90-days? It looks like the bureau can terminate the agreement.

Gayle Sherman: I understand what you are saying we need to separate those two items to have it make sense.

Nick Driscoll: If this is a disciplinary action and terminating an operating agreement for 90-days and letting the operator stay there is no consequence.

Richard Saperstein: There is consequence, if during that 90-day period of suspension the operator decides he does not want to work to improve any deficiencies that may exist, the bureau can revoke his license. The bureau is giving you a 90-day period to improve performance and it does say the operator will work with the bureau to do so.

Nick Driscoll: There is a defined outline of what needs to be improved and who the bureau grades the improvement after 90-days?

Richard Saperstein: I do not know that will work and that is a good question. This is just the procedure to follow and this is not the nitty gritty as it would apply to any particular operator or location. There has to be a rule or disciplinary action in place in order for the bureau to be effective in trying to get an operator who is for some reason not complying or unwilling to comply with the rules or regulations of the program to either comply or as a last resort kick the buy out.

Gene Wilson: It is a little difficult to suspend and terminate at the same time.

Gayle Sherman: I need to fix that language to reflect the up to 90-days is associated with suspension not termination. The next one is NAC 426.230 it contains a set-aside formula. What I have done is simply insert the set-aside formula that was submitted to the bureau by the Nevada Committee of Blind Vendors almost a year ago. That set-aside formula has been inserted.

Richard Saperstein: Any questions regarding changing the formula that is in the NAC from the old one to the new one we have suggested.

Nick Driscoll: At the last meeting you said this was going to be presented to the Interim Finance Committee (IFC).

Gayle Sherman: The process for changing regulations in Nevada is the regulatory body or the issuer of the regulations has to conduct a public hearing for BEN regulations in addition to that we also have to submit this to the Rehabilitation Services for review so we have a couple of different people that regulate us and by Nevada law we have to have a workshop and a public hearing then it goes to Legislative Counsel Bureau (LCB) they review it because they are in charge of promulgating all of the regulations and laws in Nevada and are consistent with other laws and regulations. The process is a public workshop and a public hearing then

we submit it to RSA after the public hearing we submit the proposed change to LCB, LCB approves them and then they can actually be active.

Nick Driscoll: The last time we changed the set-aside it was not this complicated.

Richard Saperstein: I tend to believe some things were done improperly.

Nick Driscoll: This will take another six months.

Richard Saperstein: The hearing is scheduled in October.

Nick Driscoll: By the time it goes to the RSA and everything else.

Cecilia Colling: It could be six months. We are trying to have it in effect in January. Because there is no change in revenue, if we were going to decrease in revenue we would have to go to IFC but there is no change in revenue you do not have to go to IFC.

Gayle Sherman: The next one is NAC 426.235 the additions here are we have also included the word, licensed operator and before it did not have operator or a trainee. In practice we have made loans to trainees in the past and the regulations did not allow us to do that. We are correcting the regulations to enable to make loans to trainees.

Gary DeFalco: How does this impact the collections of the default on the promissory note for the trainee?

Gayle Sherman: You still have to sign a promissory note and there is no difference between the licensed operator and a trainee.

Gary DeFalco: If a trainee defaults and does not become a successful vendor, do we therefore we lose the money we advanced them and is it not difficult to get the money back.

Maureen Cole: It is difficult to get the money back from anyone who defaults. There is no difference in the collection process between a licensed operator who defaults and a trainee who defaults.

Gayle Sherman: The next one is NAC 426.265 the changes are, as each operator shall maintain the records corresponding and other documents relating to the business operation in the area where the vending facility is located. That was a problematic item because not everybody keeps their records at their vending facility or sometime the vending facility does not have one location, it could be in several locations and made it difficult to comply with the regulations. What we have changed we have deleted that

particular line in the area where the vending facility is located and substituted at a location within the State of Nevada. The reason we put that in if for some reason we needed to subpoena records for a situation we only had jurisdiction to subpoena those records or we would only have success in subpoenaing them within the State of Nevada and that is why changed that particular line.

Gary DeFalco: I would like to go back to the last item and have the committee should take a closer look at it about lending promissory notes to trainees because of their success rate in the past and we are throwing money away.

Richard Saperstein: If you have a trainee that is put into a stand on an interim basis, how do you fund that stand.

Gary DeFalco: Is there any Vocational Rehabilitation (VR) money to use in these instances as set-aside money so we are not using at-risk money.

