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VERMONT HUMAN RIGHTS COMMISSION MEETING MINUTES

June 24, 2021

PRESENT AT START: Commissioners: Nathan Besio, Acting Chair, Don Vickers, Dawn Ellis, and Joan Nagy. Alternate Commissioner: Mary Marzec-Gerrior. Staff: Bor Yang, Executive Director; Melissa Horwitz and Cassie Burdyslaw, Staff Attorney Investigators; Amanda Garcés, Director of Policy, Education, and Outreach; John McKelvie, Executive Staff Assistant (minutes); Anisa Rodriguez, Law Clerk.

Commissioner Besio called the meeting to order at 9:03 a.m.

BUSINESS MEETING

MINUTES:

Commissioner Nagy moved to accept the minutes of the May 27, 2021, meeting with the following correction: Page 2, Paragraph 4: correcting “budgets.s” to “budgets.” The motion was seconded by Commissioner Besio. Vote 5-0.

EXECUTIVE DIRECTOR REPORT:

Executive Director Yang summarized her written report to Commissioners:

Effective June 14, 2021, Governor Scott lifted all Covid-19 restrictions. Though restrictions are lifted, the HRC is still operating under the April 1, 2021, memorandum from the Secretary of Administration, which authorizes remote work through September 1, 2021. HRC staff members are completing a survey about telework options and defining productivity metrics should any staff continue working remotely beyond September 1st.

Regarding the budget, the Governor has not yet signed H.439, the Budget Bill, which includes a one-time amount of \$300,000 for the HRC’s special litigation fund. Currently, the HRC is operating under-budget and is expected to have some vacancy savings as a result of staff shortage.

The HRC only has one pending partnership grant, the 2020 Partnership Grant related to COVID-19. Director of Policy, Education and Outreach Amanda Garcés is currently working on this to ensure compliance.

Fewer trainings occurred in the past month than normal. Staff Attorney Horwitz continues to offer a monthly Fair Housing training. Additionally, ED Yang served on a panel at the 2021 Summit on the Future of Vermont: *Planning for the Future, Vermont Futurists Roundtable*.

ED Yang and Director of Policy, Ed. and Outreach Garcés have started to discuss the Fall 2021 Civil Rights Conference and expect that the theme will be: *Equity in Education*.

Staff participation in task forces and committees remains the same as detailed in previous Executive Director reports. ED Yang invited staff members to comment on recent developments.

Director of Policy, Ed. and Outreach Garcés described recent developments in the Ethnic and Social Standards Advisory Working Group, which is slated to receive \$50,000 in additional funding and three additional positions. She noted that the Diversifying the Educator Workforce Committee continues to meet regularly to discuss next steps, but that several of the other groups and committees on which she serves are slowing down.

Commissioner Ellis asked Dir. Garcés how recent media attention about critical race theory, and related movements to ban or limit educational curricula, intersect with her work or the work of task forces on which she serves.

Dir. Garcés described how she wears different hats when representing different groups, and she may be quoted by the media in one capacity but not another. But that overall, our work should continue to push forward and not react, to stay on point with our mandate, and to not let politics or media attention disturb the work.

Commissioner Vickers commented on the use of language and how certain words or phrases exacerbate tensions, such as defund the police or critical race theory, and he expressed concern about what he's read regarding racial and sexual harassment throughout Vermont, particularly in schools.

Dir. Garcés noted that she would share a toolkit around messaging with everyone. She explained that one important element is to create a wider base of people to support the work of each group and task force because once a group like the Ethnic and Social Standards Advisory Working Group submits recommendations, those recommendations will go no further without support from communities and schools.

Commissioner Ellis referred to Commissioner Vicker's comment on the media and asked that Commissioners be directed to news or press reports about the HRC in order to better understand how the HRC is presented and how to respond. Commissioner Ellis noted that the process of conceptualizing and defining an idea matters, and that we're at a time when there's a clear strategy to take the media and use it to move forward whatever political position one has. She referred to an NPR interview with one of the first academics to apply critical race theory in education, which observed that the furor over this term leads to even more awareness and attention to it.

