

**CITY OF LINCOLN, NEBRASKA
COMMISSION ON HUMAN RIGHTS
MINUTES**

THURSDAY, December 15, 2011
CITY COUNCIL CHAMBERS
555 S. 10TH STREET

The December 15, 2011 meeting of the Commission on Human Rights was called to order at 4 p.m. by Chairperson Wendy Francis.

Mayor Beutler presented Commissioner Cooper a medallion of the City for her years of service with the Commission on Human Rights and expressed his sincere appreciation for all her work and commitment to human rights on behalf of the Commission and the entire community.

ROLL CALL:

The roll call was called and documented as follows:

MEMBERS PRESENT:

Commissioners: Gene Crump, Jose Quintero, Sue Oldfield, Hazell Rodriguez, Karla Cooper, Mary Reece, Takako Olson, Bennie Shobe and Wendy Francis, Chairperson. Quorum present.

STAFF PRESENT:

Angela Lemke, Margie Nichols, Nichole Hope-Bauman, Rod Confer, Jocelyn Golden and Janice Folkner.

APPROVAL OF OCTOBER 27, 2011 MINUTES:

A motion was made by Commissioner Crump and seconded by Commissioner Reece to approve the minutes of the October 27, 2011 meeting as presented.

Hearing no discussion, Chairperson Francis asked for the roll call. Voting "aye" was: Commissioners Quintero, Oldfield, Reece, Shobe and Crump. Abstaining was Commissioner Rodriguez, Cooper, Olson, and Francis. Motion carried.

APPROVAL OF DECEMBER 15, 2011 AGENDA:

A motion was made by Commissioner Crump and seconded by Commissioner Quintero to approve the December 15, 2011 amended meeting agenda as presented.

Hearing no discussion, Chairperson Francis asked for the roll call. Voting “aye” was: Commissioners Oldfield, Rodriguez, Cooper, Reece, Olson, Shobe, Crump, Quintero, and Francis. Motion carried.

CASE DISPOSITIONS:

Commissioner Francis excused herself due to conflict of interest on the following case. Commissioner Crump presided in her place.

LCHR No.: 10-0113-003-H

A motion for a finding of **No Reasonable Cause** on all allegations was made by Commissioner Crump and seconded by Commissioner Reece.

Discussion ensued. Commissioner Rodriguez inquired if there was a comparison done on the first two loan modifications the Complainant received compared with the denied modification. Lemke indicated that there was and explained that with the first two modifications the Complainant had a positive cash flow and was approved for these modifications. She went on to explain that with the latest modification request, the Complainant had a negative cash flow and had a debt-to-income ratio that was too low to qualify her under the HAMP program. Lemke stated that the Complainant’s position was that the expenses were inflated by the company that provided the documents.

There was a substantial amount of discussion on whether all income was included by the Respondent, whether the Respondent deviated from their qualifying criteria with other borrowers, whether there was evidence that the Respondent took any protected class into consideration, and whether Lemke was able to interview any witnesses to substantiate the Complainant’s allegations of insensitive comments being made.

Commissioner Francis rejoined the meeting. Hearing no further discussion voting “aye” was: Commissioners Rodriguez, Cooper, Reece, Olson, Shobe, Quintero, Oldfield and Crump. Abstaining was Commissioner Francis. Motion carried.

LCHR No.: 11-0119-003-E-R

A motion for a finding of **No Reasonable Cause** on all allegations was made by Commissioner Reece and seconded by Commissioner Oldfield.

Discussion ensued. Questions were asked as to the Complainant’s primary disagreement regarding the suspensions and the last chance contract. Investigator Lemke explained that the Complainant did not dispute that she violated policy, but alleged that there were white males that had similar occurrences that were not treated the same and did not receive the last chance agreement. It was then asked if it is explained in the company policy about the last chance agreement. Lemke stated

it was not and that it was verbally pointed out to the employer that there appears to be inconsistencies in the issuance of disciplinary actions. A discussion ensued about the Complainants resignation and the disciplinary actions, or lack thereof, issued to other employees.

Commissioner Crump withdrew his motion for a finding of **No Reasonable Cause** on all allegations and was seconded by Commissioner Oldfield.

A motion for a finding of **No Reasonable Cause** on constructive discharge was made by Commissioner Crump and seconded by Commissioner Olson.

Hearing no further discussion Chairperson Francis asked for the roll call. Voting “aye” was Commissioners Cooper, Reece, Olson, Shobe, Crump, Quintero, Oldfield, Rodriguez and Francis. Motion carried.