Gene Wilson: At one of the meetings of my committee this very item came up and it was pointed out that first of all trainees had been given loans and I pointed out some of the same things you are pointing out and it was shot down and my suggestion was that a trainee receives a wage and if the facility can not support that wage then maybe it should be looked at as to its liability as a location in the first place. You are barking up the same tree that my committee was.

Gary DeFalco: If it is giving us heartburn then we should continue to bark up that same tree. It is giving me heartburn because of our success rate of trainees to go ahead and give them money and see if there is a viable alternative.

Maureen Cole: One of the other issues that came up during that discussion that I wanted to repeat today is the issue about the wage may bear some further looking into because it has a lot of merit. To start up a facility it takes a certain amount of capital and you cannot accumulate that through a wage over time and still do business. You have to stock that site, you have employees to pay sometimes and you have licenses to purchase. There is a certain capital outlay just to get the doors open that first day, in fact that is where well structured and well thought out loans that matches the business plan of the trainee has developed and has allowed that site to open and be successful rather than trying to operate out of a cash drawer through receipts.

Gary DeFalco: I understand that. Couldn't the start up costs fall under VR?

Richard Saperstein: There are no provisions for that as I understand it.

Gayle Sherman: The actual start up cost specifically outlined in the RSA come out of the other revenue. VR money is not a way to accomplish that.

Gary DeFalco: I know in some other states, they do use VR money for trainees so set-aside has no at-risk money here.

Gene Wilson: We can all agree that it is a very difficult to resolve.

Kevin Jones: Certainly in the past there have been lots of dubious events that have given us all heartburn and continue to this day and one of the reasons the bureau has worked very hard towards working away from the past and moving into the future. I have two people Phillip Campbell and Annette Dickey who as trainees asked for and received loans and are both in the process of paying them back and are very close to having them paid in full. They were both at the 90-day mark because they both had achieved high standards and are excellent additions to the program. We need to take the mind-set away from the past and move forward.

Richard Saperstein: The issue is not loans to trainees I think the issue is the quality of the trainee that comes in to the program. If you have someone coming in who is competent and understands the basics of doing business they are going to be able to pay back a loan and be successful into the program rather than pulling someone off the street that everyone knows nothing about. Your scrutiny needs to take place when issuing a loan no matter who it is. Certainly the issue should be more of the folly of the trainee that you are loaning the money to rather than the actual act of loaning money.

Kevin Jones: That is absolutely the standard that we have said and the process that we have in place although it is not necessarily formalized at this point and has worked very well to at least my perspective to my way of thinking. We work very closely with the senior administrative staff in Carson City in developing these eligibility plans and work closely with the evaluators and VR. To my recollection I cannot think of anybody with the exception of one individual, everybody that we have brought aboard has prospered and has been a positive addition to the program and do recognize that as being a very important component.

Richard Saperstein: I agree. The admission and screening process is a whole lot more likely to help you determine if the guy is going to pay back his loan than actually handing money to him.

Gayle Sherman: We were half way through NAC 426.265 and there is another change. The bureau may request any records, correspondence, or

other documents from an operator that are necessary for the operation of management of the vending facility for the performance of the operators. The additional language is, including business records of all businesses in which the operators are members of the immediate family have an ownership interest. What we are trying to do is we have had situations in the past of almost a money laundering where there are multiple businesses and some of them BEN operations and some of them are not. The inventory purchase for the non BEN operations are routed the BEN operations as payment of set-aside. In order to off set that situation we had to put the language in.

Richard Saperstein: I have no problem with this if somebody is doing business in an honest and upfront manner there is going to be no issue but I do think that it should be included in this particular paragraph as it applies to the BEN program. If someone has a business and it has nothing to do with their stand than I do not see where the bureau has access to those records. If they have a business as an importer and they buy something and sells it to the BEN stand for re-sale again and it could possibly exist they could mark it so much and sell it at a either a loss or at the cost they purchased it for and then reduce the amount of set-aside they pay which seems legitimate to me. If somebody has a contracting business and they are building houses and they have a BEN stand and selling snacks, the bureau would have no interest in that particular contracting business because it is totally separate and there is no link to that stand.

Maureen Cole: The regulation says, any records, correspondence or other documents that are necessary for the operation or management of a vending facility. There has to be that connection, there has to be some reason to look at those records.

