**BUSINESS ENTERPRISE PROGRAM OF OREGON**

**RULES SUBCOMMITTEE MEETING**

**Thursday, Aug. 13th, 2020, 1pm – 3pm**

Per Executive Order 20-12, the OCB office is closed to the public.

This meeting will be held by videoconference.

Attend the meeting using the Zoom.com platform, or by telephone call-in.

-Zoom link: <https://us02web.zoom.us/j/84494862589?pwd=K3VTcVU3cGMvZWRORVFJem5SU1NvQT09>

- Telephone: 1 669 900 6833

- Meeting ID: 844 9486 2589, Password: 148922

**Agenda**

1. Open meeting.
2. Open Comments.
3. Overview Operating Agreement- Director Morris.
4. Intent/Purpose/Benefit- Director Morris.
5. Questions/Answers.
6. Sub-Committee Discussion/Recommendations.
7. Adjournment.

**Verbatim**

Art Stevenson: Who do we got on the line so far? I know Eric’s probably here. Randy, are you here?

Hauth: I’m here.

Art Stevenson: OK. And let me say that Lewanda is probably going to be late and she may not be participating too much today. I want to thank her for taking charge of the last meeting. Had some medical issues that I was addressing and she was kind enough to do that, and now...[laughs]. Well, anyways. And so I will be running the meeting today. And so...let’s go through and see who's all here. Eric, you are here, correct?

Morris: I'm here, Art.

Art Stevenson: OK. And then Randy's here. I'm here, of course. So...let’s go through the managers list if I can remember everybody. Salvador Barraza? Jerry Bird? Jerry Bird, are you here? No Jerry Bird. Let's see. Celyn Brown? Lin Jaynes? Steve Jackson?

Jackson: I'm right here. Hi Art. Hey everybody.

Art Stevenson: Alright. Stevie boy is here. Welcome Steve. Derrick Stevenson. Let's see. Anyways, I think this'll be better. Is there any other managers on the way?

Bird: Jerry's on now.

Art Stevenson: Oh, good, Jerry. Alright.

Kinney: I’m on for few minutes, Art. Carole.

Art Stevenson: OK. Carole Kinney’s here. Welcome, girl. OK. Any other managers? Any visitors?

Willie: Hey, Art. This is Willie from Utah. I was listening in.

Art Stevenson: Oh, hey. Hi, Willie. Welcome. Glad to have ya.

Willie: Thanks.

Art Stevenson: [inaudible]

Carlile-Smith: Vivian.

Art Stevenson: Vivian Smith. OK.

Carlile-Smith: Carlile-Smith. Yep.

Art Stevenson: Yeah.

Carlile-Smith: Hello everybody.

Art Stevenson: [inaudible] OK. Anybody else? Visitors? No? OK. So first I would like to thank Eric for putting out and making sure the One Tap Mobile was there. I had problems getting on the line last time, and this time no problems at all, so very happy camper. Appreciate your due diligence on that so everybody could have...quite frankly, I didn't think about looking on the -- the other agenda that we had. I was just looking at the one that Lewanda sent out. So anyways, very grateful for you making sure we had that One Tap Mobile thing, 'cause it makes it a heck of a lot easier. OK. So we're going to call this meeting to order. And is there anybody who wants to make any comments? Uh...

Hauth: Yeah, Art?

Art Stevenson: Go ahead there, Randy.

Hauth: Hi, hi, yes. Thank you, actually, thank you for heading up the rules subcommittee and I know Jerry's on the line. I don't know if Lin is on yet or not, but as you will recall, I act in a ex-officio manner on this. I’m not necessarily a part of the committee, but I'll participate and weigh in as I can. I just want to say, I believe I stated it last meeting, but I do want to just again share my concerns that, one, the operating agreement that we are talking about had changed drastically over the last three years. There were provisions put in the operating agreement for termination of managers. There were provisions taken out. And all of that was done without any participation of the committee or even knowledge of the committee, and managers were required to sign the operating agreements. I know we're here working through this trying our best to work through this matter in good faith. I know there's a lot of concerns around this. I know there's a lot of concerns that had been documented in the last three years with RSA, but it's kind of a daunting and challenging task, but I do appreciate you taking this on and Jerry's involvement as well. So, I'm going to go onto mute. I just wanted to, again, share my concerns and document those, and I'll weigh in as I can. Thank you.

Art Stevenson: Thanks Randy. Anybody else? OK. Um, yeah, I want to make a quick comment here before we proceed, to share the concerns about the operating agreement. I don't know if everybody knows or has had a chance to look at it. We got a copy of the operating agreement that was developed with changes...and...we received this morning, which obviously, if you can have a copy of the e-mail and if anybody wants to comment -- a copy of it that didn't get a copy of it, and -- and I'm talking about visitors who are on the line, of this latest agreement, where apparently conversations were going on with RSA, changes were made, and they, according to the email that we got, have already been signed off by RSA without any active participation. Again, as -- as Randy said, and thus none of our concerns were addressed, which I believe is a part of active participation. And I think we may get into -- well, we probably will get into some concerns about that. So I'll -- I'll just leave that comment as that. And Vivian, if you want a copy of that, I do know you're on the commission board; I will be glad to make sure you get a copy of that.

Carlile-Smith: [distant] That'd be fine, thank you.

Art Stevenson: OK. Just let me know, Vivian. I know you're on mute, so that's a good thing. OK. So --

Carlile-Smith: Can you hear me, Art?

Art Stevenson: Yeah, I got you now.

Carlile-Smith: Yeah. Go ahead. That’s fine. I'll -- I’d like to get that.

Art Stevenson: OK. OK. We're -- and -- knowledge is power and so I wanted to make sure, especially since you're on the commission board, you have all the information you need, 'cause eventually you guys are definitely going to vote on this. OK, so the meeting is called to order. As you all know, we went through five -- four or five of the issues concerning active partici -- I mean, concerning the rules, and there were concerns that were voiced by members of the committee and managers...and so I guess we'll start out by saying, and I hope -- hope everybody -- and you probably didn't get a copy of the notes, Vivian, and if you -- also, if you do want copies of any of the stuff that gets generated by the committee here between now and the elected committee meeting next week, we'll be glad to supply it to you also. So anyways, we went through...was it four or five of the things? Is the operating agreement the sixth, Eric, or did we go through five and -- and the sixth one is the operating agreement?

