

PITTSBURGH COMMISSION ON HUMAN RELATIONS

MINUTES

March 3, 1997

Attendance: Harry Kunselman, Chair
Father Lou Vallone
Curtis Smith
Alma Speed Fox
Elizabeth Pittinger
Christine Williams
B. J. Samson
Robert McClenahan
John B. Grice

Staff: Charles Morrison, Director
Connie Miskis Zatek
George Monroe
Kevin Trower, Legal Counsel
Yancy Miles

Guests: Marianne Jackson, Mayor's Office
Dave Goldberg, Controller's Office

I. CALL TO ORDER

The meeting was called to order at approximately 3:35 p.m. by Harry Kunselman, Chair.

II. ADOPTION OF MINUTES

Commissioner Fox asked that a clarification be made on page 3, #9 of the Director's Report in the February 3rd Minutes to identify Formosa Way as being in the Homewood section of the city. With the above clarification noted, the minutes of the February 3, 1997 full Commission meeting were unanimously adopted.

III. COMPLIANCE

George Monroe, EEOC liaison, reported that 69 cases have been reported to date against a contract which requires the processing of 112 cases. Director Morrison indicated that new EEOC guidelines also require that the contract must be completed by June 30 in order to be considered for an increase the following year. Following completion of the 1996 contract, this Commission requested an increase of 45 cases; it received seven additional cases.

IV. STAFF & COMMITTEE REPORTS

A. Director's Report

1. The Commission has received notice from HUD that the recent amendments to the City Code have met their standard of substantial equivalency and they have offered us an interim contract. The necessary legislation to support this will be introduced in City Council next week. Initial reports indicate the Commission may receive upwards of \$100,000 as start-up funds to purchase new equipment, supplies, etc.

2. The Director testified before the Allegheny County Commissioners regarding the KKK in Pittsburgh and asked for a response in action. The Director also met with representatives of Commissioners Dawida and Cramner to explore the feasibility of this Commission expanding its services to include Allegheny County.

3. A counter demonstration against hatred/KKK activities will be held in Market Square on April 5, 1997. The Commission is one of several groups joining with the Coalition to Counter Hate Groups in sponsoring this event called "Not in Our Town."

4. The Director will speak to the National Employment Lawyers Association on March 12 to discuss the new provisions of the City Code. He will also make a presentation in the Bar Association's Brown Bag Series in April.

5. The Commission is co-sponsor with the National Conference of Christians and Jews in presenting two forums in April addressing "Impediments to Fair Housing."

6. The Director continues to meet monthly with the Inter-Agency Task Force on Violence, Drugs and Weapons, sponsored by the Pittsburgh Board of Public Education.

7. A Curfew Advisory Committee has been formed, comprised of six youth and six adults (two from each Zone) selected at random.

8. Under the City Code, the City must provide an attorney to complainants (in housing cases) who have elected to go to court. The Commission Regulations state the case would be certified to the City Solicitor for action, however, the Law Department has advised the Commission that this cannot be done due to financial constraints. As a result, letters were forwarded to a number of civil rights attorneys identified through the Fair Housing Partnership and the Bar Association, to solicit their interest in providing legal services to complainants on a contingency fee basis. Eleven (11) attorneys have expressed an interest. The Law Department has drafted contract language, which has been forwarded to these attorneys for comment. It is anticipated that contracts will be finalized by the end of March.

The Director agreed to send a list of these attorneys to Commissioners for their information. There was some discussion about the possibility of publicly advertising for additional attorneys. The Director indicated that funds are not available at this time for such advertising, but this may be possible later as HUD funds become available, and if more attorneys are needed for the panel.

Discussion also ensued as to Commissioners having an opportunity to participate in the selection process for attorneys appointed to this panel. Commissioner Pittinger suggested that since these contracts would fall under professional services rather than employment, the Budget & Finance Committee should be involved. Commissioner Samson disagreed, noting that the Personnel Committee should be involved. Commissioner McClenahan, chair of the Personnel Committee, stated that he did not view this as a function of the Personnel Committee. Commissioner Vallone agreed, stating that the services are being contracted, not the individual.