Beth Perring: I have a problem with the immediate family issue. If you got to this particular place and you felt you needed to do this by now this person may be suspended or they should be.

Richard Saperstein: It seems to me this could be a trigger to a suspension or a ramification of a license if there is fraud involved.

Maureen Cole: That is the problem. Often times there is a suspicion that something is improper but without the other side of the equation you can see the transaction on the BEN side but you cannot see the equation on the related companies side so you really have a suspicion but that is not enough to revoke or suspend a license and to me that seems appropriate. You should only take that action if you have the facts to support not just mere suspicion.

Gayle Sherman: The next one is NAC 426.383 and the only thing is the bureau will change licensed operators' benefit as \$7,000 annually as retirement income and that was raised \$2,000 from the previous contract.

Richard Saperstein: I have a suggestion for this. I would re-think this that the bureau will pay each operator not less than \$5,000 and up to \$7,000. The language inserted based upon the ability of the program to sustain such an outlay of money.

Gene Wilson: No. You can take numbers and figures and paint as black a picture as you want to as easily as you can take those same numbers and figures and paint a real pretty picture. If we keep it at \$5,000 fine, if we raise then we raise it and let it go.

Richard Saperstein: Based upon what we see currently, the program stands to support an increase in retirement and medical however, my personal opinion if we are going to do this we raise one but not both at this time.

Gene Wilson: That is a discussion in the future.

Richard Saperstein: You are looking at changes that is going in front of a workshop and committee and possibly be approved and go into affect. If we raise them both now and we find out later on down the road we will have to go through this whole process again.

Gary DeFalco: You are doing the same with set-aside. If we put in a new set-aside schedule and if it does not work we will have to go back and change that.

Richard Saperstein: The set-aside schedule we put in with no other changes still shows a really good increase to the program. If we implement all three of these items we may be using up all if not more of the increases to the unassigned revenue. As chair of the committee I would recommend to do one or the other, retirement or medical but I am not an advocate at this time.

Kevin Jones: I think making these increases performance based and if the program does experience something unforeseen and the revenues go down then there is a guaranteed bottom line the operators could rely upon but they could reap the benefits of enhanced performance.

Gene Wilson: It is not a bad thing. We do not know how the pictures are going to be painted when they are painted. It is not a slur towards any entity involved. Merv Flander once said, "Figures never lie but liars always figure." I am not calling anyone a fabricator in any way shape or

form but it can be done and things need to be solid. Increase one or the other.

Gayle Sherman: I understand the performance for the season upon available money types of model and in practical terms actual implementation could be difficult.

Beth Perring: Between the retirement and the medical increase we are only talking about \$80,000, correct?

Richard Saperstein: I believe it is \$85,000.00

Beth Perring: That is all we are talking about. It is some money but it is a benefit to the vendors. I think the fact that we have two million in our account now with possible impractical scenarios and think the benefit is o.k.

Richard Saperstein: Looking at this from the standpoint and lets use only increases in unassigned vending revenue to fund these changes and not dipping into set-aside coming into the program which is the mainstay of supporting the budget. If we could do all three and use up all of that vending revenue and set-aside remains equal, we should theoretically if expenses do not go through the roof for some reason or another. Do not maintain any health carry over however, if in the event set-aside dips and we have used up all the increases in unassigned vending revenue then there is nothing else to help support that decrease in revenue from set-aside.

Beth Perring: Then what we need to do is go back and readjust.

Richard Saperstein: My suggestion would be since it is so difficult to implement a performance based. I do not want to pass all three, the set-aside we all need. Then we need to decide if we are going to pass something else whether it is retirement or medical.

Gary DeFalco: If you feel insecure if we pass the retirement and the medical increase, can't you tie that into the carry over and put in the language out of the carry over is less than 1.5 or less than one million and revert back to the \$5,000 or \$10,000.

Maureen Cole: The purpose of discussing these today was to get a preview and the workshop is the point at which we can into a detailed and extensive discussion on the changes. It gives all of us an opportunity to go back and get additional information and think it over and be a bit more prepared at the workshop to discuss it and interject more information.

Gary DeFalco: Before we go into the workshop, can the bureau look into tying that into the carry over and see if there are consequences.

Cecilia Colling: I am not sure what you mean by that.

Gary DeFalco: If the carry over drops to the number we agree upon 1.5 million or one million that we revert back to the \$5,000 retirement or \$10,000, but if our carry over exceeds 1.5 or one million or whatever we agree upon that we continue to reap the benefit of the \$7,000 retirement and \$12,500 medical.