Morris: Yeah. We went through five on the rules, Art, and then the operating agreement is a separate thing that's the sixth one onto itself.

Art Stevenson: It is -- is the last one.

Morris: Yep.

Art Stevenson: OK. And -- OK. And so I know during the meeting we talked about the concerns that were of the manager -- of managers and of people in the committee, and we got your notes, Eric, but did not get any further thoughts, which I think I brought up on if you thought these were valid concerns and -- and should be addressed or -- or anything. Would you like to comment on that?

Morris: Not at this point, Art.

Art Stevenson: OK. OK. So anyways, we went through those five things and there were a few issues of concern, that no final language was discussed or anything, and so I believe one of the concerns was that certain things should just be dropped and other things should be addressed, especially concerning the role of the elected committee and active participation like the grievance process. And so do you, Eric, have any comments or thoughts about those comments and maybe addressing the role of the elected committee in some of those processes, like in the -- the grievance process?

Morris: I -- I don't, Art. I think that's -- that language is already established, like in the CFR, isn't it?

Art Stevenson: No, we discussed about the role of the active -- active participation of the blind licensed managers...in the process. For example, we talked about the administrative review where there has been some controversy about allowing the elected committee to participate in the administrative rule -- review, which is kind of mandated in the federal code. The elected committee is supposed to receive, transmit, and advocate, and there has been, you know, a problem where there kind of was an established -- I don't know if you want to call it a policy, or... I definitely know it wasn't in the rules where there was limited ability for the representative of the elected committee participating in the administrative rule. In other words, during that process, if...during that process, it would go off the -- the commission would go off the record and not allow the person -- the elected committee person to be on the -- on the record during the administrative review. And that has been an item of contention, that a blind licensed manager was not receiving their rights during the grievance process by having the comments and the advocacy of the event -- the member of the elected committee on the record. And so, you know, those kind of things. Obviously, the federal code says that the elected committee shall receive, transmit, and advocate, but during the quote-unquote -- and this is part of the things we're supposed to address -- is the "administrative review" and stuff. And so you are not prepared to address that issue during this meeting?

Morris: Art, why -- why would you think I'd be prepared to--. You just went through in detail to explain what you're talking about. So, you know, the -- the process that RSA wants us to actively participate, specifically to the dispute resolution part of the rules, is the fact that we needed to provide an option for VFMs to go directly to a full, fair -- full evidentiary hearing, or a fair hearing? So that's the language that I drafted up. I didn't draft up the -- the part of the admin review that talked about on the record versus off the record advocacy and that kind of thing. And the CFR doesn't go into that kind of detail. So, no. I -- I'm not ready to talk about that.

Art Stevenson: Well -- well, and obviously we brought up this in the last meeting. It was an issue of concern, and obviously, the federal code calls for advocacy, and also, in the state statutes, it requires for us to -- the agency to put forth rules that are a benefit to the blind licensed managers. And -- and this obviously should be at the rules. The elected committee has definitely had problems with this, and -- and so, you know, it is a part of the...the process. And I do believe it's an issue that...I believe, as the chair of the rules committee, needs to be addressed in the rules. Policies, and this obviously is a policy of the agency which concerns not only the elected committee, but it concerns managers who are participating in -- in the process, and under the law they have the right to advocacy, and, you know, the -- it -- it should be addressed in the rules because, you know, it is an issue of concern. And also, I believe, as the chair of the committee, a blind licensed manager, and a member of the elected committee, that blind licensed managers have rights and those rights should be protected and honored. And in fact, the state statutes says that the agency is supposed to adopt the rules that is a benefit for the manager. So anyways, you know, I won't beat a horse to death. Obviously it sounds like that it is still an issue of contention, and I guess the elected committee will address that issue when they discuss the rules. But, you know, I -- I will say as the chair of this rules committee, I'm disappointed that...that this issue isn't going to be addressed at this time. So anyways. Alright. So as far as the -- the step process, the...RSA has said you’d have to change the rules to address the...the process, and we need to -- the elected committee needs to vote on -- on that process. And so what changes does the agency feel they -- they need to address during this process, and are you -- so I can report to the -- well, why don't you give us that first so that we can have an understanding of it, and it'll be on the record, too, so I hope the members of the elected committee -- of course, three of us are on here right now -- will know when they meet next week.

Morris: Art, I don't understand your question. Or I don't know understand what you -- i don't under --

Art Stevenson: OK, well, you go through -- we -- alright, would you go through what changes you plan on making to the...to the process to comply with RSA’s request for you to do? Can you go over that just so we have a better understanding of it?

Morris: Are you talking about changes versus what we read through last week? Because I literally read that entire document out loud last week. That -- that -- those were the changes that I drafted up to talk about last week. And then you guys gave me feedback on that.

Art Stevenson: OK. OK. So -- so --

Morris: I -- I haven't changed anything since then.

Art Stevenson: OK. So -- so then you, after our meeting and the, you know, the input from the managers, and in fact I know I commented on it too, was you don't -- you don't want to entertain any further changes to address the issues that we talked about after you read that?

Morris: After I read what?

Art Stevenson: After you read the -- the parts about the procedure. We mentioned, and I know I talked about it, you know, are you -- are you going to, and you've had over a week to think about it, are -- are you going to address the issues that came up during the meeting last week? I guess just a yes or no would -- would suffice on this.

Morris: Yes.

Hauth: Hey, Art?

Art Stevenson: Yes, Randy.

Hauth: Yeah, if I may just for a second. Well, you know, not to speak --

Art Stevenson: Go -- go right ahead.