A motion for a finding of **Reasonable Cause** on different terms and conditions of employment based on race and sex was made by Commissioner Crump and seconded by Commissioner Cooper.

Hearing no further discussion Chairperson Francis asked for the roll call. Voting “aye” was Commissioners Shobe, Crump, Oldfield and Cooper. Voting “nay” was Olson, Quintero, Rodriguez and Francis. Abstaining was Commissioner Reece. Motion failed.

LCHR No.: 11-0331-013-E

A motion for a finding of **No Reasonable Cause** on all allegations was made by Commissioner Reece and seconded by Commissioner Cooper.

Discussion ensued regarding why the Complainant was upset when the Respondent stated no one would be hired with tattoos, brightly colored hair, piercings etc. Investigator Nichols explained that was the standard statement the Respondent told everyone who requests an application. Nichols further stated the Complainant felt that was due to his race and he also resented he was asked if he had a high school diploma or a GED. Nichols explained that she did suggest to the Respondent to put these statements on the application rather than verbally telling potential applicants.

Hearing no further discussion Chairperson Francis asked for the roll call. Voting “aye” was Commissioners Olson, Shobe, Crump, Quintero, Oldfield, Rodriguez, Cooper, Reece and Francis. Motion carried.

LCHR No.: 11-0331-014-E

A motion for a finding of **No Reasonable Cause** on all allegations was made by Commissioner Crump and seconded by Commissioner Olson.

Discussion ensued. Questions were asked if the Respondent kept the applications on file and if the applicants are allowed to take the application with them and return it later. Nichols explained the Respondent had copies of applications that dated back to 2004 and applicants may bring the applications back at a later time.

Hearing no further discussion Chairperson Francis asked for the roll call. Voting “aye” was Commissioners Shobe, Crump, Quintero, Oldfield, Rodriguez, Cooper, Reece, Olson and Francis. Motion carried.

LCHR No.: 11-0525-024-E-R

A motion for a finding of **No Reasonable Cause** on all allegations was made by Commissioner Cooper and seconded by Commissioner Crump.

Discussion ensued regarding the Complainant being asked by the Respondent to discuss his disability with other employees in a meeting. Lemke stated the Respondents position was that they hoped it would help his coworkers understand why he was missing work which was causing tension due to his unexpected absences. The Commission asked Lemke to recommend to the Respondent that any employee with a disability not be asked to discuss their health with anyone other than their supervisor.

Hearing no further discussion Chairperson Francis asked for the roll call. Voting “aye” was Commissioners Crump, Quintero, Oldfield, Rodriguez, Cooper, Reece, Olson, Shobe and Francis. Motion carried.

LCHR No.: 11-0708-011-H

A motion for a finding of **No Reasonable Cause** on all allegations was made by Commissioner Crump and seconded by Commissioner Oldfield.

Discussion ensued. The Commission asked Nichols to suggest to the property manager that they implement a policy with specific requirements that must be followed while renting the clubhouse.

Hearing no further discussion Chairperson Francis asked for the roll call. Voting “aye” was Commissioners Quintero, Oldfield, Rodriguez, Cooper, Reece, Olson, Shobe, Crump and Francis. Motion carried.

LCHR No.: 11-0928-014-H

A motion for a finding of **No Reasonable Cause** on all allegations was made by Commissioner Rodriguez and seconded by Commissioner Cooper.

Discussion ensued regarding the Respondent's property damage policy that clearly stated specific charges. The Commission suggested that a description of charges be added to the policy relating to any carpet damage.

Hearing no further discussion Chairperson Francis asked for the roll call. Voting "aye" was Commissioners Oldfield, Rodriguez, Cooper, Reece, Olson, Shobe, Crump, Quintero and Francis. Motion carried.

PRE-DETERMINATION SETTLEMENT

LCHR No.: 11-1011-017-H

A motion was made by Commissioner Crump and seconded by Commissioner Cooper to accept the pre-determination settlement agreement as presented.

Hearing no discussion, Chairperson Francis asked for the roll call. Voting "aye" was Commissioners Rodriguez, Cooper, Reece, Olson, Shobe, Crump, Quintero, Oldfield and Francis. Motion carried.

LCHR No.: 11-1014-035-E-R

A motion was made by Commissioner Crump and seconded by Commissioner Reece to accept the pre-determination settlement agreement as presented.

Hearing no discussion, Chairperson Francis asked for the roll call. Voting "aye" was Commissioners Cooper, Reece, Olson, Shobe, Crump, Quintero, Rodriguez, Oldfield and Francis. Motion carried.

