



VT Human Rights Commission
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**VERMONT HUMAN RIGHTS COMMISSION
AMENDED MINUTES
May 24, 2018**

PRESENT: Commissioners: Kevin Christie, Chair, Donald Vickers, Mary Brodsky, Dawn Ellis, and Mary Marzec-Gerrior, Substitute Commissioner (executive session only). Staff: Karen Richards, Executive Director, Nelson Campbell, and Bor Yang, Administrative Law Examiners, Jocelyn Bolduc, Executive Staff Assistant (minutes).

Commissioner Christie called the meeting to order at 9:15 a.m.

BUSINESS MEETING

MINUTES: Vickers moved to accept the minutes of the April 19, 2018 meeting as written. The motion was seconded by Brodsky. Ellis moved to amend minutes to correct typo on page four "Christie bought the HRC out of executive session" to 'Christie *brought*'. ESA Bolduc will amend accordingly. Vote 4-0

EXECUTIVE SESSION:

Vickers made a motion to go into executive session to hear confidential cases at 9:18 a.m. The motion was seconded by Ellis. Vote 5-0

Commissioner Christie brought the VHRC out of executive session at 10:58 a.m.

VHRC Case No. E18-0001 & EEOC Case No. 16K-2017-00067

Brodsky moved to accept the recommendation of no reasonable grounds. The motion was seconded by Vickers. Vote 5-0

Commissioners asked that the letter to the Respondents state agency note that the agency should closely monitor the environment and culture at the

workplace at issue to make sure that it is welcoming, supportive and inclusive.

VHRC Case No. HV18-0007 & HUD Case No. 01-18-8184-8

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

BUSINESS MEETING

ED Hiring – Commissioner discussion about advertisement for ED hiring. Minor changes were suggested for the advertisement and a discussion of timing was held.

The Commissioners decided to explore hiring Mary Marzec-Gerrior as a consultant to manage the ED hiring process. ED Richards will meet with her to develop a proposal to submission at the June 8, 2018 meeting.

Staff and Commissioner Barbeque – Brief discussion about staff/commissioner meeting followed by barbeque scheduled for June 8, 2018 at Hubbard Park, Montpelier.

EXECUTIVE DIRECTOR REPORT:

Budget - On May 7th, HUD held a conference call to announce program and funding changes for the upcoming federal fiscal year (FFY18). We budget federal funds based on projections from the previous year. For state fiscal year 2019, we budgeted \$76,114 in federal funding. It is likely we will receive less than that based on HUD's changes. In the past, HUD had distributed training funds based on the population of the service area. HRC received \$22,500 per year under that formula. Under the new formula, we will only receive \$4,400 per FTE assigned to housing. We had provided HUD with information earlier that HRC has 1.5 FTEs for housing. HUD will round up to 2 FTE resulting in \$8,800 in training funds, a substantial reduction. Much of that will be made up by case processing funds which I am estimating will cover all but around \$2000 of the amount budgeted but we will not know the actual number until the end of June. We should be able to absorb this but will need to budget substantially less federal funds for SFY20.

Staffing - Ayn Lee Sing has resigned her position effective May 18, 2018 to take a staff attorney position at Florida's equivalent of the Human Rights

Commission. We wish her well in her new endeavor and will miss her here at the HRC.

The ALE position has been posted and resumes are due by May 25, 2018. We hope to have a new person on board before the end of the summer.

Bor Yang passed the Vermont Bar Exam and is now eligible for admission to the Vermont bar. Congratulations, Bor!

Facebook page- ALE Campbell has been working on creating the HRC Facebook page. Efforts were complicated by the initial site location.

LEGISLATIVE REPORT

H. 294- An act related to equal pay. This bill makes it an unlawful employment practice to ask about or determine compensation for a position based on previous salary history. It passed both the House and the Senate and was delivered to the Governor for signature on 5/7/18. Governor approved on 5/11/18.