Hauth: OK, so sharing from what I have heard historically and recently, many of the managers believe that through the rulemaking process or the rule development process or whatever you would call it, that the agency, in many ways, has just actually offered time to the committee, not necessarily has valued their perspectives or their opinions or their positions and beliefs. Many of them believe that the agency just has their own way with the rules and creates the rules that they want. And that says, you know what, you know, historically has created these objections and [inaudible] compliance. And so moving forward, I think what Art’s concern is, and my concern, and others', is that, OK, so RSA has provided feedback. And so the agency has developed their position on this feedback. And so Art saying, being that there was issues brought forward during the last meeting, is the agency only going to stick to what is written in their position or are they going to make known what changes through active participation and good faith negotiations that they're going to consider developing? So will the committee have that information before they move to vote on it? So I think that's, you know, pretty much what Art is trying to get at. So, just wanted to share that.

Art Stevenson: Thanks, Randy and you're absolutely correct. I -- I -- I mean, obviously and unfortunately some of this stuff has -- with RSA has been done behind closed doors and has the elected committee concerned that active participation does not, especially since they voted down the handbook, does not end once -- once the rules were submitted to RSA. And so you're absolutely correct, Randy, and so I think we understand a little more clearly here, but we did need to get on the record here, and I'm sure it will be discussed in the meeting next Thursday that a lot of this stuff was created in a vacuum and true active participation has not continued through the process. So anyways. OK. We can -- we can go by that and I think we --

Bird: Jerry.

Art Stevenson: Go ahead, Jerry.

Bird: Yeah, thanks Art. I think that we should make it kind of clear that this today, in our last meeting, is the -- the rules committee, which is the committee that was present and discussed the handbook with Mr. Smith as facilitator. Now in that, this is an extension of that, I believe, and therefore we work together and it isn't just what the agency wrote up after we have our summit. We got [inaudible] the BECC did not approve it, did not accept it, because the agency took the original comment and kind of chopped it up into their own words and [inaudible] added/removed, authored their own handbook, which we turned down because they'd done so. Now Eric is saying, well, that's the one we sent in and that's -- and these are the only issues the RSA wants to discuss, but I don't think you realize that the issues that they talked about we didn’t -- wasn't our active participation. So they cannot say that, you know, you have [inaudible] RSA will approve and accept most things, especially when it comes from the BECC, 'cause it's our program, as long as it’s not illegal. So what I'm getting at is the agency changed stuff and to have them believe that we must have decided on that, and so these are the issues they don't believe is right on -- on the agency’s handbook. Now, my other issue is that this is an extension of that. So it’s not that Eric just listens to us and then goes back and we make a recommendation, which is not the same recommendation as if we took a vote on a meeting. This was a recommendation to the handbook as we participated in. And so therefore, Eric, we got to agree to these. Both sides. You know. That’s what we're here for. It’s not just to listen to what we believe and it’s just going to go on OK, you got your active participation. This is to discuss them and -- and make an agreement just like we did, like, "Do you agree with that?" "Yes." "Do you agree with this?" "No." "Why?" That’s what this is about today. And also the agency is -- is -- is there, you know, these rules gotta benefit the blind. So I say we kind of move on to our operating agreement and we can discuss that. And then we will prepare -- the committee will prepare...not really proposals, but our recommendations on -- on how we believe they should be, which now only brings us back to another discussion with the agency if they don't believe it. 'Cause it’s collaborative. So [inaudible] between all sides, not just the agency. So that's kind of what my point on that and I’ll have other...I think we need to stick to even the...definitions of our program, which I'll read some of them shortly, which kind of explains what the operator agreement intent was. But I'll...I'll leave that at that. Thank you.

Art Stevenson: OK.

Morris: Hey Art?

Art Stevenson: But thanks --. Yes?

Morris: Yeah, so my -- my plan was after this meeting, I think maybe this ultimately gets to your -- your original question was to take the feedback from last meeting and this meeting and put it together, incorporate it, and then have that document ready for the elected committee meeting, or I'll have -- should have it ready early next week. That would be the rules and the operating agreement feedback that we've talked about. That's my intent.

Arts. Thanks. Thanks for the clarification, Eric. I -- I truly do appreciate that. And so, obviously, we don't need to discuss the other ones. But, therefore, I mean, because of what you said...and so we're having the meeting on next Thursday, Eric. Can we have those documents no later than by close of business on Tuesday?

Morris: Yeah, I don't think that should be a problem, Art.

Art Stevenson: OK. Alright. That’s fair enough. Alright, well, let's dive in to the operating agreement. And -- and so as I stated a little while ago, we received a copy of the operating agreement, which...if I understood your e-mail correctly, Eric, you have received RSA approval on that...that operating agreement that you sent to us today?

Morris: No, Art, they haven't approved anything yet. They've just been giving us feedback and guidance on these things.

Art Stevenson: Well, you said that they have no problems with it. Let me restate that. That they had no problems with the operating agreement that you sent out to us today.

Morris: I -- I don't think that's what my e-mail said at all, Art. That's...I basically said, hey, this is -- here, let me pull it up so I can read it to you.

Art Stevenson: OK.

Morris: 'Cause --

Art Stevenson: Good. I'm -- I'm glad. I want clear understanding.

Morris: So what I said was, "Subcommittee members, Attached is the latest version of the operating agreement. It includes all of RSA’s guidance and changes. I've sent out a lot of documents and wanted to ensure that you had this for today's meeting," 'cause I've pushed out a lot of different documents over the last probably two or three weeks from like May and June. So I just wanted to make sure you guys had a copy of that.

Art Stevenson: Alright. Well...well...then you don't think guidance and changes kind of -- doesn't that say that -- that they approve of what’s in there so far, their guidance and changes to satisfy their thoughts on the operating agreement?

Morris: I guess you could spin it that way, but until I hear a -- an official thumbs-up approval --

Art Stevenson: I'm -- no, I'm not spinning it. I'm not spinning it. I am telling you --I'm not trying to spin it, Eric. I am just saying that's the way I interpret it. I'm not trying to spin it, OK? All I'm saying is that that's what they say. I mean, I -- I don't know why you're saying I'm trying to spin it. I'm just telling you what my thoughts are, and -- and spinning it sounds like a negative to me, like, you know... Anyways, that's my thoughts on that. OK. So anyways, e -- enough said. Has everybody, and I know Vivian you haven't got a copy of it. But did everybody else on the committee -- and you don't have to answer if you -- if you didn't look at it or see it, OK? So anyways...

Miranda: Art, for the record, Lewanda's here.

