

ALEXANDRIA HUMAN RIGHTS COMMISSION
MINUTES OF THE MEETING OF TUESDAY, NOVEMBER 19, 2019
7:00 p.m., City Hall
301 King Street, Room 2000
The Chet and Sabra Avery Room

Members Present

Amy Blackwood, Vice Chair
Francisco Durán, Chair
Kevin Edwards
Matt Harris, Vice Chair
Alex Howe
Michael Kreps
David Rigsby
Scott Schwartz

Staff Present

Jean Kelleher
Miladis Martinez Gutierrez

Members Excused

Danielle Beach
Damien Hammond, Sr
Christopher Harris
Susan Kellom

Guests:

Joanna Anderson, City Attorney
Karen Snow, Senior Assistant City Attorney
Michael Sindram

1. Call to Order/Introductions by Chair, Francisco Durán

Chair Durán called the meeting to order at 7:06p.m. Introductions were made. Chair Durán welcomed Alex Howe and Kevin Edwards. Alex Howe stated that he is the liaison from the Landlord and Tenant Relations Board. Mr. Edwards gave a brief statement on his background and said that he had just moved here about three months ago from Norfolk and said that he had graduated from the Naval Academy, undergrad. He said that he is working for the Metropolitan Washington Council of Governments (COG) in D.C. and said that he wants to get involved in his community.

2. Approval of Minutes of October Meeting

Upon a motion by Commissioner Vice Chair Harris, seconded by Commissioner Rigsby, the Commission approved the minutes of the October meeting. All Commissioners present voted aye and two abstained.

**3. Guests: Joanna Anderson, City Attorney
Karen Snow, Senior Assistant City Attorney**

Chair Durán welcomed guests Joanna Anderson and Karen Snow from the City Attorney's office. City Attorney Joanna Anderson stated that she was appointed by City Council about a year ago and said that she has been with the City Attorney's office since 2001. She said that she started with the City Attorney's office as a legal intern and was still going to law school at night; she graduated and became an attorney in the office. She said that she left to a private law firm and then came back to the City in 2010. Karen Snow stated that she is a Senior Assistant City Attorney with the City Attorney's office and said that she has been with the office since 1991 and added that she is the Human Rights Commission's counsel.

Ms. Anderson stated that there are twelve attorneys including herself in the office and said that they all represent different departments within the City. She added that the City Attorney's office represents City Council, all the Boards and Commissions, the City Manager and all the City Departments.

She stated that their office does a very wide range of work from litigation, dealing with claims against the City, to general advice on contracts and general advice to any department making any decision that they need to make within their daily operation. Commissioner Howe asked if there is an attorney assigned to the Office of Housing and the Housing Board? Ms. Anderson stated that Christina Zechman Brown is the attorney for the Office of Housing. Director Kelleher stated that there are also City Attorneys who work on the discrimination cases that are brought by employees against City Departments, while we have a general counsel for our office, we maintain confidentiality with those cases, but there are at least two attorneys in the office who work on behalf of the departments against whom the complaints are filed. She added that the Human Rights office does the administrative process, the office does not represent either party, but it requires a high level of professionalism in order to maintain that confidentiality.

Vice Chair Harris asked City Attorney Anderson if they use outside counsel. Ms. Anderson stated that they do use outside counsel, mostly they have to use outside counsel in cases were either the litigation is such a heavy load, like it might have a lot of discovery and they can't handle that kind of case load in their office or if it is about a specific matter that is something that they don't have the expertise for. Commissioner Howe asked if the halal poultry butchery house or the Seminary Road bike lanes cases are being handle by outside counsel. Ms. Anderson said that there is no litigation for the Seminary Road situation, but the halal chicken butchery does have litigation, and this is a case that they had to get outside counsel. She also added that right now they have eight pending land use cases, which is very unusual for their case load, and so they can't handle them in-house. She said that normally, they have an average of four land uses cases a year, so it is a little bit heavier right now.

Ms. Anderson talked about the Dillon Rule, and said that the Dillon Rule is the rule that says that localities can only do what the State has given them the authority to do. Whereas in Home Rule states, localities can do anything as long as the State has not told you, you cannot. In Virginia, we cannot do anything unless the State has told us we can do it. She said that, because we are a City, there two different ways that we get authority, and it is either through the General State Code or through the Charter that was adopted by the General Assembly. She also added that the authorization and the interpretation of those two different ways the law can come to us works, is that the more specific governs. So, often the Charter is going to be more specific, because that was written specifically for Alexandria. Sometimes there will be something that is in the State Code that is about a specific matter that is not addressed in our Charter, so we have to go by the State code. She said that they always have to look at both, and they usually start with charter to see if it addressed there and then go to the State Code.

