



Human Rights Commission
12 Baldwin Street
Montpelier, VT 05633-6301
hrc.vermont.gov

[phone] 802-828-2480
[fax] 802-828-2481
[tdd] 877-294-9200
[toll free] 1-800-416-2010

VERMONT HUMAN RIGHTS COMMISSION
MINUTES
April 27, 2023

PRESENT: Commissioners: Kevin Christie, Chair, Nate Besio, Dawn Ellis, Bruce Wilson, Alternate Commissioners: Mary Marzec-Gerrior, Chuck Kletecka (at 10:17am), Donald Vickers (at 10:34am), Staff: Bor Yang, Executive Director; Big Hartman, Cassie Burdyshaw, Daniel Flynnjac, Staff Attorneys; Maia Hanron, Executive Staff Assistant (minutes).

Commissioner Christie called the meeting to order at 9:34 a.m.

BUSINESS MEETING

MINUTES:

Commissioner Besio moved to accept the minutes of the March 23, 2023 meeting as written. The motion was seconded by Commissioner Wilson. Dawn Ellis chose not to make a motion due to amendment suggestions.

Commissioner Ellis shared her amendment suggestions. She wanted the record to reflect a comment omitted from the 3.23.23 meeting regarding her concerns from the annual report, that intake is down, that there was a decision to not accept some cases, and how this could impact people not receiving access to HRC services. She noted where in the 3.23.23 notes she would like this amendment.

Chair Christie said he is okay with this amendment.

Commissioner Besio stated that he did not recall that exact wording but is okay with adding it.

Commissioner Ellis's second amendment was to remove "due to conflict of interest" from the Executive Session section on page one, stating that what happens in Executive Session should not be part of public record.

Commissioners discussed best practices around conflicts of interest within Executive Session. Commissioner Marzec-Gerrior said transparency is best. Chair Christie stated that conflicts of interest should be disclosed as far in advance as possible. Commissioner Besio said he agrees with Chair Christie's comment and stated that during the last meeting, Commissioner Ellis did not want to recuse herself in public session.

ED Yang said that we can remove it, but that today's notes should reflect that the Commissioners need to disclose any conflicts of interests before going into Executive Session. ED Yang said the amendment is fine.

Commissioner Ellis shared another amendment that case hearing votes should show who voted for or against the case recommendation.

Commissioners discussed this amendment. Chair Christie said he agrees with the change. Commissioner Besio said that attaching a name to a vote could lead to some retaliation. He is not against it, just something to think about. Commissioner Ellis said she shares that concern and that is something she thinks about when making a divergent vote but feels the public needs more transparency.

Chair Christie stated that these types of conversations are why we take the time to review, adapt, and amend as necessary. He suggested we move the question.

Commissioner Ellis stated she had one last amendment on page two, line four, which addressed the wording of that note.

Chair Christie called the motion to accept the 3.23.23 minutes as amended. Commissioner Besio maintained the motion to accept as amended. Commissioner Ellis seconded. Vote 4-0. Commissioner Marzec-Gerrior abstained.

Alternate Commissioner Chuck Kletecka joined at 10:17am.

EXECUTIVE DIRECTOR REPORT:

ED Yang started the ED report by discussing our current meeting format of remote with the option of in-person attendance. She asked the Commission how this process has been working for them and how they would like to proceed moving forward.

Commissioner Besio said he was in-favor of in-person meetings. He finds hybrid meetings more difficult to participate in. He feels in-person shows the parties that we are involved in the hearing.

Commissioner Wilson stated that he prefers to be in-person, but virtually is best for him at this time.

Commissioner Ellis commented on the challenges of the technology but acknowledged that it does provide additional access and thinks it's critical to offer a hybrid option. She asked about the use of alternative modalities such as Zoom. She said in-person is best for including community, but we also need to be accessible for the public. Commissioner Ellis stated that she prefers a hybrid option.

ED Yang discussed the challenges of switching to other formats and that Teams is the preferred conferencing platform for the State of Vermont.

ED Yang asked the Commissioners if the expectation should be for them to show up in-person with exceptions if someone was not able to attend in-person. She asked the Commission to clarify what the default plan and expectations are.

Commissioner Besio said he thinks we should return to in-person.

Alternate Commissioner Don Vickers joined at 10:34am.

Commissioner Ellis said we should market ourselves as hybrid and supports being able to shift modalities for meetings. She said prioritizing one modality over the other restricts access.

Commissioner Wilson said he felt it is important we all show up as Commissioners in some way and that the main objective should be to be in-person and to plan for that.

Chair Christie said it's important for Commissioners to have a presence and that we should revert back to the Barre location during legislative session, as parking is not available during session. He said the hybrid model should stay so that we provide more access to Vermonters and don't lose participation. He also expressed the need for accessible parking at the HRC.