Art Stevenson: Oh, hey, Lewanda. I hope you're feeling OK. Anyways. We're glad you're here. OK. So anyways, let's just go ahead and dive into the operating agreement. I read it and, you know, I -- I definitely may have some concerns about it but anyways is there -- I guess I'll call on you first, Jerry, if you don't mind, to talk about and relay any concerns or...that you have concerning the document.

Bird: Am I off mute now?

Jaynes: Yes.

Bird: Hello?

Jaynes: Yes. Yes, you are.

Art Stevenson: You're off mute.

Bird: OK. [inaudible]

Art Stevenson: Is that -- is that Lin Jaynes?

Jaynes: Yeah, I -- I've been on since Randy sent me the correct call-in information. So I've been here.

Art Stevenson: OK. OK.

Jaynes: I just didn't really feel like -- I didn't want to interrupt.

Art Stevenson: OK. OK. Thanks Lin. Go ahead, Jerry.

Bird: OK. Thank you. OK, I first -- the new operating agreements have been kind of a sticky little thing, and -- and for good reason, because they -- they are intended for a purpose under the Randolph-Sheppard Act and I believe [inaudible] even say that. So let’s...we know -- all know the intent, and that might give us an idea on what should be in there and what shouldn’t. Let -- let me read under these hand -- under these rules which have been sent -- which is on -- on the B -- OCB website. Under...if you look under BECC, we have the rules and then -- and then the -- the first part of the rules is introduction. I won’t read that, although it's mostly the Randolph-Sheppard Program. But the next one is definitions. Before I read this, we all know the definitions are what explains the rest of the handbook. And kind of like, oh, what does that mean? Like [inaudible] 'cause we went to definitions quite a bit. And why did we need -- and does any other part of the handbook, can it be in non-compliance of the definitions? No. That's why we have definitions. So let me read the definition...currently number 19 of the definitions. Operating agreement is the head of this. Now this is what it means. It means the agreement between the vending facility manager and the commission stating specific terms of operations -- operation of a vending facility. Now, that means that it is supposed to contain the operation of the vending facility. Let me, before I move on to show -- explain what that must mean, let’s go up a little bit further and -- and see what it says about...up here. It says what a [inaudible] program name [inaudible] let me find it here. Just be -- be patient. Active participation, blind persons in current building, and...OK. Talking about Business Enterprise Consumer...cafeteria, cafeteria, dah dah dah dah...commission means the Oregon...the director...direct competition...[inaudible] licensee [inaudible] operating agreement, OK...political subdivision...public buildings and property. Set-aside, teaming, temporary manager, training...vending facility. What it says is that they got to have an agreement, somewhere, and I can't see it. I'm trying to -- the agency is the only one that can get a contract, a permit, on a vending facility, whether it's state or federal. OK. We can't go and do that. That's their job. Now the idea, I believe, on an operating agreement is to make that vending facility who has been assigned a particular property must follow that contract. So therefore it becomes an operating agreement which should mean, I guess...normally you can only have one place, but in Oregon we have quite a few. Some managers have many facilities. So this means, to me, that the -- that the operating agreement is supposed to tell the assigned blind licensee on -- on the procedures and what he must do in that property. For instance, the times you should open. These are agreed upon by the Commission, SLA and that -- and the property management; not us. The...if you need a key, how -- how you get into places, what's the rules, do you have to have a background check. The date, the times, like I said, what items you might have agreed on. I mean this is the agreement that the agency made with the facility. And the reason for that operating agreement, like I said, is to ensure that that blind manager has signed off on he will follow this contract. Now that's what that means. They don't mean to start going in and saying, oh, you got to send in a log and you got to do this. That's because it also says that that -- that that facility manager property is to have a copy of your operating agreement. Says that under these definitions. So that means that they want to make sure that the manager who is -- who is responsible for day to day operations is to know what they are to do and what they're not. So they should not have all that other stuff because once again, let me explain this. All that other stuff is already in our rules. Why do you want to put that in our operating [inaudible] how you can get rid of us and what we have to do? The operating agreement is not for that. So therefore if you have four vending facilities, you need an operating agreement for each facility that states the terms and conditions on that property. Therefore, you know, each one has to do that. And it's supposed to include the agency, which I think they have failed to do, because I don't have any [inaudible], and supply us with that contract or agreement that they made. It's gotta be a written contract so we can know what's in the contract, and it's got to be signed to be executed. So that's supposed to be included. They don't do that. It's like, oh, well, I got places that they don't even have the right to be into that I pay set-aside on. It’s not part of the program. Colleges, for instance. But my point being that the operating agreement has gotten so far out that it's lost its intent and meaning. So I think we need to get back to just what that intent is and what it's supposed to be, and leave out all the what we can get rid of, you have to do a log. [inaudible] That's under our other rules. I'll kind of leave that at that for the moment. Thank you.

Art Stevenson: Am I off mute?

Jaynes: Yes.

Art Stevenson: OK. Sorry about the little -- I'm having a little trouble putting it on mute right now. Hopefully I can...can find that again. So...any comments on that, Eric?

Morris: Art, were you talking to me?

Art Stevenson: Eric?

Morris: You kind of broke up. Are you talking to me?

Art Stevenson: Yeah. Sorry. Yeah. Any comments on that, Eric?

Morris: Well, I appreciate Jerry going through the definition. I -- I was just going to try to go back in here while you were talking and see where we have overlap between the operating agreement and the rules that speaks to stuff that we're duplicating. So I was just trying to go back and look at that real quick with that lens.

Art Stevenson: OK.

Bird: If I may say, this is not the rules. This is -- we -- our rules are -- are -- in-house. This is an operating agreement. I think Eric's trying to get at, oh, well the rule says -- says you -- you have to do a lot, so -- so we have -- should have that in there. That's what I'm trying to get the point to Eric that that overstretches the intent of this particular agreement. You can’t start putting on -- in the rules in there. The rules are the rules. They wanna -- [inaudible] they can go to the rules. The operating agreement is between the manager and the SLA to perform the duties. And I found that when -- it's at number thirty, vending facility agreement. Now listen to this. It states exactly what the operating agreement is. "A vending facility agreement from facilities located on state property or in other public buildings means a agreement between the appropriate officials when a public property or federal property and the commission that," here we go, "defines the term and conditions for the establishment and operation of a vending facility." So...

