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VERMONT HUMAN RIGHTS COMMISSION

MINUTES

August 27, 2020

PRESENT: Commissioners: Kevin Christie, Chair, Nathan Besio, Donald Vickers, Joan Nagy, Dawn Ellis. Staff: Bor Yang, Executive Director; Melissa Horwitz and Cassandra Burdyshaw, Staff Attorney/Investigators; India Schoenherr, Vermont Law School Intern; John McKelvie, Executive Staff Assistant (minutes).

Commissioner Christie called the meeting to order at 9:13am.

BUSINESS MEETING

MINUTES: Commissioner Vickers moved to accept the minutes of the June 25, 2020 meeting as written. The motion was seconded by Commissioner Besio. Vote 5-0.

VLS Intern India Schoenherr introduced herself to Commissioners and vice versa.

EXECUTIVE DIRECTOR REPORT:

UPDATES & ACTIVITIES

COVID-19:

Executive Director Yang explained that per the Secretary of Administration's most recent memorandum, HRC staff plan to work remotely through the remainder of the calendar year.

The Budget:

ED Yang reported that Governor Scott has asked that all state departments to plan on a reduced FY2021 budget, potentially up to an 8-10% reduction. Additionally, the Department of Finance is interested in retaining a portion of the HRC's carryforward funds to offset the general budget deficit, perhaps up to \$40,000 in total. She noted that she was scheduled to testify before the Senate Committee on Government Operations on Friday afternoon regarding these changes to the budget, and that Rep. Yacovone, of the House Committee on Appropriations, sought her input on the budget cuts.

ED Yang described her overall opinion of the situation – that it's unfortunate to lose any amount of carryforward funds but the HRC is in a healthy financial position to absorb those cuts, and that the majority of carryforward funds will still be retained by the HRC. In addition, \$10,000 of the

HRC's carryforward funds will be shifted to the special litigation fund in order to replenish litigation expenses from FY20.

Separately, the HRC was awarded \$24,595.80 from HUD for Education and Outreach: \$19,575.00 is designated for HRC staff to produce COVID-19 related fair housing educational videos for New American populations in Vermont, develop informational website pages, conduct a social media campaign, and run radio and print advertisements informing citizens of their fair housing rights as they relate to COVID-19. HUD disbursed \$10,000 to begin with, and the remaining funds will be paid upon the completion of those projects.

Further, the HRC has received \$12,500 from HUD for the execution of a civil rights and fair housing conference, which will occur later this year. HUD also awarded the HRC a total of \$5,020.88 in Special Enforcement Effort funds for the acquisition of three sets of laptops and docking stations, and for the upgrade of Microsoft Teams, Zoom, and Adobe Creative Suite for staff engaged in fair housing activities remotely as a result of COVID-19.

Commissioner Vickers sought clarification about the total amount of carryforward funds, and Commissioner Besio noted that although the HRC could endure a one-time \$40,000 reduction in carryforward funds, he was concerned about the possibility of recurring cuts in future years. ED Yang gave Commissioners an overview of how the carryforward funds grew to over \$100,000, which was primarily due to vacancy savings.

Commissioner Ellis discussed the importance of relying on our allies to argue in favor of the HRC retaining some or all of the funds in question. She continued that the value of the HRC's work in protecting the civil rights of Vermonters, combined with the recent expansion of protected categories within the HRC's jurisdiction, make it all the more important for those funds to remain with the HRC.

Commissioner Christie replied that it's normal for state budget officials to seek out and review carryforward funds and may take a percentage of those funds to offset budget shortfalls, especially considering present circumstances, but he agreed that it may make sense for community activists to argue against budget cuts on behalf of the HRC.

ED Yang continued that her testimony on Friday would incorporate both arguments – that the HRC is disappointed to lose money that would be relied on in the next five years, but she understands the dire nature of the deficit and respects the decisions of the legislature and governor. Commissioner Ellis reiterated that the legislature has expanded the HRC's responsibilities in recent years and that the wider scope of work requires any and all available funds, otherwise the HRC may be obliged to ask for more money in the future or reduce the capacity for work and allow people to fall through the cracks.

Commissioner Nagy commented that the overall budget situation is kaleidoscopic at the moment and although it's a shame that the state is unable to be more specific about the exact size of the

budget cuts, she commended ED Yang for providing such clear a picture of the HRC's finances in light of that confusion.

EXECUTIVE SESSION:

Commissioner Nagy made a motion to go into executive session to hear confidential cases at 9:58am. The motion was seconded by Commissioner Vickers. Vote 5-0.

Commissioner Christie brought the VHRC out of executive session at 12:45pm.

HRC Case No: HV20-0009

Commissioner Nagy moved to accept the recommendation of no reasonable grounds that discrimination occurred. The motion was seconded by Commissioner Vickers. Vote 4-1 (Commissioner Ellis opposed).

HRC Case No: HV20-0027

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

BUSINESS MEETING CONTINUED

EXECUTIVE DIRECTOR REPORT:

The Budget:

ED Yang presented the exact budget numbers in response to the earlier budget discussion. She reported that as of July 1, 2020, the carryforward funds totaled \$109,310.44. Of that amount, budget officials planned to return \$32,510.44 to the General Fund. In addition to that decision, the FY21 budget would be cut by 3%, or \$19,115.00.