Richard Saperstein: I understand what you are saying but you are saying we have a carry over of a year and that is a floating number which is going to change all the time.

Gary DeFalco: We can pass it and if the funds are not there then we can go back to the old schedule without going through the hearings.

Richard Saperstein: We have to go through the hearings.

Gary DeFalco: Not if we put the language in there now.

Gene Wilson: What Gary is talking about is performance based.

Richard Saperstein: The details will come in the workshop but I think we need to be prepared to make recommendations at that workshop. I am going to ask a question regarding medical insurance reimbursement, which is we currently have a threshold of \$10,000 for 26 or so vendors in the program, how many actually reached that threshold.

Maureen Cole: There are several who reached the threshold and could use the additional and there are others who did not reach the threshold and there are few who had no claims whatsoever.

Richard Saperstein: The benefit of having the retirement raised by \$2,000 essentially could off set somebody who is reaching the threshold of \$10,000 yet benefit those people as well who do not have for any medical invoices. Everybody would benefit from an increase in retirement.

Gary DeFalco: Could we have the bureau present to us at the workshop of how many people have maxed out on their medical so we have a better idea.

Cecilia Colling: We could send that information out prior to the workshop.

Gary DeFalco: It will be beneficial for us to make a decision. If we are increasing medical by \$2,500 and only three people are using then we only have a \$7,500 impact on the program.

Maureen Cole: Another way to approach that is to look at your budget report, in category 16-health insurance and retirement and we pay the retirement only once in January, you can break them out. If you have \$435,000 budgeted to date and \$1,257 has been expended and those would be for health benefits, so you can track the payments through that budget item which is cumulative over time.

Gene Wilson: Is inflation considered in the budget?

Cecilia Colling: Yes. The point is the health insurance will most likely go up. The budget anticipates that everybody gets \$10,000 and the pattern has been that we carry forward what was not spent.

Gary Defalco: Does the \$100,000 go back into set-aside?

Cecilia Colling: It goes back into the reserve and if there is a need for it then you can move it.

Gayle Sherman: The next one is NAC 426.387 which is reimburse health care cost to operators, it increases \$10,000 to \$12,500 annually.

Richard Saperstein: We already tied that into the other one.

Gayle Sherman: The next one is NAC 426.395 and currently it reads an operator must physically be present at the vending facility for a minimum of six hours a day unless the operator has received prior approval from the bureau chief to be physically present at the vending facility for fewer than six hours a day. The new proposed language says, the operator must be actively involved in the operations of the assigned vending facility as set forth in the provision of the operating agreement. The purpose for this is to individual an operating agreement, the requirements for someone's presence at the vending facility.

Kevin Jones: Mr. Campbell has to leave now and he is in the new section business of the agenda.

Gayle Sherman: The last one is 426.400 and there is a provision under #3 which is the bureau will evaluate the performance of an operator, it used to say quarterly or more frequently as necessary and I have inserted annually or more frequently.

Richard Saperstein: called a five-minute recess.

VIII. c. Discussion Regarding Reimbursement of Travel Expenses for NCBV Operators who on the Travel to NCBV Meetings in Order to Participate in Person and Possible Action on the Approval of Recommendations from the Committee Regarding Policy and Procedure Revisions

Richard Saperstein: If all operators were attend a meeting in the north it would be \$14,081.80 and operators attended meetings in the south it would be \$6,285.05. If the meetings were only attended by the committee officers for a year \$8,615.20. Meetings attended by all CBVI vendors for the entire year would be \$40,733.70. In the by-laws there are provisions to fund travel for committee members but it has to be clear.

Maureen Cole: We were asking for clarification from the committee as to whether the travel was for all blind vendors if authorized or whether it is travel reimbursement.

Gary DeFalco: Without any historical costs for the past three years of what it has cost, rather than looking at it as a whole picture, it becomes distorted.

Maureen Cole: When I came on board I was given the understanding only the officer's travel was to be reimbursed so I do not think that the offer was made to non-officers, to other vendors.

Gary DeFalco: My expenses to attend the meetings as a non-committee member have been paid and then it was changed.

Nick Driscoll: I have gone up north also and have been paid.

Richard Saperstein: It has been as long as I have been in the program up until the prior committee until the one that sits now, there has been no written policy that I was aware of but it was a basic understanding if a member of the body wanted to attend a committee meeting, the bureau would pay their travel expenses for many years. The prior committee changed that and executed a written policy that provided for committee members to be reimbursed for travel.