Art Stevenson: Thank you.

Bird: I -- I believe the -- the operating agreement is not intended for all that other stuff. We need to make that directly concerning...you must follow the operating agreement and the terms of the building and you can be removed, but the other stuff has its own definitions and -- and -- and paragraphs. Thank you.

Art Stevenson: OK. Point -- point well taken, Jerry. Thank you very much for all the hard work you did on that and research and stuff. OK. So Eric, are you...have you found...do you want to make any comments on that, or...?

Morris: I -- I don't think I do right at this moment Art. I'm trying to speed read through the section where we're talking about VFM responsibilities and stuff, but I don't necessarily agree with what Jerry is saying about the operating agreement being, hey this is -- you -- you know, you just have to basically follow the agreement that we have with -- with the agency. I mean, this is the agreement that we have about our relationship between the SLA and the VFM, and it outlines not only some of the stuff about the actual facility, but it actually -- it talks about how you're going to operate, you know, making sure that you're getting stuff in on time, and... I -- I was trying to see the duplicity between stuff in the rules, because that's what Jerry was saying was hey, we have some rules that cover whatever. And I was trying to see where we were -- were overlapping that with the operating agreement. That's what I was really trying to look at real quick.

Art Stevenson: OK. Alright. So -- so that’s good. Understood. It’s something for you to think about and, obviously, it is a current concern. Is there... Let me start with you, Randy, if you want. Do you want to make any comments on that at this time? Three, two, one. OK.

Hauth: Art. Art?

Art Stevenson: Yep. Yep.

Hauth: You there? Yeah. Yes. So I was on mute for a -- I was on mute and I had my earbuds in, so my phone was a ways removed from me. Anyway, I appreciate you asking me. Yeah, so...I guess my point is that to overly...to overly control a manager by, you know, fear of termination. I mean, if you look at these rules and if you look at these operating agreements, it's pretty clearly heavy-handed that, in my opinion and I know others I've talked to, it's more about, how do we get rid of somebody if they do something wrong? How do we, you know, it's not necessarily geared in a better supportive role, I don't think, and others that have spoken [inaudible]. So as far as the operating agreement, it could be, in my opinion, it could be a lot more simpler. It could be like, hey, lookit: These are the duties. These are the responsibilities. And if you don't follow the rules, then you could be terminated. If you don’t do this, you could be terminated. I don't think it has to contain all the micromanaging kind of overarching authoritarian dictates that has in it. I mean, that's my opinion. And I know most of the other managers I've spoken with, other than maybe one, you know, feels the same way. So I would think that calls upon the agency reconsidering what might be a better approach there. So that’s my -- that's my two cents' worth.

Art Stevenson: OK. Thank you, Randy. OK. So...

Bird: Jerry. I have one more comment.

Art Stevenson: Go ahead, Jerry.

Bird: Art.

Art Stevenson: Go ahead.

Bird: Yeah, and I like to bring it up where -- you -- am I -- am I on?

Jaynes: Yes.

Art Stevenson: You’re good.

Jaynes: Yes.

Art Stevenson: Jerry? Oh, Jerry?

Jaynes: I think he dropped the call.

Bird: Now can you hear me?

Art Stevenson: Oh.

Jaynes: Yes.

Bird: I have a heck a time [inaudible] tell when I'm on or off. OK. Another point...another point is that the agreement which have -- we've talked about this. It used to be for a year. And we talked to RSA and the federal...and the, you know, leaders, in the programs amongst the United States, the different NFBs, ACBs, and that. It's very clear that there's no reason to have that it has to be re -- re-done every year. Now -- now they went, "Oh, OK, we'll go two years." Like come on, we've already had the stuff. It does not --. It's a waste of time. The only time that operating agreement should change is if you go a -- if you are removed, which that has a process. Some particular things or [inaudible] down or attitude [inaudible] add that to the offering agreement. This agency's intent to try to control us like threatening us and like, oh, we won't let you -- we won't -- if you don't sign our operating agreement as we wrote it...and...you -- you don't have a license and that. So it's another way that this agency, in particular the director, has written stuff up to give him this authority that he does not have. He...he is to administer the program, not rewrite or take out or -- or make their own program. So we need to put that -- that it is permanent and -- and and to allow changes as necessary. Thank you.

Art Stevenson: Point well taken, Jerry.

Carlile-Smith: Vivian.

Art Stevenson: Point well taken, and --. Go ahead, Vivian.

Carlile-Smith: Eric, could you send me a copy of this operating agreement as it stands now?

Morris: Yeah, Vivian, I already forwarded it to you.

Carlile-Smith: Thank you.

Art Stevenson: OK. Thank you, Vivian. OK. And -- and I'm gonna jump right in there from what you said, Jerry. I do also know that a very prominent person who evaluated the rules on that exact thing that you just brought up, Susan [inaudible] Gashel did declare in her evaluation of the rules, which the agency has a copy of, a very prominent member of the NFB and also a well-known attorney general -- ex-attorney general from the state of Hawaii, did definitely voice concerns that it should be permanent as long as the manager is at that location. And so, Jerry, I do think that definitely does need to be addressed for several reasons. There's no reason why time and energy, which I consider a waste of time, be done every two years. It means that we can run the program more efficiently and effectively. And I might say that it also is a benefit for the blind licensed managers because they don't have to go through, you know, this stuff over and over again, which is gonna waste time and effort. So I'll -- I'll make that comment on that 'cause I definitely do agree with what you just said, Jerry, and -- and I -- I won't ask Randy to come off mute because I know he's talked about that. And so it definitely should be an issue that's addressed. So we should put it to bed and comply with the laws and the rules and regulations and stuff. OK. So next, Lewanda, I’m going to ask you if you want to make any comments on that?

Miranda: No, not at this time.

Art Stevenson: OK. How about you, Steve Jackson?

Jackson: Well...am I off mute?

Art Stevenson: Yep, you are.

Jaynes: Yes.

