

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

THURSDAY, March 31, 2011
CITY COUNCIL CHAMBERS
555 S. 10TH STREET

The March 31, 2011 meeting of the Commission on Human Rights was called to order at 4 p.m. by Vice-Chairperson Gene Crump.

ROLL CALL:

The roll call was called and documented as follows:

MEMBERS PRESENT:

Commissioners: Jose Quintero, Hazell Rodriguez, Sue Oldfield, Mary Reece, Takako Olson, Karla Cooper and Gene Crump, Vice-Chairperson. Quorum present.

MEMBERS ABSENT:

Commissioners: Dick Noble and Wendy Francis.

STAFF PRESENT:

Angela Lemke, Margie Nichols, Regina Grant, Loren Mestre-Roberts, Cori Curtis, Rod Confer and Janice Folkner.

APPROVAL OF FEBRUARY 24, 2011 MINUTES:

A motion was made by Commissioner Rodriguez and seconded by Commissioner Oldfield to approve the minutes of the February 24, 2011 meeting as presented.

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

APPROVAL OF MARCH 31, 2011 AGENDA:

A motion was made by Commissioner Cooper and seconded by Commissioner Reece to approve the March 31, 2011 meeting agenda as presented.

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

CASE DISPOSITIONS:

LCHR No.: 10-0603-025-E-R

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

Discussion ensued. Commissioner Rodriguez asked about the information that the Complainant was specifically asked not to share with anyone. Investigator Lemke stated that she was not informed of the specific details of this situation, but did say that it had to do with the prior supervisor handling a situation incorrectly with the Complainant and a customer complained after overhearing it. She went on to say the prior supervisor did end up losing his job and the Complainant was sharing this information with other co-workers after being instructed to not say anything to anyone.

Rodriguez asked if there was any clear evidence as to when the Respondent found out that the Complainant had a lifting restriction, other than from the prior supervisor that was terminated. Lemke stated that it is undisputed by both supervisors that the Complainant had a lifting restriction, but the second supervisor said he actually found the doctor note in the file after the Complainant filed the complaint, after her termination.

Rodriguez then asked about the letter she received stating that she was to be back to work on April 24, 2010, but she did not go back until April 26, 2010 and the supervisors were still willing to take her back at that time. Lemke stated that was correct, but the Complainant alleges that she attempted to be put back on the schedule for two weeks prior to that return date, alleging the manager was causing the delay. Rodriguez questioned if the Complainant gave a reason as to why she had limited availability when the manager tried to contact her. Lemke stated that it was unclear as to why. Lemke also said the Respondent alleged there were issues prior to her leave, of not clocking out or not coming in until after dropping her children off at school.

Voting “aye” on the motion for a finding of **No Reasonable Cause** was: Commissioners Oldfield, Cooper, Quintero, Reece, Olson, Rodriguez and Crump. Motion carried.

LCHR No.: 10-0609-026-E

Having a conflict of interest, Commissioner Crump stepped out of the Council Chambers while the case was discussed.

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

Discussion ensued. Commissioner Rodriguez asked if it was accurate the Complainant was already performing several of the duties of the position that she applied for because the person in charge was absent for a period of time. Lemke replied that this was true and that some of the other Assistant Directors took over in his absence as well. Lemke went on to explain that even prior to the Executive Director's resignation he maintained a position within another organization that caused him to be absent or involved in other duties for this organization, therefore requiring the Complainant to step up and do many of his duties including eligibility ruling and interpreting the by-laws, signing paychecks, writing other expenditure checks as well as several other duties. Rodriguez asked if these duties would be qualified to be included in budgetary, administrative and legislative issues. Lemke explained the Respondent states the budgetary experience they were looking at involved drafting the budget and overseeing the budget.

Rodriguez asked if they could have chosen the Complainant to fulfill this position on an interim basis without having to go through the application process. Lemke stated that they would have had the authority to do that, but the Respondent informed her that they wanted to open it up to get a broader range of applicants. Rodriguez stated that the evidence shows that for many years there has not been women placed in these positions who actually would have been qualified to hold this position. Rodriguez further asked if there is any analysis that could be done on some kind of disparate impact theory. Lemke felt the only thing she could conclude was that they seemed to favor superintendents for this position, but in talking to the staff, their feeling is superintendents do not necessarily hold the qualifications that make them the best qualified person for the job. Lemke stated there was a retired superintendent female that was scored second in the rating, so that may also skew the disparate impact theory because it is mainly about statistics.