Gene Wilson: It has been mentioned committee officers and members. There are officers and non-officers of this committee. Are we talking about the committee as a whole or only officers?

Richard Saperstein: We are talking about the committee as a whole.

Gary DeFalco: Subcommittee members are also reimbursed. I would like to point out there are occasional meetings that is mandatory a private vendor attend even though he is not on the committee or sub-committee, his vote is important during the elections or changes of the by-laws. If our expenses are not covered to attend the meetings then it is going to take away our right of how this program is impacted.

Maureen Cole: We are just asking for clarification. We did not budget for everyone to travel. If you direct us to do that we would be more than happy to do it. We need to get the budget in line with the reality.

Gary DeFalco: I am appealing to the committee to consider that which is a zealous point that some vendors during specific occasions must attend the meetings and if they are not going to pay for our expenses it becomes a biased committee.

Bill Schley: It is a valid point of what you are saying in that also it is provided to the vendor to be at meetings so he can be a greater part of active participation.

Gary DeFalco: I am appealing to the committee, I am not appealing to the administration that they do allow travel expenses for people who do want to attend the meeting.

Bill Schley: We are all aware no matter where we hold the meetings there are always going to be a fairly good amount of vendors who simply who are not interest or otherwise cannot show up.

Gary DeFalco: That is my point we need historical figures rather than say it is going to cost \$100,000 if everybody attends the meetings and do not want the committee to get the wrong idea.

Richard Saperstein: In my personal opinion, as long as there is a method in place for members to attend, whether it be north of south I do not see why we need to fly everybody back and forth. In the interest of the well being of the program is it necessary.

Beth Perring: I flew up to Reno at the last meeting because it was a policy and procedure meeting and I sat on the committee and wanted to be a part of it.

Gene Wilson: I agree with Beth, face-to-face is better. Teleconferencing is available to everyone and would decrease the travel costs.

Richard Saperstein: Whether you are face-to-face or on a teleconference you are going to have people steam rolling each other.

Gene Wilson: Let's make a compromise for the annual meeting with biennial elections the cost will be picked up for everyone at that point.

Gary DeFalco: I would also suggest if there is a meeting with by-laws that is also paid for.

Harold Petrofsky: On Sagebrush are people's expenses paid?

Richard Saperstein: Yes they are

Harold Petrofsky: Then they are already paid for the annual meetings then there won't be need for a motion on that.

Gary DeFalco: I think so Harold because Sagebrush changes from February to March and our annual election is in February and think the by-laws say February.

Harold Petrofsky: I am in favor if people are interested in coming to the meeting and having the bureau paying for it and do not think it is going to be that expensive.

Maureen Cole: The by-laws say members of the NCBV will be elected at a biennial election conference to be held during even number of the year.

Gene Wilson: Historically it was held in conjunction with the Sagebrush.

Harold Petrofsky: Make a motion that the vendor and their sighted guide are allowed to attend meetings with the expense occurred through the program if they choose so.

Richard Saperstein: No second.

Bill Schley: I think it bears more discussion.

Richard Saperstein: I will turn it over to the budget subcommittee for review this next meeting.

VIII. d. NCBV Policies and Procedures Subcommittee on the Proposed Changes to Policy and Procedure #05-01 – “Unassigned Commissions for Subsidies” and Possible Approval on a Recommendation to the NCBV to Adopt Revisions

Gene Wilson: I am going to recommend that the NCBV adopt this policy with one change and the change is that the word trainee is removed from the policy.

Richard Saperstein: It is applicable only to the licensed vendors.

Gene Wilson: A trainee should not receive all the benefits that a licensed operator receives. If they are in training I do not believe they should be subsidized.

Richard Saperstein: Are the trainee's paid a training wage anymore, is that part of the program?

Maureen Cole: It depends on structure of the training piece. Some are and some actually take over the operating site and their pay is their net profit.

Richard Saperstein: I agree with your changes and would certainly adopt your policy. I would like to see if the bureau has a mechanism available to make sure the trainee has income. If you stick them into a facility and the facility loses money through no fault of the trainee, is there a provision for a wage to be paid?

Maureen Cole: Not that I am aware of.

Richard Saperstein: What trainee is getting paid and the other one not.