Jackson: I...I definitely agree with everybody where I don't think it needs to be re-signed all the time. I mean, I think from a administrative point of view, it'd be easier if it was just extended or something. Somehow we could compromise and make it a longer time or something because if you continue to do the work and pay the bills and do what you’re supposed to do, I mean it should be obvious that you don't have to, you know, re-sign something that you're already, you know, in the midst of doing. I'm a little confused about the fact that there's supposed to be three different warnings if you have an infraction. There's some kind of like three different warnings. Is that -- is that in the -- is that the new rules, Eric?

Morris: That -- that’s in the rules section, Steve. That’s not in the operating agreement.

Jackson: OK. That’s [inaudible]. Never mind.

Art Stevenson: So -- so then [inaudible] I don't want to put words in your mouth, Steve. That -- that you view the operating agreement should be, you know, permanent as long as the blind licensed manager is assigned to that -- that facility in -- in order to make things more efficient and effective and [inaudible] --

Jackson: Yeah, maybe make it like a review. Yeah, like, as long as the -- as long as the manager knows that their duties, what they're obligated to do, maybe they just get like a review. Like they just get asked some questions or something, but to have to re-sign something all the time...I mean, you know, Eric doesn't have to sign something once a year that says he'll do his job. I mean, like, I -- I think it's -- I think it's redundant. I think it's ridiculous.

Art Stevenson: OK. Well -- well, and -- and as I stated, Susan Gashel did point that out in her evaluation, that, you know, you're put in a facility, and -- and -- and that there shouldn't be a -- a timeline on it. It should be in pre -- per -- [inaudible] until either, as the rules say, the manager resigns or is removed with cause. OK, so.

Hauth: Hey, Art, when you get -- when you get a minute, I would like to make a comment, so.

Art Stevenson: OK, go ahead since you're off mute --

Hauth: Yep.

Art Stevenson: -- make that comment so I can --. Go ahead.

Hauth: So, yeah, I just wanted to say, on the -- on the operating agreement permanent versus temporary, the agency, if they so chose, could make the agreements permanent. Earlier Susan Gashel had identified that was, in her opinion as an expert, the intended purpose of the act. The agency can also exercise their administrative authority. If a manager is not turning in their business license, they're not turning in their insurance, they're not, you know, complying with the rules, then they always have the ability through due process to take action on that manager. So I know recently in going through an administrative review on this temporary operating agreement that came out of nowhere, the question was about the permanent operating agreement; the agency's response, even though I don't have it in front of me, was like, "Oh, well, no, we use that to make sure everybody gets in all their documents," and that's, you know, literally doesn't need to happen. The agency can make sure that managers get in their without holding the operating agreement hostage. And, like somebody said, I think it was Steve or Jerry or you, lookit, why does the agency want to spend the time and resources to do this every two years when they don't need to. That's my thoughts. Thanks.

Art Stevenson: Well, and -- and -- I -- I -- I'd like to say that it also, you know, doesn't -- does not have controversies [inaudible] have a [inaudible] problem, you know, with that temporary operating agreement, and so I'm definitely hearing what all you guys are saying here and this is good -- good feedback. So Lin Jaynes, do you have any thoughts?

Jaynes: Well, you know, what's just on the back of -- in my mind is that, you know, the operating agreement should be informational, but it shouldn't be punitive. It shouldn't have to explain all the various ways that a person can be removed from a program when we do have that in the rules. And again, if a manager -- if a manager is not -- is not following through with their -- with their assignment correctly, that's something we need to be notified by the director, brought in, discussed, and, I mean, alleviate the issue. But to put it all on an operating agreement every year or two years to me seems a little redundant. I understand both sides want to be protected, the state agency as well as the -- as the vending manager, but I just think it's redundant to keep doing it that often and to put as much in it as what there is in it now. It seems, like I said, seems a little -- little redundant to me.

Art Stevenson: OK. I definitely hear that. So...I...points well taken. Then, and so --

Jaynes: Can I say one other thing? [inaudible]

Art Stevenson: Yeah, go ahead. Go ahead.

Jaynes: This is a little bit on a different subject. Earlier, Vivian Smith, I believe you're still on, aren’t you, Vivian? OK. Well, she had asked [inaudible] --

Carlile-Smith: Yes, I’m here.

Jaynes: Thank you, Vivian. She had asked Director Morris for a copy of the operating agreement. And if I heard it correctly he said he'd already sent it to her. What crossed my mind at that point in time is, it would be probably more helpful for her if she had the previous operating agreement before all of those -- the changes that [inaudible] had an issue with to where she could look at both of them and -- and see both sides, [inaudible] understand where the vending facility manager's coming from in regards to the present operating agreement and the previous.

Carlile-Smith: Vivian.

Art Stevenson: Go ahead, Vivian.

Carlile-Smith: I wouldn't mind that. I'd be up to looking at both, but just thinking of a compromise. What about a section in there referring to the consequences of bad behavior that are contained in the rules? So there's a reference there but not everything is there. It's just where the -- a person could look to go and find out where it is, but...just compromise. It's not all written down, but it's still there.

Art Stevenson: Take -- point well taken, Vivian. Also, would you care to have a copy, 'cause we've mentioned it here, [inaudible] to the Susan Gashel evaluation of these rules to review.

Carlile-Smith: OK. I had my voiceover start speaking. Can you say that again?

Art Stevenson: OK. Would you, because we referred to it and you are on the commission board, would you like a copy of the Susan Gashel evaluation of the rules, which also include the comments that was made about the operating agreement?

Carlile-Smith: That would be fine. Yes.

Art Stevenson: OK. OK. Well, good. We want -- knowledge is power, right, and you're going to be making a decision on all that stuff. So anyway --

Bird: Art?

Art Stevenson: -- let me know if you if you have any questions or comments if you want, Vivian, let me know, and I will try to assist you in any way possible on any of your thoughts or your questions. So just so you know that.

Carlile-Smith: Thank you.

Art Stevenson: OK, Jerry?

Bird: Art?

Art Stevenson: OK, Jerry?