Commissioner Grice moved that if funding is involved, this would fall under the auspices of the Budget & Finance Committee. The motion was seconded by Commissioner McClenahan.

Commissioner Fox felt that this panel must represent a diverse group and as a result, suggested that the Personnel work together with the Budget & Finance Committee in identifying selection criteria.

The Chair asked for clarification as to whether the motion included approval to move forward with the existing panel of 11 members. Commissioners responded affirmatively. The motion carried by majority, with Commissioners Fox and Samson in opposition.

B. Budget & Finance Committee

Commissioner Pittinger congratulated staff on securing the HUD contract. She stated that at the time of the budget review in mid-1996, the best projects for funding were estimated at \$80,000; therefore, a contract for \$100,000 is great!

The Committee did not meet in February. Future agenda items will look into purchased services and how much is needed to maintain current levels of operation, etc.

C. Public Relations Committee

The Cable Bureau has recently indicated they estimate their charge for production of six public service announcements will cost approximately \$1100. Due to a shortage of funds, this project has been placed on temporary hold. However, a case is nearing completion in which \$5,000 will be allocated to the Commission as settlement, in addition to free advertising. Once this money is received, production of the public service announcements can begin.

Commissioner Vallone indicated that the content of the public service announcements has been approved. The Committee is now waiting for the technical end to catch up.

V. OLD BUSINESS

A. Outreach Initiatives

A Community Outreach/Youth Summit was suggested by the Budget & Finance Committee, the goal of which is to reduce youth violence. A sub-committee has not been appointed.

With regard to outreach, the Housing Committee is looking to begin a monthly program on housing initiatives in April which will go into each city neighborhood.

The Director is also working with Citiparks to secure a training program for conflict resolution geared for children ages 5 to 13. Suggestions are being reviewed which would involve a weekly theme and activities on a place mat which can be worked into the lunch program. Ideally, Citiparks personnel will be involved in the actual presentations. Funds are needed to train these persons.

Commissioner Smith suggested again pursuing the possibility of coupling this type of program with the NCAA program already in place at the University of Pittsburgh. The Director stated that this program has never been done before and the goal is to start small in 1997 and possibly enlarge the program in 1998.

B. Request of Compliance Review Section RE: Motions Commissioner

As background, the Chair explained that at the February meeting of the full Commission, the Compliance Review Section, via Commissioner Honse, made a motion to ask the Chair to appoint a second Motions Commissioner to handle the disposition of motions at the Compliance Review stage. After discussion, Commissioner Honse withdrew the motion in order to take it back to the committee level for further discussion. Based on an earlier conversation with Commissioner Burstin, chair of the Compliance Review Section, the issue was brought before the full Commission again today for further discussion.

As neither Commissioner Burstin or Commissioner Honse were in attendance to present the formal motion, Commissioner Kunselman stated the minutes of the Compliance Review Section meeting of February 10, 1997, reflect unanimous support for their recommendation. He read that portion as follows:

"Mr. Trower suggested that a motion be worded as follows:

' . . . the Regulations be amended to state that when the Motions Commissioner makes a decision, it is brought before the Compliance Review Section for approval or disapproval. The decision of the Motions Commission will be accompanied by written conclusions of law which provide the basis of that decision.'

"This suggestion was put forth as a formal motion by Commissioner Samson and seconded by Commissioner Pittinger and carried unanimously.

"Commissioner Pittinger moved that the Compliance Review Section recommend to the full Commission that the Chair appoint a free-standing Commissioner. The motion was seconded by Commissioner Fox and carried by majority: 5 in favor and one opposition. Commissioner Burstn stated she voted against the recommendation solely due to the shortage of Commissioners on either Section.

