

WASHINGTON STATE HUMAN RIGHTS COMMISSION

**COMMISSION MEETING 9:30AM
MARCH 22, 2012
711 S. CAPITOL WAY, SUITE 402
OLYMPIA, WA 98504**

MINUTES

ATTENDANCE

Commissioners: Yvonne Lopez-Morton, Chair; Shawn Murinko, Commissioner; Charlene Strong, Commissioner; Deborah Lee, Commissioner.

Staff: Sharon Ortiz, Executive Director; Laura Skinner, Executive Assistant; Laura Lindstrand, Policy Analyst.

OPENING AND WELCOME

Yvonne Lopez-Morton, Chair called the meeting to order at 9:44am.

MINUTES

Approval of January 26, 2012 Minutes; Commissioner Strong made motion; Commissioner Murinko seconded; motion carried.

Approval of February 23, 2012 Minutes; Commissioner Murinko made motion; Commissioner Lee seconded; motion carried.

CASE CLOSURES

Commissioner Murinko made motion; Commissioner Lee seconded; motion carried

Chair Lopez-Morton recues from voting on case Brenda Waga v. Spokane Forest Park Apartments; Chair Lopez-Morton knows Complainant.

Commissioner Lee had questions regarding case Cody Davis v. Ramada; case should possibly be referred to EEOC; Federal law has some protections regarding tribal owned businesses.

Director Ortiz suggested obtaining opinion on tribal owned businesses; discussing with EEOC.

Cody Davis v. Ramada, pulled from agenda.

Chair Lopez-Morton made amended motion for case closures; Commissioner Murinko seconds; motion carried.

DIRECTORS REPORT

Director Ortiz gave an update on the reorganization of the agency; discussed the all staff meeting held on March 7th, 2012 where staff continued to work on performance standards, held training on disability and ethics and gave out certificates of service; plan to have at least two days of training prior to June 30th.

Director Ortiz stated next month we will be welcoming our new Commissioner, Steve Hunt; he has over 30 years of civil rights enforcement experience.

Director Ortiz stated our agency was awarded two HUD grants in partnership with Northwest Fair Housing Alliance and The Fair Housing Center of Western Washington; grants are for contracted testing in Pierce, King and Snohomish Counties and Eastern Washington; each grant is for \$64,000.00.

Director Ortiz discussed the Brad Thoma v. The Spokane Police Dept case; HRC featured on the front page of the Spokesman Review in February; city offered a settlement through HRC mediation; Director Ortiz called all parties involved and made it clear there was no settlement, had not signed the settlement and the Commissioners had not approved the agreement; Director Ortiz refused to sign settlement after learning the facts of the claim; Complainant attorney withdrew complaint.

Director Ortiz announced settlement agreement between Schriever v. North Thurston Public Schools; issue has been resolved; during the investigation, OSPI introduced guidelines for school districts including bathroom use for transgender students.

Director Ortiz discussed the budget; hard copies given to the Commissioners; budget reflects cuts HRC anticipated; personnel update, hired new IT person, Teddy Levenson, introduced her to Commissioners; discussed marriage bill that was passed and signed by the Governor;

Director Ortiz stated the Virtual Desk Top (VDI) project with the Office of Administrative Hearings has been cancelled; moving forward to produce our own VDI.

Director Ortiz attended various meetings and events; February 6th, marriage hearing (house and senate); February 7th HUD; February 8th, House floor vote on Marriage Bill; February 9th, IT interviews; February 14th, met with Kendee Yamaguchi, CAPAA; February 15th, conducted a fair housing training for Thurston County housing providers and staff; February 17th, trained the Snohomish Human Rights Commission; February 21st met with small agency client services (SACS) regarding the budget; February 22nd small cabinet meeting and with Fred Olson and Alexis Oliver; February 24th, met with Janice Whitman regarding complaint in Schriever v. North Thurston Public School; March 7th, facilitated an All Staff planning and training in Olympia; March 13th, met with Luis

Moscoso, State Representative; March 14th, attended the Union-Management Committee meeting; March 16th, met with Lauren Walker, ED, Fair Housing Center of Washington; March 19th, met with Commissioner Hunt for orientation and training also met with Sandy Blair with DOJ; March 20th meeting with Yvonne Marte, HUD and also attended the SACS meeting regarding HRC budget; March 21st, met with Vanessa Gaston, ED, Clark County Social Services.