Bird: Yeah, just quick -- just a quick -- a quick comment on Vivian's comment. She’s right and let me tell you why, that -- that stuff don't need to be in there for the vending facility manager's eyes. That's -- 'cause they’re supposed to provide that to them. So if they've got a big list of everything we got to do and can't do, and...I mean, the whole program, which is -- which is none of their concern, unless they have a concern about their particular facility being operated not right, but it just gives them ideas 'cause like, oh, maybe if we do this and that we can have 'em removed and we can get a different one. You know, it -- it -- it’s kind of an agreement, it says between the agency and the licensed manager, not -- not agreement -- I mean...should we send them Eric's duties, his responsibilities, you know, what he’s supposed to be doing, see if he [inaudible] operating agreements, you know, and then -- and then we’re supposed to sign them. So...you know, that’s another reason why that stuff is -- is not to be for other people's eyes. It's kind of personal. Thank you.

Art Stevenson: OK. Point well taken. So...any comments, Eric?

Morris: Not at this point, Art.

Art Stevenson: OK. So...we’ve talked about the operating agreement. Is there any other thoughts from anybody concerning the operating agreement? I think --

Jackson: Steve Jackson.

Art Stevenson: Go ahead, Steve.

Jackson: I -- I just -- I just think that...it would be great if Eric could follow the -- the federal codes. We could try to follow, you know, RSA's recommendations. I think that's going to make things run a little smoother. I don't know. That's my two cents.

Bird: Jerry.

Art Stevenson: Go ahead, Jerry.

Bird: Yes. I do believe that we do need to go through. We haven't went through each one of these and I don't think...this is getting kind of late or the proper time because this was rewritten solely by the director the way he sees it. It -- it truly shows what can happen on an operating agreement when it's not agreed to or -- or discussed in a summit like. Therefore, since this is such a big issue we either...why can’t -- why -- the operating agreement removing or replacing or showing what -- what parts we don't like and send 'em to Eric or what would be ideal is to have a small summit that everyone can be at and we just go through the operating agreement line by line just like we would have done with Terry Smith. That's what the -- I think RSA’s kind of saying. This was not done. This was done in the back. Just like Art said, it was done by the director. So therefore it's not just, "Well, you guys talk about it, but it's still my operating agreement and I fulfilled my duty of letting you actively participate." Well, it's not just active participate, it's to be in the discussion and we come up with ideas, you get your ideas and we hash them out until all agree. And then we've got a document that was agreed to by all. Thank you.

Art Stevenson: OK. Well, I do know Eric has agreed to push out stuff by the end of business on Tuesday, which will be a good thing. And I believe that will include the stuff on the operating agreement, and Eric, I don’t want to put words in your mouth; would -- would that also include your thoughts for the elected committee on what should and shouldn't be in the operating agreement?

Morris: Yeah, Art, I can do that. I just -- I wasn't sure if that's what people wanted or not. So, but yeah, no, I can provide that. I think as -- as I just --

Art Stevenson: No, I --. Go ahead.

Morris: I was just going to say, as -- as I've listened to the comments today about the operating agreement, it -- it is a little confusing to me because if -- if I put myself in the vending facility manager's shoes and I -- and I'm signing an operating agreement, for me personally, I would want to know exactly what I'm being held responsible for. So...and obviously I've heard the -- the concerns and stuff voiced today about it being a simpler document and that type of thing. But that's what I'm just trying to -- to process as we're sitting here thinking about it.

Art Stevenson: OK. And that -- and that -- and that's good. That's why we're having this subcommittee meeting, so we can pound out some of the stuff. And, you know, we got that operating agreement in, let me see...

Bird: Art?

Art Stevenson: Does it still have in --. Wait a minute, Jerry. Does it still have in there, because I don't have it sitting in there, or -- or is it still lacking the part -- I know it says that the agency decides what...what can or cannot be subcontracted. And -- and that language is still in there right there, right, Eric?

Morris: It just talks about what's -- what's on the -- there’s an Exhibit A that’s attached to these which has the list of locations and which locations are being subcontracted. It talks about that. It talks about using an approved subcontractor from the approved subcontracting list. I'm not sure if that's exactly the same language you're talking about.

Art Stevenson: Well, and I'm talking -- well, what I'm talking about: in the state statutes it says that the agency can approve whether a -- whether a manager can subcontract, but it also states in the statutes, "or at the request of the blind licensed manager." And so, obviously, that is in the state statutes and so if you would, and I'll go back and look at -- at yours, what you sent out today, and see if that language is in there, because I do know that the state statute does also say, "or at the request of the blind licensed manager." And so if you could look at that, and I'll look at that, and then I'll -- I'll also put out something by Tuesday so that you know...maybe I can clarify it a little more, but then -- then you can be aware of that situation before the elected committee meeting on Thursday. So that would be good. OK. So...

Bird: Art.

Art Stevenson: Go ahead, Jerry.

Bird: Art?

Art Stevenson: Yes.

Bird: Yes. I would like -- Am I -- Can you hear me?

Art Stevenson: Yes.

Jaynes: Yes.

Bird: OK. I'd like to comment on -- on Director Morris’ comment just a minute ago to where he said, "If I was a blind manager," he would do it this way. Well, he's not a blind manager, and therefore -- he is a director. And if I was a director, I would do it differently. I'd let -- I'd let the blind managers kind of tell us what -- what -- how they want their program ran. So I'm a little upset and that proves why Eric seems to [inaudible] write his own stuff because that's if he was. If he was the administrator, if he was this, this is what he would do...but it's not his program. He -- he is -- It’s our program. So we're the ones that matters. We’re the ones that are supposed to talk about it and -- and decide things and how they should be as long as they're not illegal. Not if I was [inaudible]. So I just hate that, Eric, and you want to keep saying, if you was, if you was. Well, you're a director and you only have certain authority.

Morris: Well, Jerry, let -- Jerry, let me -- let me restate --

Bird: I just hate that.

Morris: Sorry, Jerry. I -- I -- I -- that -- You're correct. I'm not a vending facility manager nor are you a director, but the way I filter it, like if I buy a car or I buy a house or whatever contract I'm signing, I want all the details in that contract. So that's probably a more simplified way to state it from my own personal point of view.

