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**Human Rights Commission**  
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## VERMONT HUMAN RIGHTS COMMISSION

### MINUTES

September 22, 2022

PRESENT: Commissioners: Kevin Christie, Chair, Nathan Besio, Joan Nagy, Dawn Ellis, and Bruce Wilson.

Staff: Bor Yang, Executive Director; Cassandra Burdyslaw, Big Hartman, and Daniel Flynn, Staff Attorneys; Amanda Garcés, Director of Policy, Education, and Outreach; John McKelvie, Executive Assistant (minutes).

Commissioner Christie called the meeting to order at 9:04 am.

### **BUSINESS MEETING**

#### MEETING MINUTES

Commissioner Besio made a motion to accept the August 25, 2022, minutes as presented.

Commissioner Ellis made a motion to table Commissioner Besio's motion in order to consider a separate motion to amend the August 25, 2022, minutes.

Commissioner Ellis then motioned that Commissioner Wilson be listed as absent in the roll call of the August 25<sup>th</sup> minutes. No second was made on any motion.

Commissioners began to discuss how attendance is noted at meetings but an echo in the video call halted the conversation. Commissioner Christie decided it would be more time effective to address the minutes after the confidential case. Commissioner Besio made a motion to table the discussion of the minutes, citing the location of the minutes in the meeting agenda and his pressing questions about the upcoming case. No second was made but the meeting proceeded.

### **EXECUTIVE SESSION**

Commissioner Nagy made a motion to go into executive session to discuss and hear a confidential case at 9:12 am. Commissioner Ellis seconded. Vote 5-0.

Commissioner Christie brought the VHRC out of executive session at 11:54 am.

### **BUSINESS MEETING CONTINUED**

#### HRC Case No: HV21-0011

Commissioner Nagy moved to find reasonable grounds to believe that discrimination occurred on the basis of disability. The motion was seconded by Commissioner Besio. Vote 5-0.

Staff and Commissioners took a break for lunch from 12:04-1:08 pm.

Commissioner Ellis explained her motion re: adding Commissioner Wilson to a list of absent participants. She also questioned the sentence in the August 25<sup>th</sup> minutes describing a discussion

about whether Commissioners had a quorum to approve prior minutes and asked that the minutes reflect their decision.

Commissioner Nagy explained that there were three Commissioners present at the last meeting, only two of which had attended the meeting where those prior minutes were taken. Investigator Hartman clarified that there was a quorum being that there were three Commissioners present.

Commissioner Besio made a motion to approve the meeting minutes as amended by Commissioner Ellis. Commissioner Nagy seconded. Vote 5-0.

## **BUSINESS MEETING CONTINUED**

### **PRE-DETERMINATION CONCILIATION AGREEMENT**

Commissioners reviewed and approved of a conciliation agreement in the following case:

HRC Case No: HV21-0016

### **EXECUTIVE DIRECTOR'S REPORT**

Executive Director Yang gave a report to Commissioners as follows:

HRC staff are continuing to work remotely from August 22-October 14 due to construction on the office at 12 Baldwin Street.

The HRC goes into this fiscal year with \$66,680.97 in carryforward funds. ED Yang submitted a plan to the Department of Finance and Management to use the carryforward for a case management system and the request was approved. Staff are revisiting plans for the case management system and ED Yang will report back to Commissioners on that progress.

The HRC was awarded partnership grants from HUD for education and outreach. Director of Policy, Education and Outreach Garcés and Staff Attorneys Hartman and Burdyshaw will all be working on the project and managing the grant. The plan for those funds involves converting the fair housing act into plain language and translating that into several different languages, as well as creating a fair housing page on our website, conducting outreach events throughout the state, and purchasing mail inserts from utility companies to distribute fair housing information to a wider audience.

Regarding outreach and training, ED Yang corrected her report to note that she will attend the AGO and DOJ Community Forum on Hate on September 28<sup>th</sup>. She was recently the keynote speaker at an event hosted by the U.S. Department of Agriculture: Achieving Collective Cultural Equity by Promoting Trust and Respect. She will also be the keynote speaker at the NAACP's annual fundraiser event on October 22, 2022.

Director of Policy, Education and Outreach Garcés described the upcoming celebration for Hispanic Heritage Month, put on by the HRC and the Office for Racial Equity. The HRC will have a table at the event, which will include music, food, and speakers at the State House Lawn on Saturday, October 15<sup>th</sup>, from 2:00-6:00pm.