ADMINISTRATIVE CLOSURE/FAILURE TO COOPERATE

LCHR No.: 11-0518-022-E-R

A motion was made by Commissioner Oldfield and seconded by Commissioner Reece to accept the administrative closure/failure to cooperate as presented.

Hearing no discussion, Chairperson Francis asked for the roll call. Voting "aye" was Commissioners Reece, Olson, Shobe, Crump, Quintero, Oldfield, Rodriguez, Cooper and Francis. Motion carried.

ADMINISTRATIVE CLOSURES/NOTICE OF RIGHT TO SUE

LCHR No.: 11-0428-017-E-R

A motion was made by Commissioner Crump and seconded by Commissioner Oldfield to accept the administrative closure/notice of right to sue as presented.

Hearing no discussion, Chairperson Francis asked for the roll call. Voting "aye" was Commissioners Shobe, Crump, Quintero, Oldfield, Rodriguez, Cooper, Reece and Francis. Motion carried.

LCHR No.: 11-0712-030-E-R

A motion was made by Commissioner Crump and seconded by Commissioner Olson to accept the administrative closure/notice of right to sue as presented.

Hearing no discussion, Chairperson Francis asked for the roll call. Voting "aye" was Commissioners Shobe, Crump, Quintero, Oldfield, Rodriguez, Cooper, Reece, Olson and Francis. Motion carried.

OLD BUSINESS:

A. Update on Hiring of Human Rights Director

Rod Confer reported candidates have been interviewed for the director position. Three have been selected for the final candidates and will be interviewed by the Mayor. A new director is expected to be on board in the near future.

At this time Commissioner Rodriguez asked to be excused from the remainder of the meeting due to another commitment.

B. Commission Initiated Complaint Procedure

Jocelyn Golden stated the revisions have been completed and were sent to each of the Commissioners for their review. Discussion ensued and several Commissioners did comment they were pleased with the changes and were in agreement with the revisions.

A motion was made by Commissioner Francis and seconded by Commissioner Reece to accept the revised Commission Initiated Complaint Procedure.

Hearing no further discussion, Chairperson Francis asked for the roll call. Voting "aye" was Commissioners Crump, Quintero, Oldfield, Cooper, Reece, Olson, Shobe and Francis. Motion carried.

NEW BUSINESS

A. Friends of the Lincoln Commission on Human Rights

Jocelyn Golden informed the Commission that the Friends of the Lincoln Commission on Human Rights is a non-profit organization that was formed a few years ago to help fund raise for the Commission on Human Rights. Those funds were used for the Human Rights Conference each year. At this time this organization has gone on inactive status due to nonpayment of occupation tax. A letter has been sent to the Chairperson of this nonprofit organization that if it would go into an active status the Commission was not authorizing the use of the Commission's name for fund raising. At this time there are not any plans for a spring Conference.

B. Surveys

Angela Lemke told the Commissioners the surveys that were included in the their packets were only the ones that were returned with comments. She added she felt it was important for the Commissioners to see these comments and future survey results will be sent out quarterly.

C. HUD Performance Audit Results

Lemke explained that every year HUD does an audit to determine if the Commission on Human Rights is equivalent to the Fair Housing Act and that we are doing our job. She went on to report that Commission has met all the performance assessments and we continue to have a HUD grant.

D. ADAAGuidance

Margie Nichols informed the Commissioners that these guidelines are for them to read and will help them with the major changes that have been put in place. Commissioner Francis suggested that once the new Director is hired that a workshop be held to go over these important issues.

E. Officer Nominations

A nomination was made by Commissioner Cooper and seconded by Commissioner Reece to elect Commissioner Crump as Chairperson for the Commission on Human Rights.

Hearing no further nominations, Commissioner Crump was accepted as the new Chairperson for the Commission on Human Rights.

A nomination was made by Commissioner Olson and seconded by Commissioner Quintero to elect Commissioner Rodriguez as Vice-Chairperson for the Commission.

Hearing no further nominations, Commissioner Rodriguez was accepted as the new Vice-Chairperson for the Commission on Human Rights.

F. Farewell and Thanks to Commissioner Cooper

Commissioner Francis extended her appreciation for all of Commissioner Cooper's service to the Commission and to the City on behalf of everyone from the Commission on Human Rights.

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PUBLIC COMMENTS: None

Next Meeting: The next meeting will be held on Thursday, January 26, 2012 at 4:00 p.m. in the City Council Chambers at the County City Building at 555 S. 10th Street.

ADJOURNED: The meeting adjourned at 5:49 p.m.