

# **Minutes of the Special Meeting of the NEVADA COMMITTEE OF BLIND VENDORS**

Tuesday, October 4, 2005

## **I. Roll Call and Confirmation of Quorum**

Richard Saperstein, Chair, called the meeting to order at 3:34 pm.

Members present: Richard Saperstein, Chair; Bert Hansen, Vice Chair; Harold Petrofsky, Secretary; Bill Schley, Northern Representative; Gene Wilson, Southern Representative. Mr. Saperstein verified that a quorum was present.

## **II. Verification of Posting**

Maureen Cole, Business Enterprise Officer II, DETR, Rehabilitation Division, verified that the agenda was properly posted and that certificates of posting are on file.

## **III. Introduction of Guests**

Guests present: Beth Perring; Nick Driscoll; Gary DeFalco; Ben Giron; Mick Coleman; Gayle Sherman; Cecilia Colling; Kevin Jones; Russell Smith; Mary Allen; Jeanne Clark; Maureen Cole

## **IV. New Business- Discussion/Possible Action on Approval of Request from Nick Driscoll, Licensed BEN Operator, BEN sites # 15, and 44, for waiver of the set aside due for the month of August, 2005**

Gayle Sherman invited Nick Driscoll to describe the reasons he was requesting waiver of the August set aside.

Mr. Driscoll stated that his start up costs had been overwhelming and that the site was not making money. He was requesting not to pay set aside on the subsidy he receives. He felt there were not enough tenants in the building to support despite the fact that he is there every day and business is increasing. Paying set aside would be a real burden for him at this time.

Dick Saperstein asked if the request was to waive set aside on the Foley Building location.

Mr. Driscoll said he had lost about \$800 last month at that location.

Bert Hansen asked how much subsidy he had received.

Mr. Driscoll state he had received \$3500.00

Mr. Hansen asked if the Bureau wanted him to pay set aside on the subsidy

Mr. Driscoll stated he had been paying set-aside on the subsidy all along.

Mr. Hansen summarized his understanding that Mr. Driscoll went into the location, received a subsidy, lost money and now the Bureau want him to pay set aside on the subsidy.

Maureen Cole stated that Mr. Driscoll does not receive a subsidy as that term is currently defined but for a number of years he and several other operators have been paid a monthly supplement that comes from the revenue of certain vending machines.

Mr. Saperstein recalled that the previous committee had set up supplemental income for some vendors based on the proximity of the vending machines to the vendors' sites.

Mr. Driscoll stated that the supplemental income came from Nellis and Bechtel and is divided among four operators.

Ms. Cole stated that as far as she could tell, all of the vendors paid set aside on the supplemental income.

Mr. Saperstein stated that was how he recalled the supplements were set up. He stated he thought the payments had been stopped a long time ago but apparently that was not so.

Ms. Cole stated the payments had not stopped. So Nick has been operating BEN # 15 and receiving a supplement for several years. In July he took over the Foley Federal Building. He received a loan for the start up costs and experienced a net loss for August, the first full month he operated the site. In fairness, he took over a site that had had problems with customer service and customer retention. He is working diligently to overcome that and making good progress as shown by the increase in his daily sales.

Mr. Saperstein asked Nick if he found the inventory level too low when he took over the operation.

Mr. Driscoll stated the previous operator offered a different menu than he does. It was mostly sandwiches and the previous operator spent only about \$300 a week on inventory. He had to redo the whole menu to met the customers' expectations,

Mr. Saperstein asked how much revenue he took in during August and whether he took an inventory at the end of the month to find out what his true costs were.

Mr. Driscoll stated he did not take an inventory and he did not know the total sales.

Gene Wilson asked if the loan he took was not enough capital to start up and would it be better to increase the loan. He and Mr. Hansen asked how and who determined the amount of the loan.

Mr. Driscoll stated he calculated the cost of purchasing the existing inventory, supplies, operating costs etc. He originally thought \$5000 then bumped it up to \$8000. There was some concern that he was going in too high so he left it at \$8000. He asked Kevin to elaborate on this.

Kevin Jones stated that Nick has started at \$10,000 and the Bureau pared it down to \$8000.

Dick Saperstein and Nick agreed that they had discussed that amount.

Kevin Jones read an e-mail from Pat Ross, GSA Property Manager, praising Nick's operation of the cafeteria. He questioned whether there are enough people in the building and the surrounding area to sustain the site. He noted that an increase in Nick's business from other buildings takes business away from another close by operator.

Bert Hansen commented that the program had been through this time and time again. He had qualms about going in into this site. The program has lent money to operators for sites where there is no hope of getting it back.

Mr. Saperstein stated that was unknown at this time at this site but that his point was what the real reason for the loss is. He asked what Nick's food costs were in August.

Mr. Driscoll state it was about 40%.