Director Ortiz discussed upcoming events; Fair Housing month is April, conferences on both sides of the state; May EEOC conference; April CHA in Pasco; June CHA in Forks; March 30th NAACP Conference in Spokane.

Director Ortiz reminded Commissioners to report outreach for credit.

Director Ortiz and Chair Lopez-Morton to attend Human Rights Conference in Idaho.

Report from Cheryl Strobert, Assistant Director for Enforcement:

EEOC – case production was low this month; Twenty-eight cases closed in the month of February; March closures appear to be trending upwards; hopeful will make up the difference next month.

HUD – eight cases were closed in February.

Non Contract – Eleven non contracted cases were closed in February.

Of the above cases, 5 cases were settled totaling \$1,535.00.

Meetings attended – Orientation with new Commissioner, Steve Hunt; Union Management Committee meeting; Racial Bias Symposium at Seattle University School of Law; Public Records Act discussion with AG; Small Agency Cabinet Services.

Laura Lindstrand, Policy Analyst:

One bill passed the Legislature and signed by Governor; will add an additional classification of persons to whom the remedies of RCW 49.60 are available; Bill SSB 5412, an act relating to whistle blowing in the conveyance workplace; if an employee of an elevator (or similar conveyance such as a lift or escalator) installation or repair company reports an unsafe condition with an elevator's installation, maintenance, or repair, and is then retaliated against for making the report, that employee is protected from retaliation and has the remedies available under 49.60; however, the bill does not give the HRC the power or duty to investigate such complaints; an amendment was introduced that would have made such retaliation an unfair practice under RCW 49.60 (giving the parties the right to file complaints and the HRC the duty to investigate retaliation complaints), but the amendment was not adopted.

The bill related to workplace bullying did not pass; the bill related to retaliation against employees who act in furtherance of public policy also did not pass; bills related to procedural issues are awaiting the Governor's signature.

SSB 6354 directs that when a state agency requires that a business submit a document to the agency, the state agency must provide the business an option to submit such a requirement electronically; I read this to include the response to a complaint; we will have to make it clear that the response can be sent electronically and determine an internal procedure for this.

SSB 5355 relates to notice of special meetings and how such notice is to be given.

SSB 5553 relates to posting information on the agency's website, including; the agenda of all regular meetings, the agenda of all special meetings, the text of any rule that is under consideration at the meeting, the minutes of all special and regular meetings and a list of all Commissioners; there are timelines outlined for the postings.

SSB 2452 relates to centralizing state procurement of goods and services; DES will have oversight of state agency procurement.

Chair Lopez-Morton asked Laura Lindstrand about workplace bullying; already protections in WA state, tort actions; if the bullying based on a protected class HRC will have jurisdiction; Union testimony argued real issue in workplace; Commissioner Murinko stated work place harassment policies already in place, possible reason for bill not passing.

**BREAK 10:38AM
RESUMED MEETING AT 10:55AM**

COMMISSIONER REPORTING

Commissioner Lee: attended public hearing with the Indian Civil Rights Commission, HRC and DOJ regarding Seattle public Schools; partnered with education organization at Seattle Indian Heritage High School; gathered good testimony; media present; discussed Title 3 funding in the Seattle public schools, how it is being used and what it is suppose to be used for; Native American and English Language Learners being lumped together; Native American students that have fallen below average, pulled out of class and tested along with new immigrants; in particular, a student was pulled, been in honors class since 6th grade; Commissioner Lee to look into issue and update Commission; Idolina Reta also attended the public hearing.