"Commissioner Honse moved that as an alternative option, the Chair be asked to appoint two Motions Commissioners -- one from each Section. This motion was seconded by Commissioner Williams and carried unanimously.

"Commissioner Honse also moved that this item be placed high on the agenda to insure that a significant number of Commissioners are able to participate in the discussion and vote. The motion was duly seconded and carried unanimously.

As further background information, Father Vallone explained the intent of bifurcation. Commissioner Fox moved to adopt the language as reflected in the Compliance Review Section minutes, as read. The motion was seconded by Commissioner Pittinger and the issue opened for discussion.

Discussion Summary:

At the request of the Chair, the Mr. Trower (Legal counsel) stated that he and Byrd Brown have carefully reviewed Lyness and cases which have followed that decision. Mr. Brown's opinion, simply stated, is "if it is not broke, don't fix it."

Mr. Trower explained that Mr. Brown feels strongly that the manner in which the responsibilities of Motions Commissioner have been administered make the current process work so well. The current Motions Commissioner has been diligent in seeing that he has no more contact with the case once a motion is reviewed and therefore, does not compromise the due process rights of any party to a complaint. Mr. Brown has suggested that instead of changing what is already working well, that the Commission continue to hold itself to this very high standard and suggested that when the Motions Commissioner makes a ruling on a matter before the Compliance Review Section, that the decision be accompanied by a written opinion which becomes part of the record. In this way, if either party goes to court on appeal, the rationale for the decision is known.

Currently, the Rules and Regulations state that a decision on a motion which would result in a final disposition must be presented to the Compliance Review Section for approval. Here, the Solicitors suggest that additional language be added to clearly reflect the assumption that the Compliance Review Section may also disapprove of a ruling, and if so, what procedure would be followed.

Father Vallone stated that he discussed this issue with colleagues, including the dean of Duquesne Law School and several lawyers. Their interpretation is somewhat different. According to Father Vallone, the decision to bifurcate the Commission means that the Compliance Review Section cannot be involved in ANY adjudication. Once a motion is lodged, that is a request for adjudication and the Compliance Review Section cannot in any way be involved in the review and ruling of the motion. He agreed that an adjustment must be made in the language of the Regulations at Rule 7C -- to place a period (.) after " . . . must be approved by the Commission's Public Hearing Section." This would mean deleting the remainder of the paragraph which addresses the need for approval by the Compliance Review Section in those instances when a ruling would constitute final disposition of a case. According to Father Vallone, to pass such a motion/ruling on to the Compliance Review Section for approval or disapproval would constitute adjudication and would be in violation of Lyness.

Mr. Trower agreed with this premise only to the extent that the ruling on the motion constituted a final adjudication of the case.

Father Vallone maintained to stay "pure" under Lyness the motion cannot go into the content of a case, but stay with the process. Even so, once a motion is filed, it must move to the adjudicatory side of the Commission -- the Public Hearing Section.

Mr. Trower stated under the process proposed by Father Vallone, if the motion moves to the adjudicatory side and the Motions Commissioner rules to dismiss the motion, it must be voted upon by the Public Hearing Section. If that Section disagrees with the ruling of the Motions Commissioner, it then goes back to the Compliance Review Section and the entire Commission becomes "tainted."

Father Vallone explained that what taints the process under Lyness is function not knowledge of the content of the motion. However, Mr. Trower stated that fairness demands that the finder of fact cannot be exposed to unsworn testimony or evidence not admitted and still sit as a fact finder. He indicated that an attorney could question each Public Hearing panelist as to whether or not they were exposed to evidence, exhibits, or other information relating to the case. If so, a motion could be made at that time to remove those panelists. He disagreed with Father Vallone, stating that when the hearing begins, a Commissioner is tainted if s/he was exposed to evidence or documents, not function.

Commissioner Fox interjected that the exception raised by the Compliance Review Committee was the fact that the Motions Commissioner was ruling on motions and presenting them to the Compliance Review Section without providing necessary background information on the motion/case. Father Vallone stated that he believed the Compliance Review Section needs to be taken out of the process completely, once a motion is filed.

