

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

-----X

THE CITY OF NEW YORK  
BUSINESS INTEGRITY COMMISSION

COMMISSION MEETING

-----X

Held remotely via  
Web-Ex Videoconference

May 17, 2022  
11:02 a.m.

Reported by:  
Elbia Baires

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A P P E A R A N C E S:

DAVID FELDMAN, Deputy Commissioner of Legal  
Affairs and General Counsel

ELIZABETH CROTTY, Commissioner and Chair of the  
Business Integrity Commission

JOCELYN STRAUBER, Department of Investigation  
Commissioner

VILDA VERA MAYUGA, Department of Consumer and  
Worker Protection Commissioner

GREGORY ANDERSON, Department of Sanitation Deputy  
Commissioner (Designee)

ANDREW SCHWARTZ, Department of Small Business  
Services, Deputy Commissioner (Designee)

MATTHEW HYLAND, Inspector, New York City Police  
Department (Designee)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MR. FELDMAN: Good morning. We are on the record. Today is Tuesday, May 17, 2022. The time is 11:02 a.m. Welcome to today's meeting of the New York City Business Integrity Commission. We are conducting this meeting via Webex. This is a public meeting which was duly noticed for today's date, at 11:00 o'clock a.m., along with the Webex information and dial-in information for the meeting.

This meeting is being recorded and the recording and meeting minutes will be posted on BIC's website in a timely manner following the completion of this meeting.

I am David Feldman, Deputy Commissioner of Legal Affairs and General Counsel for the Commission. I am joined by the following Commission members: Elizabeth Crotty, Commissioner and Chair of the Business Integrity Commission. Department of Investigation Commissioner, Jocelyn

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Strauber. Department of Consumer and Worker Protection Commissioner, Vilda Vera Mayuga. Department of Sanitation Deputy Commissioner, Gregory Anderson, representing DSNY Commissioner Jessica Tisch. Department of Small Business Services, Deputy Commissioner Andrew Schwartz, representing SBS Commissioner Kevin Kim, and Inspector Matthew Hyland of the New York City Police Department, representing Police Commissioner Keechant Sewell.

Thank you for being here today.

Today, the Commission will consider two matters. The first matter is a proposed rule amendment concerning the maximum rates that a trade waste removal business may charge for the collection, removal disposal or recycling of trade waste.

The second matter is a proposed denial recommendation by the Commission staff in connection with the registration application.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Before I turn to these two matters, I would like to acknowledge that this is the first Commission meeting for a number of the Commissioners present today, including Commissioner and Chair Crotty who would like to say a few words.

MS. CROTTY: I just want to thank everyone for getting on. The Commissioners and designees alike. I look forward to meeting you all in person, and to continue our working relationship that has preceded most of us here and some of us here to working together for the City of New York. So thanks so much, and I'll turn it back to Dave Feldman.

MR. FELDMAN: Thank you, Commissioner Crotty.

The Commission will now consider the proposed rule.

The proposed rule is an amendment to Section 5-02 of Title 17, Chapter One, Subchapter E of the rules

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

of the City of New York, relating to the maximum rates allowed for the collection, removal, disposal or recycling of trade waste.

The rule amendment increases the current maximum rates that trade waste haulers can charge by nine percent. This increase recognizes the fact that operating costs have risen significantly for trade waste haulers since the last rate cap increase, while also recognizing the difficult economic situation for many businesses in New York City, particularly small businesses. The increase would result in maximum rates of \$22.63 per cubic yard, and \$14.85 cents per 100 pounds.

On April 28, 2022, the Commission held a public hearing on the proposed rule amendment. The Commission considered all comments received on the proposed rule amendment.

Do any of the Commissioners have

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

any questions or comments regarding  
the proposed rule amendment?

(No response.)

MR. FELDMAN: The Commission  
will now vote as to whether to adopt  
the proposed rule amendment. A vote  
of "yes" is a vote to adopt the rule  
amendment. A vote of "no" is a vote  
not to adopt the rule amendment. If  
the Commission votes yes --

MS. STRAUBER: I actually do  
have a question.

MR. FELDMAN: Yes?

MS. STRAUBER: Sorry. I was  
unmuting myself.

I've -- obviously, this is my  
first meeting. So forgive me if I'm  
asking something that's obvious. But  
I've reviewed some of the statements  
at the hearing and some of the  
questions raised by members of the  
industry with respect to the price  
increases that they've seen over the  
past four years, relative to the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

increase proposed here. And I would just like to better understand, if you wouldn't mind explaining a little bit about the basis for the 9 percent, as opposed to let's say the higher amounts that were being proposed in some of the hearing comments.

MR. FELDMAN: Certainly. Thank you, Commissioner Strauber.

Yeah, as described at our CAPA hearing, the Commission takes a number of factors into account when establishing the rate cap, those factors are set out in Section 502(g) of Title 17 of our rules. They do include, as you pointed out, the producer price index that relates to the solid waste industry. And the other costs that a number of industry representatives brought up. Section 5-02 also requires that the Commission consider any relevant factor affecting the trade waste business, trade waste



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

industry or its customers. And the Commission is to assess a fair and reasonable return to licensees and the protection of those using the services of such licensees from excessive or unreasonable charges.

So taking those factors together, taking all of the comments that were received, all of the testimony from the CAPA hearing and the other factors, it was determined that the 9 percent increase was appropriate at this time.

I would also point out that although the BIC is required to hold a rate cap hearing every odd numbered year before October, that is not a limitation on the number of increases that can occur, nor is it a requirement that an increase occur after such a hearing. And in fact, there was not an increase after the 2019 rate cap hearing.