She stated that when Alexandria first adopted its Human Rights Code and established the Commission, it was done under the authority of the Charter. The State Human Rights Act was adopted and in 1988 Sexual Orientation was added. It was in 1997 when they did the language

that gave localities the authorization to adopt their own Human Rights Code, because first the State established their own Human Rights Act, which didn't say whether localities could do it or not. Then later the other section was adopted saying that localities had the authority to adopt their own Human Rights Code and establish their own Human Rights Commission. Ms. Anderson stated that Alexandria adopted its original Human Rights Code under general authority, now the State code is more specific. She added that Alexandria added sexual orientation to its code before the enabling legislation came along, it was done pursuant to our charter authority, not pursuant to the State's authority, so that is a little bit in flux, and it is in flux for the same reasons that adding other types of status under gender or transgender, gender identity status will be, because now we have to go under the enabling legislation. The enabling legislation specifically states that a human rights code can be established, as long as it is not more stringent, and it is consistent with the State Code.

Ms. Anderson stated that what the term "sex" means in these human rights codes is being litigated right now in the Federal Courts and has gone up to the Supreme Court to determine what was intended by that - was it intended to be a broad term or was it intended to be limited to what the writers, at the time that they wrote that term, understood. Commissioner Schwartz asked if any pending litigation in Virginia is there to assess what the meaning of "sex" is? Ms. Anderson stated that there is no pending litigation that she is aware of in Virginia. She said that one of the reasons why it is informative is because in the Virginia Human Rights Code is basically saying that it doesn't take away any rights that they have under the Federal Law, it is incorporating the Federal Law into the Virginia Human Rights Act.

Chair Durán ask if there has been any discussion on any potential changes to the Dillon Rule. Ms. Anderson stated that she has not heard anything about overturning the Dillon Rule. Commissioner Schwartz asked if the Commission could come to the City Attorney's office and asked them to look at the implication of changing the Dillon Rule. Ms. Anderson stated that, that is a role of the City Council to make a decision as to whether the City wants to make it a priority or not. She said that, as a Commission, they can tell City Council that they believe that this should be looked into and City Council can ask her to research it for them and see if there is something that they want to put in their legislative package at some point. Commissioner Schwartz asked if this Commission requested City Council to offer an opinion on the implication of the removal of the Dillon Rule. Ms. Anderson said that the Commission would have to contact City Council and City Council will have to direct the City Attorney's office. Commissioner Howe asked if the Dillon Rule is actually a law? Commissioner Schwartz explained that the Dillon Rule is constitutional provision. Director Kelleher stated that it is important right now to be working on the whole issue of gender. Ms. Anderson stated that adding gender or any kind of status that is not directly allowed from the Virginia State Code could be a risk. Vice Chair Blackwood asked would there be any appetite for trying to add gender identity to the Code and then litigate the issue. Ms. Anderson stated that it is her role to let City Council know what its risks are, and City Council has to make the decision as to whether that is something they want to take on; and added that she thinks that this is something that City Council is discussing.

Vice Chair Harris asked Ms. Anderson what the diversity level of her office is like. Ms. Anderson stated that she thinks they are pretty diverse and said that recruiting is not easy. She

said that she tries to find ways to advertise everywhere so that she can get as many candidates as she can, but recruiting has been so hard lately. Commissioner Howe asked where the equity office will sit. Director Kelleher stated that the equity office will be in the City Manager's Office. Commissioner Schwartz asked if Alexandria is a sanctuary City. Ms. Anderson stated that the City is not a sanctuary City. Commissioner Schwartz asked what the basis for the City's determination is that it is not a sanctuary City. Ms. Anderson stated that City Council had passed a resolution that indicated that we are an inclusive and welcoming City, but we did not direct the localities to not follow the Federal laws. Commissioner Edwards asked is there any mechanism available to the Commission in order to hear a complaint from a citizen and do something to help the citizen. Commissioner Schwartz stated that the primary thing that the Commission does is to inform the citizens. Director Kelleher stated that if a case is filed the office has the authority to investigate the case. The office also conducts referrals and suggest resources to help individuals who call and are not making a complaint of discrimination. Chair Durán thanked City Attorney Joanna Anderson and Senior Assistant City Attorney Karen Snow for their presentation.

4. Executive Committee Report

Chair Durán stated that the Executive Committee did not meet this month.

5. Old & New Business

Chair Durán stated that the Police ride-alongs are being scheduled and encouraged Commissioners to sign up for the ride-alongs. He stated that he did his ride-along on Sunday.

Director Kelleher stated that the Police Chief will be coming to the December meeting. Commissioner Schwartz asked to receive any PowerPoint handouts before the meeting. Director Kelleher will communicate with the Chief of Police to ask to get the handout in advance.