ED Yang stated that what she is hearing is that 4 of 5 Commissioners want to return in-person and asked if we need a motion.

Commissioner Besio made a motion to return to in-person meetings with the option to attend remotely if issues arise and someone cannot make it. Commissioner Wilson seconded.

Commissioner Ellis said she advocates for a hybrid model.

Chair Christie called the question. He noted that we would not be cutting off that capability because it's part of accessibility. He called the question of all in favor of the motion on the table. Vote 3-1 with Commissioners Christie, Besio, and Wilson for, and Commissioner Ellis opposed.

Commissioner Besio recused himself at 10:44am.

EXECUTIVE SESSION:

Commissioner Marzec-Gerrion made a motion to go into Executive Session to hear confidential cases at 10:45am. The motion was seconded by Commissioner Kletecka. Vote 5-0.

The Commission moved out of Executive Session at 2:03pm

BUSINESS MEETING

Public Session started at 2:13pm.

Commissioner Kletecka made a motion that in case PA21-0013, we find that there are no reasonable grounds to believe that discrimination occurred, based on race and color, in violation of the Public Accommodations Act. The motion was seconded by Commissioner Vickers. Vote 2-3. Commissioners Marzec-Gerrior, Christie, and Wilson all opposed.

Chair Christie made a motion that in case PA21-0013, we find that there are reasonable grounds to believe that discrimination occurred, based on race and color, in violation of the Public Accommodations Act. The motion was seconded by Commissioner Wilson. Vote 3-2. Chair Christie voted in favor and Commissioners Kletecka and Vickers opposed.

Alternate Commissioners Marzec-Gerrior, Kletecka, and Vickers all left at 2:13pm

The Commission took a break until 2:27pm.

Commissioners Ellis and Besio rejoined at 2:27pm.

Chair Christie resumed the Business Meeting at 2:27pm.

Commissioner Ellis noted that for the record, she recused herself from Executive Session at 10:59pm after discussing and being advised in Executive Session, that would be the best practice.

EXECUTIVE DIRECTOR REPORT CONTINUED:

ED Yang shared that she testified in both House and Senate Appropriations Committees. Currently, the budget bill supports an additional attorney/litigator position at the HRC. The budget bill is still in the Senate. The Senate Appropriations Committee removed the language which would have added a litigator to the HRC from S.100, a policy bill that had passed out of the Senate Economics Committee.

ED Yang shared that the HRC underwent a two-year program review and has successfully been re-certified for federal grants.

Director of Policy, Education, and Outreach Garcés and Staff Attorneys Hartman and Burdyshaw continue to work on the \$20,000 partnership grants from HUD for education and outreach.

ED Yang continues to provide monthly Fair Housing trainings. Additionally, ED Yang presented to PACEM high school students on discrimination laws and the work of the Commission on March 28, 2023.

ED Yang shared that Staff Attorney Big Hartman presented a training on public accommodations discrimination on April 6, 2023.

ED Yang shared that Director of Policy, Education, and Outreach Amanda Garcés is working closely with the Office of Racial Equity on activities and events celebrating the AAPI community in May.

ED Yang shared an update on S.103 is the Senate Bill that carries the HRC's legislative priorities: Prohibiting "Don't Darken My Door" clauses in settlement agreements, Amending the "Severe or Pervasive" harassment standard in employment and places of public accommodations, and Amending Vermont's Equal Pay laws to include the protected classes of race, national origin, and disability.

Commissioners and Staff discussed this bill at length including why education was left out, opposing sides, language around severe and pervasive, and next steps.

ED Yang shared that Director of Policy Garcés is working with the ACLU, Vermont Legal Aid and DRVT on addressing unintended consequences regarding threat assessment teams in schools, S.138.

PRE-DETERMINATION CONCILIATION AGREEMENTS (by staff)

Commissioners reviewed and approved of conciliation agreements in the following cases: HRC Case No. HV21-0015, HV21-0009

Commissioner Ellis asked for clarification about the litigation process. Commissioners and staff discussed this process.

HV21-0015 was approved. Vote 4-0.

HV21-0009 was approved 3-0. Commissioner Ellis abstained from voting for this PDCA.

ED Yang suggested a motion be made to move into Executive Session to discuss pending and probable litigation involving the HRC as a party.

Commissioner Ellis recused herself at 3:37pm.

EXECUTIVE SESSION:

Commissioner Besio made a motion to go into executive session at 3:37pm where premature general public knowledge would clearly place the HRC at substantial disadvantage. The motion was seconded by Commissioner Wilson. Vote 3-0.

NEXT MEETING May 25, 2023.

The meeting was adjourned at 3:58pm

Dated at Montpelier, Vermont this 27 day of April 2023.

Respectfully submitted:

/s/ Bor Yang

Bor Yang
Executive Director