Attended the Totem Pole raising in Seattle; Director Ortiz also attended.

Commissioner Strong: Spoke at Sky Valley Monroe Public Library regarding marriage laws; explained referendum process.

Spoke about Commission and rule making regarding sexual orientation/ transgender; asked to speak on GLBT panel re: how to speak to media and not become trapped; reached out to different organizations to have on panel.

Spoke at the University of Pittsburg and in St. Louis.

Will be in Pullman March 23, 2012 at WSU regarding marriage laws; also attending for personal reasons.

Laura Lindstrand reminded Commissioners need to complete L5 Report if testified as Commissioners.

Chair Lopez-Morton also reminded Commissioners that Public Disclosure forms are due.

Commissioner Murinko: Approximately a week ago attended with Laura Lindstrand Continuing Education in Law; Laura Lindstrand spoke and answered technical questions; Janice Whitman attended also.

Commissioner Murinko brought up two concerns - definition of service animal and misunderstanding about reasonable accommodation requests for mental/ psychiatric disabilities.

Director Ortiz to send Commissioners AG analysis on service animals.

Chair Lopez-Morton: invited to speak at Spokane Public Schools regarding Students of Color; stated Nancy Stowell is retiring.

Attended the Hispanic business group meeting.

Attended the WSU Spokane Chancellor's breakfast regarding veterans issues and disabilities – PTSD; spoke about laws protecting veterans.

Attended the grand opening for Agnes Kehoe Subsidized Housing in Hilliard for low income.

RULEMAKING TIMELINES

Laura Lindstrand, Policy Analyst, discussed the Timeline for Rule Making on Sexual Orientation and Gender Identity; looked at rules for other states, rules straight forward; put together draft rule making, need to work on putting together timeline calendar:

April 13th: Considering rule making and why; file CR101 with Code Reviser.

April 30th: Send notice to all who requested and to stakeholders.

In May, hold stakeholder work group meeting (will decide date) in Eastern WA- Pasco or Spokane; Director Ortiz and Commissioner Strong discussed dates.

June 1st: Develop draft of rules.

June 15th: Actual rules proposed; file CR102 with Code Reviser.

June 30th: Send notice to parties for review and comment.

Chair Lopez-Morton coordinate meeting in Spokane; Director Ortiz volunteered for Tri Cities if help is needed.

July: Receive public comments; hold public meeting; SCIU possible location to hold meeting.

August: Review public comments; finalize rule.

August 30th: File final rule with Code Reviser.

**BREAK 11:46 AM
RESUMED MEETING AT 11:54AM**

WORKING LUNCH: MAY MEETING AND FORUM

Purpose: Community Listening Session

Re: Housing, employment, farm workers, GLBT, deaf and hard of hearing/ advocates, disability.

- a. Provide understanding of HRC jurisdiction
- b. Start with power point, Director Ortiz
- c. Outreach, take Intake Questionnaire's for people to file complaints

Outcome:

- a. Report to Governor's office regarding what HRC is hearing from community
- b. Report put on website

Forum: Chair Lopez-Morton will be lead Commissioner and Director Ortiz will be lead staff.

Commissioner Strong will put together flyer with a brief along with date, location, time and topics; Director Ortiz to send examples of flyers to Commissioner Strong; Commit to timeline; PR list to be shared amongst Commissioners.

**BREAK 12:14
RESUME MEETING AT 12:21PM**

EXECUTIVE SESSION: EMPLOYEE PERFORMANCE

Start: 12:21PM

End: 12:36 PM

RESUME MEETING AT 12:36PM

PUBLIC COMMENTS

Introduction: Mr. David Carlson; discussed letter he sent to Director Ortiz regarding gay marriages; business owner opposes and will not provide services to same sex couples.

Chair Lopez-Morton asked if the business was an actual business; Mr. Carlson stated has office in Silverdale; Commissioner Murinko asked what would be the remedy; education for business owner, joint statements from owner and community and education for owner and community; Commissioner Strong commented on example of what the media has failed to do; possible public accommodation issue re: sexual orientation.