Staff Attorney Burdyshaw described steps taken by the Vermont Criminal Justice Counsel's professional regulation subcommittee. Specifically, the subcommittee concluded a lengthy procedural process to recommend the rescission of a former officer's ability to work in law enforcement, and the counsel may soon move forward with approximately twenty other professional regulation issues.

Director of Policy, Education and Outreach Garcés described efforts by the Act 1 Working Group to send out an RFP to hire a consultant. Regarding the Hazing, Harassment, Bullying Advisory Panel, she noted a meeting will occur on Monday, September 27<sup>th</sup>, in which the AOE is expected to present policy changes. She provided an update that a subcommittee of the Fair and Impartial Policing Committee will revisit the FIP policy itself.

For the sake of newer staff and Commissioners, ED Yang reviewed the HRC's recent legislative priorities and how the HRC's focus for the upcoming legislative session will include a follow-up to H.320 (Don't Darken My Door), and to H.329 (to address severe or pervasive in employment and places of public accommodations) and amending Vermont's equal pay laws to include race, national origin, and disability, instead of solely sex discrimination. She elaborated on the HRC's motivation to push these initiatives and described the arguments commonly provided by those for and against each bill.

Commissioner Ellis described her perception of a systemic problem that Vermont attorneys are not willing to take on retaliation lawsuits, contributing to a lack of diversity of options for representation to prevail in court and narrowing legal options for people. She was temporarily interrupted by a technical issue.

Commissioner Nagy requested that Commissioners receive the Statement of Work created in support of the HRC's request for HUD partnership funds. Staff shared the Statement via email.

Commissioner Ellis reiterated the systemic issue of legal representation for discrimination and retaliation cases and wondered what ways the HRC could address it. She remarked that the ways state and local laws are interpreted can be used to systemically discriminate against protected groups and questioned how the HRC could play a role in overturning them.

ED Yang described the legal and market forces that impact attorneys' willingness to accept discrimination and retaliation cases. She noted that the HRC's approach is to change legal precedence to demonstrate that these cases are winnable, which may entice more attorneys to accept them, and to provide trainings and outreach to attorneys through the Vermont Bar Association. The conversation continued, with further input from Commissioner Ellis, ED Yang, and Staff Attorney Flynn.

ED Yang concluded her report, noting that several additional updates on cases in pending litigation would be provided during executive session.

Commissioner Ellis made a request related to future ED reports; that the reports provide a more thorough description or summary of settled cases under HRC monitoring, to include details about the settlement discussions such as what the HRC requested and what was eventually obtained via settlement.

ED Yang explained that the ED reports necessarily limit the disclosure of information related to settlement discussions, so as not to tip the HRC's hand in potential or probable litigation. Commissioner Ellis suggested a confidential attachment to the ED report.

ED Yang clarified the question and asked each Commissioner to confirm what they wanted the ED report to include or not include. Commissioner Nagy felt as though she has enough information in the current format of the ED report and can ask for more details during each Commission meeting. Commissioner Besio felt that summaries of monitored cases were not necessary but staff could send him the settlement agreements themselves. Commissioner Christie agreed, and noted that the HRC's annual report is the culmination and summation of all of our activity and is sufficient to capture this.

The conversation concluded with ED Yang confirming that future ED reports would retain the same format, but that she would create a file folder with all of the monitored settlement agreements which would be sent to Commissioners, and that a summary of each settlement agreement could be provided upon request.

### **EXECUTIVE SESSION**

At 2:28pm, Commissioner Nagy made a motion to go into executive session to discuss pending and probable civil litigation, to which the public body is or may be a party, pursuant to 1 V.S.A. §313(a)(1)(E). Commissioner Ellis seconded. Vote 5-0.

Commissioner Christie brought the VHRC out of executive session at 3:06 pm.

### **BUSINESS MEETING CONTINUED**

ED Yang cancelled a planned training session due to the amount of time remaining for the meeting. She asked ESA McKelvie to provide 2023 meeting dates to Commissioners for their review prior to the October meeting.

The meeting was adjourned at 3:12 pm.

### **NEXT MEETING October 27, 2022**

Dated at Montpelier, Vermont this 22<sup>nd</sup> day of September 2022.

Respectfully submitted:

/s/ Bor Yang

Bor Yang  
Executive Director