Outreach & Training:

ED Yang reported that fair housing trainings continue on the second Mondays of each month and are hosted by Staff Attorney Melissa Horwitz.

The HRC also has two webinars scheduled for Monday, 8/31, the goal of which is to share information about housing discrimination with New Americans and to release the new video that Director of Policy, Education and Outreach Amanda Garcés created as part of the HUD partnership grant.

ED Yang noted that implicit bias trainings continue to be highly requested. While implicit bias is real and the studies demonstrate that it is prevalent, studies have also shown that trainings are not effective in mitigating prejudice. As such, staff is engaged in on-going conversations about the state of implicit bias trainings at the HRC and next steps.

Commissioners weighed in on how the HRC could adjust these implicit bias trainings to improve their impact and meet the specific needs of individuals and organizations. Commissioner Vickers suggested the importance of making them as interactive as possible in order to help attendees

recognize their own involvement or complicity with bias and to overcome the degree of defensiveness that many experience when closely considering these ideas. Commissioner Ellis also encouraged staff to explore different concepts and approaches, and to shift the message to meet each audience where they are. She continued that although these types of trainings and conversations have become popular in our current culture, that has not necessarily had the effect on culture one might hope.

Commissioners questioned whether there are other organizations that could meet the demand for implicit bias trainings if the HRC were to pause or reconfigure trainings. Commissioner Christie pointed out that educating the public is an essential aspect of the HRC's mission and that the overall intent of the organization is to mitigate systemic racism.

Commissioner Ellis noted that many organizations are prepared to change but they don't know how, and the HRC could investigate and create a training model that would be ready to help them make substantive change. ED Yang expressed that HRC staff would continue to have these conversations and would seek input from outside groups before dramatically altering the approach.

Taskforces and Committees:

ED Yang listed the taskforces and committees in which various HRC staff members participate, some of which have been more active than others during the pandemic.

- Racial Equity Taskforce – Yang
- Hazing, Harassment, Bullying Advisory Panel – Horwitz
- Ethnic and Social Standards Advisory Working Group – Garcés (Chair)
- Governor's Workforce Equity and Diversity Council – Yang
 - ED Yang reported that the council was preparing to release a report within the next week.
- Fair and Impartial Policing – Yang
- Vermont Multilingual Communication Task Force – Garcés
- Immigrant Relief Fund Coalition – Garcés
 - Director of Policy Garcés reported that Governor Scott set aside \$2 million in the budget for financial relief.
- Farmworker Health & Service Providers – Garcés
- Refugee and Immigrant Service Providers Network – Yang and Garcés
- Thriving Communities Steering Committee – Horwitz and Garcés
- Affordable Housing Coalition – Horwitz
- Montpelier-Roxbury School District, Equity Committee – Garcés

POST-CASE UPDATES

Francois v. Department of Mental Health (DMH)

Commission Meeting Determination: January 25, 2018

Settlement Agreement Date: July 17, 2018

Latest: The status remains unchanged since the last commission meeting. DMH rolled out a new training program in March that would have satisfied the terms of the agreement. However, the last scheduled training was cancelled due to COVID-19.

Hay v. University of Vermont Medical Center

Commission Meeting Determination: May 25, 2017

Settlement Agreement Date: December 7, 2017

Latest: The status remains unchanged since the last commission meeting. UVMC requested an extension to provide their report which was due in February. The HRC and DOJ granted that extension.

McGurl v. Agency of Transportation

Commission Meeting Determination: January 24, 2019

Settlement Agreement Date: May 17, 2019

Latest: The status remains unchanged since the last Commission meeting. ED Yang met with DHR General Counsel to discuss a Memorandum of Understanding around the sharing of data and information pertaining to discrimination claims at DHR and the Hire-Into-Range policy. DHR is reviewing the recommended changes and MOU submitted by ED Yang.

Larivee v. Anderson

Commission Meeting Determination: April 23, 2020

Latest: Ms. Anderson indicated that she is retaining an attorney and refused to negotiate any further. This matter is waiting.

Bradford v. Travelodge

Commission Meeting Determination: April 23, 2020

Latest: The matter is in negotiations.

Sall v. Chittenden State's Attorney's Office (State of VT)

Commission Meeting Determination: June 25, 2020

Latest: The matter is negotiations.

LITIGATION

Congress v. Department of Corrections (DOC)

Commission Meeting Determination: April 18, 2019

Statute of Limitations Expires: December 31, 2019

Settlement Agreement Date: TBD

Latest: ED Yang filed a lawsuit in Washington Superior Court before March 31, 2020. Centurion filed an Answer. The State filed its Answer. DRVT joined the lawsuit and Defendants joined in their Motion to Dismiss DRVT's claims. Parties recently entered into an agreement for discovery.

2020 LEGISLATIVE SESSION

The 2020 Legislative session came to an end in June and will be picked up again shortly. ED Yang and Director of Policy Garcés are monitoring multiple bills, although ED Yang acknowledged that the primary goal of this session will be the budget.

PRE-DETERMINATION CONCILIATION AGREEMENTS:

HRC Case No. HV20-0017

HRC Case No. HV20-0022

NEXT MEETING September 24, 2020.

The meeting was adjourned at 2:36pm.

Dated at Brookfield, Vermont this 27th day of August 2020.

Respectfully submitted:

/s/Bor Yang

Bor Yang

Executive Director