CALL TO ORDER:
The May 26, 2016, meeting of the Commission on Human Rights was called to order at 4:05 p.m. by Bennie Shobe, Chair.

WELCOME AND SWEARING-IN OF NEW COMMISSIONERS:
Nichols welcomed two new commissioners to the Lincoln Commission on Human Rights. The city clerk performed the swearing-in for the new members: Tom Beckius and Carlos Garcia.

ROLL CALL:
The roll call was called and documented as follows.

MEMBERS PRESENT:
Commissioners: Bennie Shobe (Chair), Amanda Baron, Susan Oldfield, Jon Rehm, and Melanie Ways. Quorum present.

MEMBERS ABSENT:
Commissioners: Elizabeth Kennedy-King and Micheal Q. Thompson.

STAFF PRESENT:
LCHR: Margie Nichols, Abigail Littrell, Francisca Beltran, Jocelyn Golden and Peg Dillon.

APPROVAL OF APRIL 21, 2016, MINUTES:
A motion was made by Ways and seconded by Oldfield to approve the minutes of the previous meeting.

Hearing no discussion, Chairperson Shobe, asked for the roll call. Voting “aye” was: Shobe, Baron, Oldfield, Rehm, and Ways. Motion carried.

APPROVAL OF MAY 26, 2016, AGENDA:
A motion was made by Baron and seconded Shobe to approve the meeting agenda.

Hearing no discussion, Chairperson Shobe, asked for the roll call. Voting “aye” was: Shobe, Baron, Oldfield, Rehm, and Ways. Motion carried.
CASE DISPOSITIONS:

**LCHR #15-1221-045-E-R**
A motion was made by Oldfield and seconded by Baron to recommend a finding of **no reasonable cause**.

Shobe asked if there was any other evidence Complainant was discharged on the basis of race aside from one racial slur alleged to have been when the Complainant was not present. Nichols said one witness that was interviewed related that the racial slur was used behind the Complainant’s back more than once, but nothing was ever said directly to the Complainant.

Shobe asked if the Complainant should still have had health insurance coverage with his membership in the old Union. Nichols said as a member of the new Union the Complainant would have had insurance if he had completed the paperwork to join the new Union. Oldfield asked if it was clearly explained to the Complainant that he needed to change Union membership in order to keep his insurance. Nichols replied that Respondent held meetings and distributed information about the change. According to the Complainant, he thought he could chose to stay in the old Union.

Shobe asked about a co-worker’s comments that the Complainant was being ‘picked on’. Nichols said there was a subcontractor who said he observed the Complainant being treated poorly. Shobe asked if there was evidence that the treatment was due to his race. Nichols said the subcontractor stated he didn’t believe it was because of Complainant’s race.

Hearing no further discussion, Chairperson Shobe, asked for the roll call. Voting “aye” was: Shobe, Baron, Oldfield, Rehm, and Ways. Motion carried.

**LCHR #15-1231-047-E-R**
A motion was made by Oldfield and seconded by Ways to recommend a finding of **no reasonable cause**. Oldfield and Ways withdrew the motion.

A motion was made by Rehm and seconded by Shobe to recommend a finding of **no reasonable cause** on the first allegation that the Respondent intentionally discharged Complainant on the basis of age.

Shobe said it was obvious the majority of employees discharged in the reduction in force were over age 40. Rehm said he was also concerned about the age issues, but since the Complainant was hired after the age of 40, there was some question whether the Respondent intentionally discharged the Complainant based on age.

Hearing no further discussion, Chairperson Shobe, asked for the roll call. Voting “aye” was: Shobe, Baron, Oldfield, and Ways. Voting no was Rehm. Motion carried.
LCHR #15-1231-047-E-R cont.
A motion was made by Rehm and seconded by Ways to recommend a finding of reasonable cause that Respondent’s policies, practices and methods for determining who was discharged in the reduction in force had an unlawful impact on employees over age 40.

Rehm said he was concerned that most of the employees affected by the layoffs were age 60 or over. Littrell said in order to find disparate impact, there must be a neutral policy or practice that had an unintentional disparate impact on employees in the protected class. Littrell said she found no uniform neutral policy applied to all employees. Rather it appeared the Respondent used different factors for each discharge. Rehm commented that the investigation gave too much deference to Respondent’s defense.

Oldfield asked how long Respondent took to determine who would be discharged. Littrell replied the decision was made between October and November. Littrell clarified by saying that the Commissioners should decide if they believe the Respondent did not intend to discriminate but the Respondent’s policy had a disproportionate impact on protected employees.

Hearing no further discussion, Chairperson Shobe, asked for the roll call. Voting “aye” was: Shobe, Baron, Rehm, and Ways. Voting no was Oldfield. Motion carried for reasonable cause.

LCHR #16-0126-003-E-R
A motion was made by Shobe and seconded by Oldfield to withdraw case # 16-0126-003-E-R from the agenda.

Hearing no discussion, Chairperson Shobe, asked for the roll call. Voting “aye” was: Shobe, Baron, Oldfield, Rehm, and Ways. Motion carried.