S. 281- An act relating to the Mitigation of Systemic Racism - This bill ended up in conference committee and despite a last minute pitch by the Governor's general counsel that Senate changes were unconstitutional, the conferees agreed. The bill was delivered to the Governor on 5/11/18. The current status is still unclear. Key provisions include:

- Position of Executive Director (ED) of Racial Equity is created within the executive branch
- Position will receive the administrative, legal and technical support of the Agency of Administration (AoA)
- ED will act as liaison between the GWEDC and the HRC and the Cabinet
- ED will report to and be under the supervision of the Governor (Sec'y of Administration) but the statute prohibits the Administration from "prevent[ing] or prohibit[ing] the executive director from initiating, carrying out, or completing the duties" set forth in the statute.
- Also establishes a 5-member Racial Equity Advisory Panel with appointments by Legislature, Governor, Judiciary and the **HRC appointments to be made by 9/1/18.**
- The executive director is subject to removal for cause by the Governor but s/he must have the consent of the Panel.

The Commissioners and staff will discuss a process for this appointment at the June 8th meeting assuming the Governor signs the bill.

H. 333- An act relating to gender neutral single stall bathrooms- This bill passed the House last year but it was too late in the session for the Senate to take it up. The bill passed the Senate this year and was delivered to the Governor on 5/7/18 for signature. The Governor signed the bill on 5/14/18.

H. 707- An Act relating to sexual harassment- This bill passed both the House and the Senate. The Governor is expected to sign it. It contains significant additional work for the HRC. The effective date is 7/1/18 with the exception noted below.

- requires HRC to notify respondents in all discrimination complaints of the prohibition on retaliation (we have added to our letter)
- gives HRC and AGO independent audit authority of employers and allows for HRC to require an agency to take steps to correct any problems
- requires plaintiffs to report lawsuits filed based on sexual harassment to the AGO or HRC (so HRC can intervene or submit amicus briefs on important issues)
- requires the AGO or HRC to set up enhanced mechanisms for reporting sexual harassment including a hotline and easy to use website portal by 12/15/18
- requires the VT Women Commission on Women (VCW) with the AGO and HRC to develop a public education and outreach program re sexual harassment by 12/15/18; \$125,000 was appropriated to the VCW for this work. This section is effective on passage.
- On or before 1/1/20 report to House General and Senate Econ from the AGO/HRC regarding the enhanced system, changes in numbers of complaints filed, etc.
- On or before 1/1/19, work with the AGO and Legislative Council on a written report to the above committees on the efficacy of and mechanisms for rendering provisions of non-disclosure agreements void and unenforceable.

H. 711- An act relating to crime victims. This bill passed the House and went to conference committee over Senate changes to the bill. It adds

crime victims as a protected category under the Fair Employment Practices Act, thus expanding HRC jurisdiction. The House bill applied to employers with 10 or more employees. The Senate version applies to all employers but contains an exception for an employer that provides goods and services to the public if the employees absence would require the employer to suspend all business operations at a location open to the public. The House conferees indicated that they would concur with the Senate changes.

PRE-DETERMINATION CONCILIATION AGREEMENTS (by staff)

Royce Trayah v. Ben Maddox d/b/a The Flying Disc
VHRC Case No. PA18-0018

Karen and Gary Wheelock v. Town of Colchester, Vermont
VHRC Case No. PA18-0008

POST-DETERMINATION CONCILIATION AGREEMENTS (by executive director)

W.M. v. Vermont Department of Corrections, Vermont Department of Mental Health and Vermont Agency of Human Services
VHRC Case No. PA16-0018

EXECUTIVE SESSION (continued):

Vickers made a motion to go into executive session at 2:22 p.m. to discuss litigation where premature general public knowledge would clearly place the HRC at substantial disadvantage. The motion was seconded by Brodsky.
Vote 4-0

Commissioner Christie brought the VHRC out of executive session at 2:50 p.m.

BUSINESS MEETING (continued)

30th Anniversary Discussion – ED Richards provided Commissioners with a Memo outlining combined staff and commissioner ideas. Brodsky recommended idea of showing video's, news, personal stories, etc. about recent news events where people of color have had the police called on them for no reason as a means of sparking conversation about how to activate bystanders.

Christie requested ED Richards to reach out to a Vermont Law School board member to discuss possibility of having at Law School or ideas or assistance with planning, possibly the Black Law Student's Assciation (BLSA).

NEXT MEETING June 8, 2018 at 9:00 a.m. at the HRC Office with potluck to follow at Hubbard Park.

The meeting was adjourned at 3:04 p.m.

Dated at Montpelier, Vermont this 12th day of June 2018.

Respectfully submitted:

A handwritten signature in cursive script, appearing to read 'Karen', written over a horizontal line.

Karen L. Richards
Executive Director