Maureen Cole: For example, a trainee may be employed as an employee and is gaining training in that manner and they are actually being paid a wage. If they take over the operation of the site as a trainee as part of the training then they generally receive the profit they generate.

Gene Wilson: I would like to make a motion to that affect that we adopt the subsidy policy #05-01 with the removal of the word trainee wherever it appears in the policy and or procedure section.

Harold Petrofsky: Seconded the motion.

Richard Saperstein: The motion carried unanimously. Can you make those revisions?

Maureen Cole: Yes, I will distribute those once signed and couple that with the loan policy and procedure.

Gene Wilson: Please point out to all vendors and the committee, these policies can be looked at again and are work in progress.

VIII. e. Update Regarding Request for Proposal for NCBV Advertising and Logo Development

Gayle Sherman: We have on respondent to the Request for Proposal (RFP) and working on that contract.

Cecilia Colling: We did a solicitation in other words we sent out a request to several advertising people and received one very good response and are working through the contract and my suggestion is this individual be asked to work with the committee or somebody else on getting ideas and scope once the contract is in place to get some feedback.

Gene Wilson: Is there a subcommittee with regards to that.

Bill Schley: There was a publicity subcommittee and I was chairing it under Barbara Legier's administration and tendered my resignation to that post, if the request is being made to do publicity for BEN, I am certainly open for discussion and would be happy to work with Cecilia, Gayle, or anyone else.

Richard Saperstein: You are charged with it.

Cecilia Colling: What she would do is develop a logo and marketing materials, would you want anyone else to work with Bill to give ideas about the program.

Richard Saperstein: Do you need someone to work with you on it.

Bill Schley: Absolutely.

Richard Saperstein: Bill and I will assist the contract holder with this particular item.

VII. b. Update on Legal Opinion Regarding the Ability of the NCBV, BEN, and/or the BSBVI to Purchase/Operate a Franchise

Richard Dreitzer: The issue is basically whether this program can acquire franchises or purchase private businesses and as we look at the definition of a vending stand or a public building or property under Nevada statutes. In a nut shell the definitions in the statutes do not lend themselves to the purchase of a franchise. In other words it is a good idea but it falls outside the purview of what the program is able to do.

Richard Saperstein: What needs to be done to change statute to accommodate that?

Richard Dreitzer: I guess that could be done and that may be something you want to contemplated in the next workshop and is part of the NAC and NRS. With a small tweak in the definitional section you could probably get it done.

Richard Saperstein: Would that be the only way to get it done?

Richard Dreitzer: I have come into this late in the game and I will visit with Akaterine and Maureen about this to make sure I am on the same page as you. My understanding is the only way to do it as a definitional section change.

Richard Saperstein: That seems to be the case in most things regarding statutes and codes.

Richard Dreitzer: On paper it is a great idea but once again common sense is limited by what the law lets you do.

Gene Wilson: It is positively not a dead issue.

Richard Saperstein: Within the constraints within the program as it stands today it is probably not viable. There is always a possibility of changing the statutes of the law so it can be included.

Nick Driscoll: Are you saying to take the program as a whole making it a franchise?

Richard Saperstein: Purchasing a franchise as a BEN location like a McDonald's or a Burger King.

Gene Wilson: How does the bureau feel about adding private franchises. Are you looking at it as an administrative nightmare or do you even know.

Gayle Sherman: We do not know at this point. Part of what the exercise was to define ownership and the ramification of that and the liability to fund. Of course if you purchase something and own it then you are liable for the profit and loss of that particular entity. We do not have an opinion one way or the other.

Richard Dreitzer: As a supplement to that, part of my private practice experience has been in regards to setting some of these franchises for 7-11, McDonald's, Burger King, etc and the agreements are so complicated and the duties run in so many directions. I think it would be a logistical nightmare for the program to jump into that and unless you know exactly what you are doing.

Nick Driscoll: In my dealings with Subway when we were trying to get that going, the only economically viable way to do this would be to become an employee of the person that owns the franchise. We would be working for somebody else and never really own that site because by the time you are done buying their products and putting there signs up and everything else you are liable to them for everything.

Richard Saperstein: True. Richard, are you also handling the update on the status on the pending legal matters, today?

VII. a. Update on Status of Pending Legal Matters Involving BSBVI and the BEN Program

Richard Dreitzer: There are a few matters I am involved with and no offense certainly to anyone but I do not want to address the issue revolving Mr. DeFalco and the matter that is pending. With regards to Vickie Oldenburg is going to continue to handle the RTC matter and the City of Las Vegas situation.