Equity

Director Kelleher stated that they had the interviews for the equity officer position and said that there were four candidates. She said that Chair Durán was on the Community panel. She said that the candidates met with formal City panel and then with the Community panel. She stated that the recommendation of the formal panel was to move two candidates forward and said that as far she knows there have been interviews with the City Manager and the Deputy City Managers; she thinks that they are doing background checks now and is optimistic that the person will be hired and there will be an announcement very soon.

Equal Justice Initiative

Director Kelleher stated that last Saturday they had the second Public Meeting for the Equal Justice and Vice Chair Harris attended the meeting. She said that next public meeting will be scheduled for January. She said that the model seems to be that they will have a compelling speaker at the public meetings. She added that everyone seems to be wanting more structure locally. She explained that this initiative is based on the Equal Justice Museum in Montgomery Alabama. She stated that Committees have been established and they each have met once, some of the committees are Marketing, Fundraising, Coordinating, Schools, Programing and Education.

Universal Representation RFP

Director Kelleher stated that Mo Seifeldin was pushing, at the last budget cycle, during the add/delete session, to add funding to represent undocumented persons who are facing deportation. The Universal Representation model is a due process model, it is for individuals who have not been adjudicated at all, but suddenly might be facing deportation. If they qualify for legal services through a non-profit provider, the City has set aside some money for individuals who reside in Alexandria. She said that she has been working on it and learned how to do a grant RFP, which is done, and is posted on the website. She said that they are reaching out to Bar Associations and legal services providers; the money will be awarded probably in December.

Chair Durán stated that the Chair for the Commission on Women shared with him that they are having a youth member added to their Commission. The Commission for Women took it to City Council and just passed and he would like for the Human Rights Commission to have a conversation about the possibility of having a youth member to be a part of the Commission and would like to put on the agenda for a discussion item.

Director Kelleher stated that Investigator McClure attended a Youth Leadership Forum this summer with some of the DCHS staff and she talked about what the Office and the Commission do and asked for some of their input and the responses were phenomenal.

6. Liaison Reports

Commissioner Kreps stated that they had great scooter debate and said that they had a split vote on whether scooters should be allowed on the sidewalks. He said that Commission on Aging is making a recommendation to City Council on their position that scooters should not be allowed on sidewalks.

Commissioner Howe from Landlord and Tenant Relations Board stated that relocation, compensation, and assistance that has been given to occupants of a boarding house that was on land that was scheduled for redevelopment. He said that the main discussion was follow up on that. He explained that there is a set of buildings that are being turned into a thirty-one-unit multifamily building, but the issue is that there is a twelve-room boarding house there. None of this was mentioned before during the development process, when the developer went in to get the permits. It was never brought up until it went to City Council and the developer was asked what was going to be done with people at the boarding house. The developer said that it wasn't on the contract, so it wasn't their problem. City staff, at the last minute, had to pull together this package for the people who are living there, for relocation assistance, because a lot of them are either not working or working very low paying jobs. The discussion was that the Office of Housing wants to come back to Landlord and Tenant Board with policy changes to hopefully improve the enforcement and protections for people in specific circumstances like this. Specifically, when you are in a place that is very hard to find, because the rent was so intensively cheap. The room rent was about \$300 dollars a month for being in this boarding house.

He said that they have been discussing the voluntary rent increase guidelines that the City has, which is a recommended rent increase every year for residential properties. This is usually used

in a lot of cases in dispute. He said that City Council and City staff decided that they want to change how that is being handled.

7. Announcements /Adjournment

Director Kelleher announced that there a fundraiser tomorrow night for the new organization for Safe Communities on sensible gun control. Chair Durán announced that the Northern Virginia Juvenile Detention Center is having series of community meetings, and they are doing a comprehensive analysis and study on the operational cost and the fact that they are having less juveniles being sent there. They are discussing the possibility of closing the center and having the youth go to another center in northern Virginia. One of the meetings is tomorrow night from 7-8:30 p.m., at the Lee Center and they have one on Thursday from 7-8:30 p.m. in Arlington, at their Central Library. He added that if they can't attend the meeting there is a link and there is an online survey for people who want to comment.

Chair Durán announced that the Children and Youth Master Plan is having a kickoff on December 11, at 6:00 p.m. in City Hall.

Michael Sindram addressed the Commission about a case that he filed with the Alexandria Office of Human Rights. He stated that he wants to file an appeal with the Commission about the determination on his case. Mr. Sindram asked the Commission to ask Commonwealth's Attorney Bryan Porter to contact him. Chair Durán asked Mr. Sindram to submit what he had stated, and the Commission will review all of his follow up questions. Regarding his request that the Commission contact Mr. Porter, Chair Durán stated that the Commission doesn't have jurisdiction over that office and suggested that Mr. Sindram contact Mr. Porter directly.

MOTION: adjourn the meeting.
Kreps/ Matt Harris **PASSED** unanimously
The meeting adjourned at 8:31 p.m.