So if there are compelling

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

reasons to revisit the increase that we are voting on today, that is something that either industry representatives on the one hand can bring to BIC's attention or customers on the other hand can also bring to BIC's attention. And we evaluate it on an ongoing basis.

MS. STRAUBER: Thank you.

MR. FELDMAN: Thank you, Commissioner Strauber.

Are there any other questions or comments regarding the proposed rule amendment?

(No response.)

MR. FELDMAN: Okay. The Commission will now vote as to whether to adopt the proposed rule amendment. A vote of "yes" is a vote to adopt the rule amendment. A vote of "no" is a vote not to adopt the rule amendment. If the Commission votes yes to adopt the rule amendment, the final rules will be published and will go into

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

effect 30 days after publication.

Is there a motion from the  
Commissioners to adopt the proposed  
rule amendment?

MR. ANDERSON: So moved.

MR. FELDMAN: Is there a second?

MS. MAYUGA: Second.

MR. FELDMAN: Thank you.

I will now be calling on each  
Commissioner and designee to collect  
votes.

Commissioner Crotty?

MS. CROTTY: Yes.

MR. FELDMAN: Commissioner  
Strauber?

(No response.)

MR. FELDMAN: I'm sorry, I  
couldn't hear that.

MS. STRAUBER: Yes.

Sorry. Mute button again.

MR. FELDMAN: Thank you.

Commissioner Mayuga?

MS. MAYUGA: Yes.

MR. FELDMAN: Deputy

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Commissioner Anderson?

MR. ANDERSON: Yes.

MR. FELDMAN: Deputy  
Commissioner Schwartz?

MR. SCHWARTZ: Yes.

MR. FELDMAN: Inspector Hyland?

MR. HYLAND: Yes.

MR. FELDMAN: Okay. Let the  
record reflect that the vote is  
unanimous.

The Commission will now consider  
an application, which the Commission  
staff has recommended be denied.  
Zumbas Builder's Inc. submitted an  
original application for an exemption  
from the Commission's trade waste  
licensing requirement to operate as a  
trade waste business solely engaged in  
the removal of waste materials  
resulting from building, demolition,  
construction, alteration and  
excavation. Also known as a Class 2  
Registration.

The applicant was served with a

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

notice of the grounds to recommend the denial of its application. The applicant was advised that it had 10 business days to submit a sworn written response to the Commission. The Commission did not receive a response from the applicant.

On May 11th, 2022, we e-mailed the commission members who recommended denial decision regarding the application at issue. There have been no material changes made to the recommended denial decision since then.

The staff attorney in charge of the denial recommendation is Executive Agency Counsel Spiros Moustakas. The Commission's staff has recommended denial of the application of Zumbas Builder's Inc. based on the following grounds as fully set forth in the staff's recommendation.

One, Maria Zumba, a principal of the applicant failed to provide sworn

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

testimony to the Commission when directed to do so.

Two, Andres Gonzalez is an undisclosed principal of the applicant.

Three, the applicant's predecessor company and Andres Gonzalez were recently convicted of crimes related to larceny.

Four, the applicant has repeatedly engaged in unregistered trade waste removal activity.

And five, the applicant failed to pay civil penalties for which judgments have been entered.

Do any of the Commissioners or designees have any questions or comments regarding this application?

(No response.)

MR. FELDMAN: The Commission will now consider the recommended denial. The Commission members will vote as to whether or not to adopt the staff's recommendation to deny the

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

application.

A vote of "yes" is a vote to adopt the staff's denial. A vote of "no" is a vote not to adopt the recommendation.

Is there a motion from the Commissioners or designees to adopt the staff's recommendation?

MR. SCHWARTZ: So moved.

MR. FELDMAN: Thank you.

And is there a second?

MS. STRAUBER: Second.

MR. FELDMAN: Thank you.

I will be calling on each Commissioner and designee to collect votes.

Commissioner Crotty?

I think you might be on mute, Commissioner.

MS. CROTTY: Yes.

MR. FELDMAN: Thank you.

Commissioner Strauber?

MS. STRAUBER: Yes.

MR. FELDMAN: Commissioner

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Mayuga?

MS. MAYUGA: Yes.

MR. FELDMAN: Deputy  
Commissioner Anderson?

MR. ANDERSON: Yes.

MR. FELDMAN: Deputy  
Commissioner Schwartz?

MR. SCHWARTZ: Yes.

MR. FELDMAN: And Inspector  
Hyland?

MR. HYLAND: Yes.

MR. FELDMAN: Let the record  
reflect that the vote is unanimous.

That concludes the matters  
before the Commission. The denial  
decision will note each Commissioner  
and designee's vote today.

Thank you to the Commission  
members for their participation and to  
the members of the Commission staff  
for their hard work on these matters.  
Thank you also to any members of the  
public who attended this meeting  
today.



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

We are off the record at  
11:14 a.m. Thank you.  
(TIME NOTED: 11:14 a.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

STATE OF NEW YORK)

:SS


COUNTY OF SUFFOLK)

I, Elbia Baires, a Notary Public within  
and for the State of New York, do hereby certify:

I reported the proceedings in the  
within-entitled matter, and that the within  
transcript is a true record of such proceedings to  
the best of my ability.

I further certify that I am not related  
to any of the parties to this action by blood or  
marriage; and that I am in no way interested in  
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 25th day of May, 2022.

  
Elbia Merino (Baires)