Chair Lopez-Morton commented on what business owner may do after bill signed by Governor; Commissioner Murinko suggested use opportunity to provide a technical assistance letter or take other step as a Commission initiated complaint.

Director Ortiz stated an internal split on what is considered a place of public accommodation; some think a place of public accommodation has to have a physical address.

Mr. Carlson stated business owner maintains a physical office delivering a service; office in Silverdale.

Director Ortiz stated HRC has three options:

- a. Conduct a test (collect evidence)
- b. Commission initiated complaint
- c. Technical assistance letter

Commissioner Strong commented to broaden education in regard to the issue, go to owner and media and make it educational; a lot of small businesses do not know the law; Director Ortiz asked how should we go to media? Commissioner Strong said HRC should step up and make comment on places of public accommodation re: same sex marriages.

Commissioners and Director Ortiz discussed the possible "Test" of the business.

Commissioner Murinko stated he favors providing a technical assistance letter to start with; if business owner continues then re look and may result in a Commission initiated complaint.

Mr. Carlson discussed the option of a technical assistance letter and hopes the owner would have a positive reaction; if not and the owner keeps doing the discriminatory practice would like HRC to take the option of a Commission initiated complaint.

Commissioners have a consensus; will write a technical assistance letter; Laura Lindstrand, Policy Analyst, and Commissioner Strong to write technical assistance letter.

Commissioner Strong stated she would like a response from business owner re: technical assistance letter; Commissioner Murinko said we cannot ask owner to respond; Commissioner Lee suggested to see if business owner responds and if not, conduct a test; Commissioner Strong spoke about role of Commissioners; would be appropriate to make a public statement to help people, not trying to single business owner out; it's a civil rights issue.

Commissioner Strong discussed proclamation issue; AG office over stepped; Commissioner Lee spoke to Ethics Commission; Director Ortiz referred Commissioners to speak with Fred Olson in regards to proclamation – Resolution re: Marriage Bill; Commissioner Murinko stated he is thankful to be appointed by Governor and the advice not to take action on resolution proclamation.

Chair Lopez-Morton returned back to conversation dealing with the letter HRC received from David Carlson; asked if everyone remembers the Stormans issue; Commissioner Strong stated past mistake, HRC needs to move forward; Director Ortiz explained the Stormans issue, derogatory comments of woman & plan B; Chair Lopez-Morton confers Stormans issue was wrong; Commissioner Strong stated HRC needs to take action and send technical assist letter, this is what HRC does, educate people.

Commissioners have consensus to send technical assistance letter to business owner.

BREAK 1:13PM
RESUME MEETING 1:26PM

Chair, Lopez-Morton presented certificate of 10 years of service to Director Ortiz.

ED EVALUATION

Chair Lopez-Morton stated Director Ortiz has provided self evaluation; meantime, job description has changed, need more information from Director Ortiz.

Chair Lopez-Morton and Commissioner Lee to meet March 23, 2012 @ 3pm with Director Ortiz.

Commissioner Murinko offered suggestion procedurally; to suspend evaluation for 6 month, technically should not evaluate Director Ortiz due to not knowing the job description; Director Ortiz knows what she's being evaluated on, more valid; Chair Lopez-Morton agrees.

Commissioner Murinko offered technical assistance with writing job description along with Chair Lopez-Morton; Director Ortiz to send Chair Lopez-Morton template for position description form; next meeting to have preliminary draft.

Chair Lopez-Morton reminded Commissioners the PDC filings have to be done by April 15, 2012.

Director Ortiz commented to Commissioners if they need assistance with the PDC filing to contact Laura Skinner, Executive Assistant.

ADJOURN

There being no further business, the meeting adjourned at 1:40pm.

Respectfully submitted,

A handwritten signature in black ink that reads "Laura Skinner". The signature is written in a cursive, flowing style.

Laura Skinner
Commission Clerk