Mr. Saperstein stated that one reason might be that there are not enough people to support the site. An ending inventory is necessary to find out what the true costs were since you usually stock up at a new site but do not necessarily use up everything you buy the first month. Showing a loss after the first month may be skewed by not taking an inventory.

Mr. Driscoll stated the Foley building is a 7-table cafeteria that does not have a lot of food stored in inventory-it is minimal at best.

Beth Perring asked what Nick needed to be successful.

Dick Saperstein and Mr. Hansen asked if there was any indication of whether this site could return a profit or if there was a trend of where we are going here.

Maureen Cole stated that the previous operator showed a net loss starting out which was expected but showed a profit later on so the site can be profitable. Eight months or so may not be enough time and each operator has different abilities.

Mr. Hansen stated that just making enough to pay the phone bill is not a fair net profit.

Ms. Cole agreed that sites must generate a living wage for all operators.

Mr. Hansen asked if the previous operator made a living wage.

Ms. Cole stated he was on his way to it and may have met the substantial gainful activity measure a time or two but that no, he had not earned a living wage.

Gary DeFalco asked what the average daily sales are.

Mr. Driscoll stated they average about \$300.

Mr. Petrofsky asked if there is vending machine income at the site.

Mr. Driscoll stated there are two machines that bring in maybe \$40 per month. They have done some \$500 dollar days.

Mr. DeFalco asked if Nick had employees.

Mr. Driscoll stated he had his mother works for him full time and is on salary. She also drives him around to get supplies. He could use two employees.

Mr. DeFalco asked if the layout of the location was bad.

Mr. Driscoll said no. The previous operator had a menu that warranted \$300 a day and that is what he made.

Mr. DeFalco said it was a physically impossibility to pay labor and the other entire overhead on \$300 a day.

Mr. Driscoll stated that by the time he pays wages, loans, set aside, he is basically working for free.

Mr. Hansen reiterated that the program has done this time and time again, put an operator in a location and made him poor.

Mr. DeFalco and Mr. Saperstein agreed.

Mr. Wilson stated that the conversation had gotten a field. He moved to waive set aside for the month of August. He noted that the P&L for September would be due shortly but he did not know how much set aside was due.

Mr. Saperstein noted that no set aside was due from this site.

Mr. Driscoll agreed and stated that he was trying to keep this site afloat from his other site, BEN 15, but that November 1 the municipal courts were leaving that location. They provide 80% of his business which will slash his income for there as well.

Mr. Saperstein stated that before entertaining a second to the motion, he would like to comment that they had never waived set aside for anyone and that to do so for one they would have to do so for everyone. His alternative would be to allow Nick to carry over his loss against profits yet to be made. The Bureau needs to weigh in on this.

Ms. Cole stated that the Bureau feels it is not appropriate to carry over net operating losses in a cash accounting system. However, the Bureau would be willing to ask Solari and Sturmer, the CPA firm that is now looking at the revamp to the profit and loss reporting process, to give us their professional opinion as to whether the carry over of net loss is within the generally accepted accounting principles that we all want to work within.

Mr. Saperstein asked the Bureau to do so because his CPA had advised him that it is perfectly legitimate regardless of whether you use a cash basis or an accrual method.

Mr. Hansen stated it appeared that both of Nick's sites were millstones around his neck. We can't have locations that drive an operator into the poor house with debts he has incurred to try to keep it going. If this is a location that the Bureau likes so well, then they ought to put money in it and make the investment in it and that shouldn't be the operator's responsibility. If it doesn't run right, then get the hell out of it.

Gayle Sherman stated that the issue is not whether this is a viable site or not, although that is the long-range issue. The committee approved the Foley building but unfortunately the previous operator chose to withdraw from the program. The issue before the committee now is Nick's request for waiver of his set aside from 15 so he can have another month or two to build up the revenue where he is.

Mr. Hansen stated that the Bureau had already stated that that was what they were not going to do.

Ms. Sherman stated the Bureau could waive the set aside.

Ms. Perring clarified that the issue was not requiring Nick to pay set aside or a loan payment at 44.

Mr. Driscoll stated that he took 44 on the condition that he could retain 15 because he knew that 44 was not a moneymaker. Fifteen would provide a cushion to keep 44 going. He does not want to continue to incur losses. If he pays the set aside of around \$ 1400-1500, it will put a burden on him that will have a domino effect.

Mr. Hansen asked which committee approved the site

Mr. Saperstein stated he did not recall but that when it was approved it was considered a marginal site.

Ms. Cole stated that in July 2004 it was basically a done deal and interviews were held to select the operative.

Mr. Saperstein stated that waiving set aside had never occurred before.

Mr. DeFalco stated it had been done in the past but that he did not remember the exact reasons.

The Chief has always had the authority to waive set aside.

Ms. Sherman stated that the statutes and regulations that there is that authority, in consultation with the committee.

Mr. Hansen seconded the motion to recommend approval of Mr. Driscoll's waiver request. The motion carried with four votes in favor and one vote opposed.