Commissioners Vickers and Ellis reacted to media coverage and comments by state officials in response to a recent case. Commissioner Vickers contemplated whether a public relations position with the HRC would be helpful. Executive Director Yang described the legal ramifications of publicly commenting on any matters before the HRC, and how her role as an attorney allows her to determine if commenting or not commenting is appropriate. She considered the articles to be written fairly and recalled that the decision to not release the report on our website was made in executive session.

Commissioner Christie joined the meeting at 9:32 a.m.

Commissioner Besio remarked that certain types of language contrary to human and civil rights have been emboldened in recent years and that pushing for human rights historically pushes up against those with power.

Commissioner Vickers and Executive Director Yang briefly discussed the importance of personal safety considering the publicity and attention occasionally directed at the HRC.

Staff Attorney Burdyslaw provided an update on her work with the Vermont Criminal Justice Council. Staff Attorney Horwitz described her work with the Thriving Communities Steering Committee, and collaborating with CVOEO to create a survey to address housing discrimination.

Commissioner Besio asked whether the surge of individuals leaving hotels and motels in early July would contribute to a rise in complaints at the HRC, noting that up to 2000 people, 600 people in Chittenden County alone, may lose their housing and move into encampments.

Commissioner Vickers asked whether federal stimulus money was being directed towards the purchasing of motels or to other transitional spaces as a solution. Commissioner Ellis described how opening up public green spaces to houseless individuals is increasingly an option in other cities and states. Executive Director Yang noted that when individuals are in an emergency housing situation, it doesn't necessarily lead to a surge in new complaints because their needs may be more immediate than filing a complaint.

EXECUTIVE SESSION:

Commissioner Ellis recused herself from consideration of the scheduled case with the intention of rejoining the meeting following the executive session, and left at 9:49 a.m.

At 9:49 a.m., Commissioner Vickers made a motion to go into executive session to hear a confidential case. The motion was seconded by Commissioner Nagy. Vote 5-0.

Commissioner Besio brought the VHRC out of executive session at 11:35 a.m.

DETERMINATIONS

HRC Case No: PA21-0003

Commissioner Vickers moved to accept the recommendation of no reasonable grounds to believe that discrimination occurred. The motion was seconded by Commissioner Marzec-Gerrior. Vote 5-0.

PRE-DETERMINATION CONCILIATION AGREEMENTS

HRC Case No: PA21-0010

BUSINESS MEETING CONTINUED

Commissioner Marzec-Gerrior left the meeting at 11:44 a.m.

Commissioner Ellis rejoined the meeting at 11:47 a.m.

Executive Director Yang explained that a number of post-determination cases remain in the monitoring or negotiation phases, as described in previous reports and Commission meetings. Others are in pending or probable litigation and should be discussed in a second executive session before the close of the meeting.

ED Yang suggested a staff and commissioner retreat in July or August, and then another retreat in the fall after the hiring of a new staff attorney and the appointment of a new commissioner. She directed ESA McKelvie to distribute a poll to determine availability.

ED Yang asked Commissioners for their opinions about the timing of returning to in-person Commission meetings. Following input from all Commissioners, ED Yang noted that the HRC rules specify full in-person meetings as the default, so the question is a matter of *when* rather than *if* we return. She concluded that the August meeting would proceed with virtual options for staff and Commissioners, along with at least one staff member present in the HRC office, and then a return to full in-person in September with virtual options for parties if they prefer.

Commissioner Ellis emphasized the importance of planning out ahead of time how an in-person group interacts with virtual individuals, and Dir. Garcés mentioned a positive experience at a recent retreat from which she would share lessons learned.

At 12:19 p.m., Commissioner Vickers made a motion to go into executive session to discuss pending or probable civil litigation, to which the public body is or may be a party. The motion was seconded by Commissioner Ellis. Vote 5-0.

Commissioner Besio brought the VHRC out of executive session at 12:59 p.m.

NEXT MEETING August 26, 2021.

The meeting was adjourned at 12:59 p.m.

Dated at Montpelier, Vermont this 24th day of June 2021.

Respectfully submitted:

/s/ Bor Yang

Bor Yang

Executive Director