Mr. Trower maintained that the opinion of the legal counsel was that the Commission should maintain the high standard of administering the current process under the Regulations. However, he did agree that Father Vallone makes a good point -- if the motion involves final adjudication of the case.

Commissioner Kunselman asked for clarification of the motion on the floor. Commissioner Fox stated that she had moved to have the Chair appoint a "free-standing" Motions Commissioner. Commissioner Grice stated that his understanding of the motion was for the Commission to accept the full recommendation of the Compliance Review Committee, which also involves the change in language to include "approve or disapprove" a ruling on a motion.

Commissioner Fox indicated that based on the advice of the Solicitor, she wished to withdraw her motion to appoint a "free-standing" Motions Commissioner. For the record, it was noted that Commissioner Pittinger had seconded the original motion.

Father Vallone called for the question. The resulting vote carried by majority: 4 in favor of a "free-standing" Motions Commissioner and 3 against (Vallone, Smith and Kunselman). Father Vallone objected, stating that the Commissioners did not discuss the merits of a "free-standing" Motions Commissioner, only the language and interpretation of the Regulations. The Chair stated that he had opened the floor for discussion prior to the vote, but could not control the content of the discussion.

Commissioner Kunselman stated that he was not prepared to make an appointment for "free-standing" Motions Commissioner at this time. He asked staff to prepare a survey for Commissioners which could indicate their interest in serving in this position.

The Chair also advised Commissioners and staff to take another look at the Rules & Regulations with an eye toward tying up loose ends, specifically what happens if the Commission does not approve the recommendation/ruling of the Motions Commissioner, Public Hearing panel, etc.

Father Vallone objected, noting that the Commission debated this more than three years ago. He felt that continued debate on these issues was not properly serving the needs of the people. Commissioner Kunselman said he shared Father Vallone's frustration and indicated that Commissioners were free to return to Commission meetings in the future with other motions which could possibly reverse today's decision. Commissioner Grice disagreed, stating that his understanding of parliamentary procedure is that once a body has taken action by formal vote, that action cannot be changed merely by taking another vote; further discussion would be ruled out of order.

Commissioner Kunselman stated that he would not prevent any Commissioner from making any motion or entertaining discussion on that motion; he cannot rule on the propriety of a motion unless and until it is made. He also stated that no rule of the Commission is immutable unless it concerns a particular case. Decisions, therefore, can be changed at any time as long as a proper motion is made in accordance with the By-Laws and carried by a majority of those Commissioners present.

Father Vallone stated that according to parliamentary procedure, the same issue can be raised only by someone who was among the prevailing party in the initial vote.

Mr. Trower stated that if the Commission maintains a "free-standing" Motions Commissioner, there is a real concern for the number of Commissioners available to serve on the other sections. He suggested that this position, therefore, be offered on a rotating basis of 90 days or four months, so as not to lose that person's talents for a year or more.

C. Juvenile Curfew

Under the current legislation, the director of the Commission and the Mayor are to form a Curfew Advisory Committee to review the process, etc. six months following enactment of the legislation. This legislation went into effect on November 11, 1996, therefore an report to City Council is anticipated in June of 1997.

It was suggested that the Committee involve youth impacted by the legislation. Therefore, six youth and six adults -- two from each police zone -- were randomly selected from a list of names provided by local community organizations. Alternates for each person are also available. The Director agreed to forward a copy of the list to Commissioners.

The first meeting of the Committee will be held at the Safety Zone in late March. To date, six youths have been brought into the Safety Zone for curfew violations: four were runaways and were re-directed to other facilities for appropriate help.

The Director indicated there is a general feeling that the police are not enforcing this legislation. There are no records generated as to the number of interactions with youth on the street regarding the curfew. As there are no records, there is no way to draw inferences. In addition, the winter weather may have been a deterrent to activity on the street. This may change with warmer weather.