Richard Saperstein: Do you have any information on those?

Richard Dreitzer: Vickie is in the North. I can speak with her to get some information from her and relay it to the board at the next meeting.

Gayle Sherman: In regards to the contract with the City of Las Vegas we have completed a draft contract and forwarded back to the city for their review so the negotiations are on-going for the City of Las Vegas vending route.

Gary DeFalco: Gayle, do you know at one of our pervious meetings they were going to use meters to see what the electrical costs of operating the vending machines.

Richard Saperstein: It was not a whole lot.

Maureen Cole: We are going to do some additional metering at the request of the City of Las Vegas. We did not at that time meter ice cream machines, coffee machines, or cold food machines and they would like some data on those types of vending machines.

Gary DeFalco: Weren't they saying the cost they presented were astronomical and what was they final proof that after we metered what they cost would be.

Gayle Sherman: The previous proposal was \$220 per machine and through negotiations it is around \$25.

Nick Driscoll: Regarding City Hall Las Vegas, have we ever determined any action that will or is not going to be taken against them putting the franchise in there on our priority right site.

Maureen Cole: There are two different issues. We are dealing with the vending route and that is the one where the draft agreement is being finalized and negotiated. The Subway is still sitting there and Vickie

Oldenburg is determining whether it is appropriate to take further legal action or what to do with it at this point.

Nick Driscoll: I am not interested in the legal action. In the past when they have put sites in our location they have paid to the vendor a commission every month and they have not paid anything.

Richard Saperstein: That is part of the pending legal matter.

Maureen Cole: It is. We are trying to figure out how you untangle a situation that has become very involved.

Richard Saperstein: Richard are there any more pending legal matters?

Richard Dreitzer: There was a matter concerning Mr. Hansen and think that has been resolved. That is the extent of what I know at this point.

IX. a. Update on Status of New BEN Sites

Maureen Cole: We are moving along on the City of Las Vegas vending route and looks like that will finalize before too much longer successfully. The new snack bar at the Bryan building in Carson City will be completed in a couple months and we did a solicitation of all the licensed vendors and disappointingly no one was interested in running that and it is a beautiful facility. We will have to re-group and see how we are going to forward for with that particular site. The North Las Vegas Department of Motor Vehicle will be a snack bar and are finalizing the construction piece on that and is moving right along and they are ready to start the construction part on the interior of the snack bar and then will need to contract with someone to do the cabinetry. The City of Henderson contacted us and you may recall a couple of years ago they were interested in a snack bar in their City Hall and did not have the funds to do the plumbing and electrical that was necessary to put in a snack bar. We waived it for a couple of years and they recently came back and asked if we could do a snack bar again and the funding for the plumbing and electrical is still not available. However they are very interested in vending, a different kind of vending, technologically advanced, not just pop and snacks but some that do cappuccino, ones that are coin operated, cold food, hot food, a number of different things and hopefully that will come to a conclusion before too much longer.

IX. b. Recent Licensure of NCBV Operator Trainee, Phillip Campbell

Richard Saperstein: Phillip left but we would like to welcome him aboard in his absence.

Gene Wilson: How about if the committee chair, send out a welcoming letter to both Annette and Phil.

X. Public Comments

Nick Driscoll: Ben Giron asked me to read a letter concerning an issue. I will summarize the letter and not read it verbatim. He was approached with a request to put a cappuccino cart at the DMV and he had told the man he was not interested at that time and the man was very persistent. As a result the man has contacted the bureau and said that Ben was rude and hostile with him. When Ben talked to him and the BEO's were not very understanding and that they would not take his comments, they more less took the other guys side and told Ben not to talk to him that way. Ben just wanted to state that he felt this was a blind program and that other people were not allowed to come in and if he said no that should be the final answer and he wanted me to read that today.

Richard Saperstein: So noted. If there is an issue between an operator and the program individual that needs to be brought up to the bureau chief level. I would like to say that BEO's are people we employ to work for us and hopefully they understand there job is to make each and every vendor as successful as possible. Ben did call me about this and there are times in business where somebody is going to be persistent and if they get to the point of being so persistent and will not take no for an answer, sometimes you might have to be rude, you might have to cut them off or you might have to say no thanks and hang up the phone. I have done that on occasion. I do not think that is an indication of Ben's demeanor at all because I have known Ben for many years. There are points in time where people are short and rude and so be it, but that is the part of the nature of doing business. On the other hand, if it is an employee of the program and that employee is being rude to a vendor I do not understand the necessity for that and of course I was not there and do not know what took place.