LCHR #16-0115-001-E-R
A motion was made by Baron and seconded by Ways to recommend a finding of no reasonable cause.

Nichols was asked about the timing of the Complainant’s allegations against the supervisor. She stated the Respondent’s evidence showed that at the time of the alleged incident, the supervisor had not yet started working as Complainant’s direct supervisor. Nichols said the supervisor stated she didn’t meet the Complainant until several weeks after the date Complainant made the allegation.

Hearing no further discussion, Chairperson Shobe, asked for the roll call. Voting “aye” was: Shobe, Baron, Oldfield, Rehm, and Ways. Motion carried.
LCHR #16-0122-002-E-R
A motion was made by Ways and seconded by Baron to recommend a finding of no reasonable cause.

Ways inquired whether Respondent’s return policy was applied to customers as well. Littrell replied that they had a specific return policy for employees because of the discount they received. Baron asked about the discipline policy and Littrell confirmed that the violation of the return policy could result in termination of the employee. Littrell said in addition to the comparator discussed in the investigative report, another employee, prior to Complainant, was discharged for wearing a watch at work that she later tried to return.

Shobe asked for clarification on how religion and national origin affected this case. Littrell advised that religion and national origin were listed separately because the Complainant asserted religion was the reason for the discharge.

Hearing no further discussion, Chairperson Shobe, asked for the roll call. Voting “aye” was: Shobe, Baron, Oldfield, Rehm, and Ways. Motion carried.

LCHR #16-0126-004-E-R
A motion was made by Oldfield and seconded by Shobe to recommend a finding of no reasonable cause.

Ways asked for clarification on why the new employees were required to acquire DOT certifications without restrictions. Nichols explained that because the Respondent is registered as a foreign corporation, it required employees to hold interstate CDL licenses with no restrictions in order for employees to drive their vehicles.

Rehm commented that the Complainant’s failed medical exam for the CDL was the reason he was discharged. Rehm also commented that the doctor performing the examination may have a conflict of interest and the process left room for abuse. There was discussion about whether the doctor uncovered a disqualifying disability that would not have been detected by another physician.

Hearing no further discussion, Chairperson Shobe, asked for the roll call. Voting “aye” was: Shobe, Baron, Oldfield, Rehm, and Ways. Motion carried.

PRE-DETERMINATION AGREEMENTS:

LCHR #15-0909-017-H
A motion was made by Oldfield and seconded by Ways to recommend approval of the pre-determination settlement agreement.
Hearing no discussion, Chairperson Shobe, asked for the roll call. Voting “aye” was: Shobe, Baron, Oldfield, Rehm, and Ways. Motion carried.

SUCCESSFUL CONCILIATION AGREEMENTS:

**LCHR #15-1016-036-E**
Rehm recused himself and left the room due to conflict of interest.

A motion was made by Baron and seconded by Ways to recommend approval of the Conciliation Agreement.

There was discussion about the amount of the conciliation.

Rehm returned to the meeting room.

Hearing no further discussion, Chairperson Shobe, asked for the roll call. Voting “aye” was: Shobe, Baron, Oldfield, and Ways. Abstaining was Rehm. Motion carried.

ADMINISTRATIVE CLOSURES:

**LCHR #16-0329-012-E-R**
A motion was made by Oldfield and seconded by Baron to recommend approval of the Administrative Closure to be deferred to the EEOC.

Hearing no discussion, Chairperson Shobe, asked for the roll call. Voting “aye” was: Shobe, Baron, Oldfield, Rehm, and Ways. Motion carried.

OLD BUSINESS:
Outreach
Beltran updated the Commissioners on her outreach activities: LPS, various community centers, Good Neighbor Center and Karen Community. Beltran said she would like to get some of the LCHR brochures translated to Karen. She is looking for volunteers to do the translation.

Juneteeth is approaching soon and Star City Pride will be July 8th & 9th. Commissioners were asked if they were interested in volunteering and staffing the booth at Star City Pride event. The Health Department will sponsor a car seat fit event.

Shobe announced there is a call for volunteers at a Nelson Mandela Birthday event.

NEW BUSINESS:
HUD partnership funds request
Nichols updated the Commissioners on a call for outreach proposals from HUD. LCHR’s partnership fund request was approved and LCHR was awarded $22,500 toward proposed activities to increase outreach and activities to underserved populations utilizing a targeted advertising campaign and coordinating with Community based and Faith based organizations.
LCHR also received $1,000 to work on employment outreach.

Travel updates: Taylor-Riley is in Virginia at the National Consortium on Racial and Ethnic Fairness, Littrell just returned from week three of Fair Housing Training, Nichols will be in Denver for National ADA symposium and in July, Nichols will attend the FEPA EEOC conference in New Orleans.

National Fair Housing Training Academy is working on creating training geared toward Commissioners.

PUBLIC COMMENT:
No public comment.

The meeting was adjourned at 4:58 p.m.

Next Meeting:
Thursday, June 30, 2016, at 4:00 p.m.
555 S. 10th Street, 1st Floor, Council Chambers