Mr. Hansen noted that his heart was with Dick because he does not believe in waiving set aside. But if the committee approved the site last summer, it put the operator in a jeopardy that he is not very fond of.

Mr. Saperstein agreed and stated the better way would be to continue Nick's supplement until such time as the site is money making or we get out of it.

Mr. Hansen stated the only other way to handle it would be to increase his subsidy.

Ms. Perring stated that he would still be liable for his set aside.

Mr. Hansen agreed. Mr. Saperstein stated it would have covered his loss.

Mr. Saperstein stated it would have been a cleaner way to do it, but if the committee saw otherwise, that is.

Mr. Driscoll stated that would probably have to be done anyway once his clientele moves to the regional justice center.

Mr. Wilson said he did not think it could have been done any other way because the issue is whether the committee supports waiving the set aside or not.

## **V. Public Comments**

Richard Saperstein noted that the meeting was in the public comments item.

Bill Schley stated that his concern is that the committee not set a precedent just because someone is taking a loss on a business. If they are taking a loss because they are not an adequate business person and either need more training or need to straighten up their act or whatever, we don't want to set a precedent of forgoing set aside for that individual.

Mr. Petrofsky stated he did not think that was the case in this situation and Mr. Schley agreed.

Mr. Hansen asked how much is Mr. Driscoll's loan.

Mr. Driscoll stated it was \$8,000 and that it was scaring the hell out of him.

Mr. Saperstein stated he felt Mr. Driscoll would do well in the site despite have a large nut. But he also felt there was a better way to do this besides waiving set aside. What happens if Mr. Driscoll does not make a profit this month?

Mr. Driscoll agreed because he is making hardly anything here.

Mr. Wilson asked if Mr. Driscoll had started the paperwork for September?

Mr. Driscoll states he was scared to.

Mr. Hansen stated that now they had to think about what they were going to do with this site. He felt if the site does not make money, it would be unfair to have to repay the loan.

Mr. Driscoll stated he did not mind paying back money he had borrowed. But coming into a site, there is no financial information given to you. He never got to see the books here. H saw the business but didn't know what the thing is making.

Mr. Wilson stated that the bid notice states it is up to interested bidders to get with the operator and find out what's going on.

Mr. Driscoll stated the previous operator would not give him the information and he was not required to. He felt it was this or nothing because his supplemental income was disappearing.

Kevin Jones stated that in fairness Nick worked there for a full month before he took the reins and had a full month of on the job awareness and exposure to what the previous operator was doing.

Mr. Driscoll agreed but stated he was not in his books or even in his register.

Mr. Jones noted that even looking at the books would not help if there is an unskilled operator who is doing \$200 a day. If would not show that the site could do \$600 a day, so the Bureau has placed the burden on the operators to investigate that the best they can.

Mr. Wilson agreed but noted it is not as easy as it might appear. He related a personal experience where he was unable to obtain good financial information and did not go through with the deal. But if a BEN operator turns down too many opportunities, he will be blackballed forever so its take it or not.

Ms. Cole stated that Cecilia Colling had joined the meeting and could speak to the issue of carry over of net losses.

Ms. Colling stated that when you are trying to establish an accounting system you need to stick with the same one, you don't move from one to the other. You are either on an accrual basis or you are on a month-to-month cash basis.

Mr. Saperstein stated that net losses or profits are not accruals; they are carryovers according to his accountant who says carry over is completely legitimate. He would like to get an opinion from Solari and Sturmer. It is unfair that the program becoming unjustly enriched because a vendor has a loss through no fault of the vendor. That loss should be carried over.

Ms. Colling stated there are other ways to address this, which the committee has done. There is a need to be consistent.

Mr. Saperstein stated it would be consistent.

Mr. Wilson stated he knew of at least one site that was on the accrual method and that had been approved since 1978.

Mr. Saperstein stated the Bureau had changed all the operating agreements but could change them back to account for an accrual basis.

Ms. Colling stated she had given her answer.

Mr. Saperstein stated he was tired of the Bureau saying that was how it was going to be.

Mr. Wilson stated it is in regulation that the facilities will operate on a 30-day cash basis.

Ms. Sherman confirmed that the regulation does say that.

Mr. Saperstein stated the operating agreements used to say a modified accrual basis.

Ms. Colling stated that had caused confusion and that the Bureau was trying to follow the regulation.

Mr. Driscoll asked if there was a timeline if his site continued to lose money, what is the next step. There followed a general discussion of factors that new operators should take into consideration when opening a new site and or taking over an existing site. There was also discussion of specific strategies Mr. Driscoll could consider to build up his customer base at BEN # 44.

#### **VI. Adjournment**

Mr. Hansen moved to adjourn the meeting. Mr. Wilson seconded the motion and it carried unanimously. The meeting adjourned at about 4:30pm.