Gary DeFalco: This same gentlemen contacted me yesterday and I told him because I know Ben and did not know Ben had this discussion with him already but I told the gentlemen that Ben would probably not be interested in allowing him on the DMV premises and he was under the assumption that it was my call and I told him it was Ben's call and he would have to contact him. I said if Ben did turn him down however, that I was not interested in talking with him to provide services to the City Hall on Water Street and that if he contacted me after contacting Ben I would sit down with Maureen and see if that was a feasible possibility with the City of Henderson. What he has is a portable espresso cart on wheels, which is an ex-ambulance that has a four head espresso machine and he cruises around different locations. What he wanted to do at the DMV is be there between 6:30 a.m. and 8:00 a.m. before the DMV opened to serve espresso and if that was not possible I told him we would discuss being available until 8:00 a.m. for the City of Henderson employees.

Maureen Cole: It has been our position because we receive many calls from people who do not understand the blind vendor program who want to put in a espresso cart, who want to bring in mobile kitchens and hot dog carts. It has been our practice in the past to refer them to the business number of the operator who has control of that site. We do not feel it is appropriate for us to make business decisions that the operator should be making.

Gene Wilson: Any agreement between a vendor and operator and an outside vendor is subject to approval by the bureau. An operator might say it is ok but after looking it over the bureau does not think it is ok or vice versa. It could be referred back to the operator but my understanding is the bureau has to give final approval.

Maureen Cole: Actually the host agency should be involved in that too because they may or may not want additional folks on their property to give their approval and obviously the bureau would want a copy of that contract so we can monitor the income.

Gary DeFalco: A lot of people contact Ben because there is a lot of traffic at DMV. Ben had a bad experience with a hot dog cart and it reflected badly towards him because of their actions and that is why he does not want anybody on the premises and I think he has perfect right to do that.

Richard Saperstein: I do have one public comment and should have brought this up during the revisions of the NAC. NAC 426.267 requires the bureau to conduct biennial audits on facilities of gross of and in use in excess of \$150,000 and would like to see that amended so that the bureau has the option of conducting an audit if necessary. My rationale for that is if we are going to spend the money now with Solari and Sterner and they are going to be doing these mini reviews and you have a guy that is going through 6 mini reviews over the course of two years and there has been no problems at all with is location. I do not see the necessity to spend that time of money to conduct a full-blown audit. The bureau has the right to conduct audits as they deem it so necessary. I want that language removed that says they have to do it. If we are going to spend this money on one side lets try and save some money on the other side that is not necessary to spend. Does the bureau have any problems in helping me revise that?

Gayle Sherman: We can look at that language but I do not think we want to touch the provisions that require operators over \$150,000.

Richard Saperstein: Why

Gayle Sherman: Because that is part of our responsibilities. What I heard today from Amy and Lindsey was that there are actually two separate

functions. One is the review of the monthly P&L's but it is not designed to detect fraud and that is really the purpose of a full longer audit.

Richard Saperstein: How then is this expenditure of \$31,000 over the course of two years with Solari and Sterner going to reduce the cost of doing audits.

Gayle Sherman: What I heard them say today was, when the auditors do the larger audits they are not going to have to go back and create and research as much of the preliminary information as they would because records with verification will already be there which are not there now. When they do a two-year audit they have to go back and they have to verify everything for the past two-years. In this situation some of that verification will already be there as a result of the more complete review of the P&L's monthly.

Richard Saperstein: Let it be noted the committee chair still feels this is an unnecessary inclusions in NAC 426.267.

Gene Wilson: I thought my committee when we were looking at the regulations removed that. I will talk with Mr. Hansen because he has the actual written revisions and will let you know.

Harold Petrofsky: I would like to thank the bureau for keeping me in the loop as far as the contract negotiations between the Clark County government center and the bureau and taking my concerns into consideration on what I think what should be in the contract.

XI. Confirm Next Meeting Date

The Chairman confirmed that the next scheduled NCBV Meeting is to be held on December 17, 2005 at 10:00 a.m. in Reno, Nevada.

XII. Adjournment

Bill Schley made the motion to adjourn at 1:40 p.m. and carried unanimously.