D. Citizen Police Academy

Commissioner Fox reported that this program is great and requested that notice go out to Commissioners who have not yet attended to please do so.

Commissioner Grice moved to adjourn the meeting at 5:35 p.m. The motion was properly seconded and carried unanimously.

MEMORANDUM

TO: Commission Members
FROM: Connie Miskis Zatek *cmz*
Secretary
DATE: February 25, 1997
SUBJECT: MEETING NOTICE

The next meeting of the full Commission is scheduled for 3:30 p.m., Monday, March 3, 1997 in the Commission Conference Room. Enclosed for your information are copies of the following:

- * February Minutes
- * Recent amendments to the City Code (submitted by CHR)
- *

Also, there will be an Executive Committee meeting immediately prior to the full Commission meeting. Officers should plan to arrive by 3:00 p.m.

If you need anything in preparation for this meeting, or if you are unable to attend, please call me at 255-2600.

/cmz

Enclosures

*See B+7 Minutes
Memo: for Com Rev Concerns
re: Role of Motion Chrs.*



City of Pittsburgh Commission on Human Relations

Budget and Finance Committee Report

Meeting held:

12/16/96, 2:00 PM to 3:00 PM

PCHR Office, 9th FL City-County Building

Meeting called by: E.C. Pittinger

Type of meeting: Regular

Attendees: Commissioners Board, Honse, Morgan, Pittinger

ATTENDING: Commissioners Board & Pittinger, Director Morrison

I. The mandated purpose of the Committee was reviewed:

1. Review the Annual Budget
2. Make recommendations regarding financial operations to the full Commission for action and presentation to the Mayor and City Council.

The current process has us backing into numbers rather than prospectively planning and pursuing the funding we need to carry out the mission of the Commission. We need to develop a strategy to allow analysis and relevant forecasting from within the Commission, rather than placing absolute reliance on the general City budget management procedures. Arguably, the current process is the crux of the independence issue we confront.

The full Commission must vote on recommendations forwarded to the Mayor and City Council. Our vote should occur at the July meeting to coincide with the City's budget process. Since the Commission is amending by-laws to return elections to June from September, the Budget & Finance Committee will provide recommendations to the Full Commission at the June meeting to allow an accountable transition between Chairs and members.

II. 1997 Budget Status

Council is holding at Mayor's request, with back-up staffing of a CR2, p.r.n.

The mayor's proposal with the CDBG infusion of \$100,000 has the effect of an additional \$14,000.

Substantial Equivalency through HUD remains pending, with the potential of \$40,000 - 80,000 additional revenue. To the Commission.

III. A Summit Meeting

The committee will ask the Commission to consider establishing a committee to plan a catalytic summit meeting designed to enrich the youth partnerships between schools, law enforcement, public services and neighborhoods. The school activities developed under Dr. Burstin's leadership, could provide a strong foundation upon which to build such an

event. Our thoughts included partnering with academia, professional law enforcement, the school board, etc.

The Summit concept would be compatible with the forums recommended by Commissioner Golden, the outreach project and various other public exposure activities which we have discussed.

Recommendation: That a committee be appointed to plan a Summit meeting, including the identification of principal participants, "faculty", sponsorship partners, target audience, and evaluation criteria. (The Budget & Finance Committee is available to assist in seeking financing options.)

IV. Calendar

Proposed meeting dates for Finance & Budget Committee:

1/27/97	Meet at 2:00 p.m.
3/10/97	Meet at 2:00 p.m.
4/21/97	Meet at 2:00 p.m.
6/2/96	Present Budget recommendations to full Commission for vote
6/16/97	Meet at 2:00 p.m. for Chair transfer (post election transition)

Submitted to Commission 1/6/97

*Elyse L. C. Zettergren
Treasurer and Chair of Committee
1/6/97*



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Budget & Finance Committee Report of 12/16/96 Meeting

2 of 2

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Elysebeth C. Stenger
Treasurer and Chair of Committee
1/6/97