Bird: OK. But for you, I -- I would rather you kept the personal issues out. This is our program. We -- we don't think all that needs to be in, because it's in other areas. So that's why I keep having a problem with you trying to dictate your personal feelings. So you just --

Morris: [laughs]

Bird: -- [inaudible] do that, so I don’t -- I don't understand --

Art Stevenson: OK, Jerry.

Morris: Sure, Jerry. That’s -- that's fine. You’re -- you're personally attacking me all the time in the meetings, so I won't share my personal feelings with you anymore. So that's fair.

Bird: I think they're justifiable, though, Eric, --

Morris: Oh, sure.

Bird: [inaudible] because I have passion --

Art Stevenson: OK. OK. OK.

Morris: I -- I think -- I think it’s fair...when -- when people are bullying other people they always say that. And especially when they're bullying 'em about their disability. So I'll -- I'll take that with a grain of salt.

Bird: From one bully to another.

Art Stevenson: OK.

Carlile-Smith: I’ve heard -- I've heard those comments myself. This is Vivian. I've heard the comments about the bus many times. Let’s not get this personal, alright?

Art Stevenson: OK. OK. [inaudible]

Carlile-Smith: We're grown adults here. And -- and Eric is right.

Bird: Well, the director isn't personal. He -- he has a -- he -- he is part of our program.

Art Stevenson: OK. OK. OK.

Bird: There's nothing personal about Eric's stuff. But I’ll leave it at that.

Art Stevenson: Hey, guys...

Bird: I’ll leave it at that. Thank you.

Art Stevenson: OK, thank you, Jerry. Thank you. Thank you. I know, OK, that this is our livelihoods. There has been a lot of animosity, and...and we need to work together. We need to comply with the laws. And most importantly, we gotta remember, OK, and it states it very specifically, you know, that the rules need to be written to benefit the managers, I mean, and -- and -- and stuff. But...let's...it -- it -- it -- you know, these rules are so important because they deal with the managers’ livelihoods and our rights and -- and, you know, we got to make sure all that stuff’s covered. So anyways, Eric, I will do that part on the...on the...

Morris: Subcontracting?

Art Stevenson: Yeah, yeah, on the contracting and stuff. And you're going to provide us a list on Tuesday. And I want to say that any thoughts by the individuals on the committe, you know, try to get 'em out by Tuesday. I think we've talked about some, you know, some very good things here, and I believe we’re close to being ready for the elected committee meeting on Thursday. Let me say that -- Eric do you have...still have a copy of Susan's -- Susan Gashel’s evaluation of the rules?

Morris: I -- I should, Art. That's been -- it's been quite a few years ago, but I should have that somewhere.

Art Stevenson: OK. Well, I -- I would, you know, I -- I -- like I said, we're gonna send the copy and I'll sign it and send a copy -- send a copy to you and we’ll get a copy to Vivian. I think it'll be helpful if the members of the elected committee look that over when we do some evaluations. And...so I think we've talked about the operating agreement enough to get the thoughts out there. Randy, do you have any closing thoughts?

Hauth: Not, you know, not -- not at this time. I do not have any closing thoughts. You know, I think we'll wait -- well, I guess my closing thoughts are we'll wait to see what Eric provides and we'll consider, you know, all the issues that were identified through this whole process and see where we go from there, you know, so.

Art Stevenson: OK. And...so...that would be good. And...any committee members have any closing thoughts here?

Jackson: I'd like to [inaudible] can I say something real quick?

Art Stevenson: Go ahead.

Jackson: I really liked Jerry's idea about having a little summit about the operating agreements. I think we could somehow carve out time to go through it, you know, line by line. I think it's an important thing that we -- we all agree on, you know, so. However that gets done, it could be good.

Art Stevenson: OK. That's good. Then, Steve, I think what I would say on that is we need to see what comes back on Tuesday, and, obviously, we could do that. Let me see...it may be adequate...what...and there may not be -- be a need for a summit, or there may not be, so members of the committee, keep that thought in your -- in your head. I would like to say that I want to -- I'm -- I'm going to send you the Susan Gashel evaluation. Eric, if you could find it that would be great. But I do want to say that I would like that to be a part of this record. And so if it can be scanned into the minutes that it'd be done. Is that OK with you?

Morris: I'm not quite... Yeah, I guess we could do that, Art, yeah. I don’t have a problem with that.

Art Stevenson: OK. Alright. Well, I just want it --

Jaynes: [inaudible]

Art Stevenson: -- to be on the record. Go ahead, Lin.

Jaynes: Yeah, yeah, I -- I wanted to elaborate a little bit on what you just said. I would also like to make sure that Vivian gets the Susan Gashel as well. I'd like that reminded also of either Mr. Morris or -- or on our end, but she needs to have that as well.

Art Stevenson: Yeah, we...yeah, she said she wanted it, so we're going to make sure she gets it, also.

Jaynes: OK.

Art Stevenson: No doubt about it. OK. So...any closing thoughts, Eric?

Morris: Not right at this time, Art. I'm just trying to think of when Susan Gashel wrote that. It would have been 2017 probably. So I'll -- I'll dig in and see if I can find it, too. Sometimes my computer just --

Miranda: I have -- I have it readily available, Art. I'll -- I'll send it out.

Morris: That'd be awesome.

Art Stevenson: Thanks! Thanks, thanks, thanks, thanks Lewanda.

Miranda: You're welcome.

Art Stevenson: I always count on you, girl. You're a storm trooper. No doubt about it. Don't take that in a bad way.

Miranda: Oh, I don't. I don't [inaudible].

Art Stevenson: I -- I know -- I know you don’t, kiddo. So. Anyways, I’d like to thank everybody for participating and, you know, remember, keep a cool head, and we will endeavor to persevere and eventually the most definitely we'll get through that -- through this. And one way or the other, I think we're going to have a set of rules that we can be proud of, 'cause I know Chair Hauth is dedicated to that and you can rest assured that Chair Stevenson of the Rules Committee and Vice Chair of the Elected Committee is dedicated to see that happen. So given that, and guess what everybody. I think we may be adjourning a little bit early, but we got a lot to think about. So let's move forward and get this job done eventually. Everybody have a good day.

*Transcription by Johnnie T. Edwards at Dictate Express*

*Edited by Katherine Peace at OCB*