Lemke asked the Commissioners if they wanted to table this for consideration on the disparate impact theory and further analysis.

A motion to withdraw the previous No Reasonable Cause motion was made by Commissioner Olson and seconded by Commissioner Reece. A motion to table the case for consideration of further information was made by Commissioner Rodriguez and seconded by Commissioner Reece.

Discussion ensued. Commissioner Olson asked Investigator Lemke what other kind of information she would be able to gather. Lemke explained disparate impact is when an organization has a neutral policy that has a disparate impact on a certain protective class and the organization is unable to show that neutral policy has a business necessity. Lemke further stated that it may come down to statistics and how big of an impact this particular neutral policy has and how much it is business related. Commissioner Cooper asked if there is a specific education requirement for this position. Lemke said the minimum requirement is a masters degree. Commissioner Crump returned for the vote.

Hearing no further discussion, Executive Director Confer asked for the roll call. Voting “aye” for the motion to table the case for consideration of further information was: Commissioners Cooper, Quintero, Reece, Olson, Rodriguez and Oldfield. Abstaining was: Commissioner Crump. Motion carried.

LCHR No.: 10-0909-041-E-R

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

Hearing no discussion, Vice-Chairperson Crump asked for the roll call. Voting “aye” on No Reasonable Cause was: Commissioners Quintero, Reece, Olson, Rodriguez, Oldfield, Cooper and Crump. Motion carried.

LCHR No.: 10-0921-045-E-R

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

Discussion ensued. Commissioner Rodriguez inquired if the conversation that the Complainant and Respondent had was video taped and not any audio. Investigator Nichols confirmed that this was true, strictly video. Rodriguez asked if the complainant appeared upset in the video during the conversation. Nichols replied that she did not and the video was clear with a fairly good view of the Complainant and the back of the Respondent. Nichols did state that by the end of the video it appeared to her that the Complainant was becoming upset, but did not indicate a high level of frustration as the Complainant had indicated. Rodriguez then stated it seemed odd that both the sister and the boyfriend would both quit their jobs for apparently no reason. Nichols replied that the boyfriend indicated his leaving had little to do with the Complainant’s allegations and that he had received a job offer to work with a relative.

Hearing no further questions, Vice-Chairperson Crump asked for the roll call. Voting “aye” on No Reasonable Cause was: Commissioners Reece, Olson, Rodriguez, Oldfield, Cooper, Quintero, and Crump. Motion carried.

PRE-DETERMINATION SETTLEMENT AGREEMENTS:

LCHR NO.: 11-0216-005-H

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

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

ADMINISTRATIVE CLOSURES/WITHDRAWALS:

LCHR NO.: 11-0218-006-H

A motion was made by Commissioner Reece and seconded by Commissioner Olson to accept the administrative closures/withdrawals.

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

OLD BUSINESS:

A. Progress Report on Human Rights Space

Rod Confer stated the contractor has punched through the wall on the third floor hallway and construction has definitely begun and is slowly beginning to take shape. The contractor is projecting completion in approximately five weeks and hopefully the investigators will be starting to move in mid-month of May. Rod said he will confirm if a tour of the new offices can be set up for the Commissioners before the next Commission meeting in April.

B. Annual Report

Nichols pointed out in this year's annual report all of the past years Commissioners from 1963 to present were listed. Also, the number of cases closed for this year was 91. Lemke further stated that not only were there 91 cases closed for the year, but the actual cases filed for the year were 92.

NEW BUSINESS:

A. Report on 2011 Civil Rights Conference

Lemke stated the conference evaluation results were handed out to the Commissioners for their review at their convenience. Commissioner Crump said he felt the conference was very informative, friendly and very inviting. Commissioner Reece also said there were excellent speakers all the way through and hopes they will come back next year. Credit was extended to the Human Rights staff for all their hard work putting together a very successful 2011 Civil Rights Conference. Job well done!

Commission on Human Rights

March 31, 2011

Page 6

Lemke then introduced Human Rights's intern, Cori Curtis. Cori is a graduating senior at the University of Nebraska-Lincoln, double majoring in international studies and political science. His minors are in communication studies, human rights and humanitarian affairs.

PUBLIC COMMENTS: None

Next Meeting: The next meeting will be held on Thursday, April 14, 2011 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 4:40 p.m.