

PITTSBURGH COMMISSION ON HUMAN RELATIONS

A G E N D A

December 5, 2011

I. CALL TO ORDER

II. ADOPTION OF MINUTES

III. STAFF AND COMMITTEE REPORTS

- A. Compliance Update
- B. Director's Report
- C. Update - Committee Reports

IV. NEW BUSINESS

- A. 2012 Meeting Dates
- B. Proposed Legislation RE: Prior Convictions

V. OPEN FLOOR / ANNOUNCEMENTS

VI. ADJOURNMENT

Please be considerate of others; turn off cell phones.

PITTSBURGH COMMISSION ON HUMAN RELATIONS

Minutes of Meeting December 5, 2011

Attendance: Leah Williams-Duncan, *Chair*
Winford Craig
Eric Horwith
Lorraine Eberhardt
Elizabeth Pittinger
Lee Fogarty

Called/Unable to Attend:
Adelaide Smith
Curtis A. Smith
Amanda Rubio

Absent: Lynette Drawn-Williamson
Mary K. McDonald
Rev. Timothy L. Smith, Sr.
Neil Parham
Gerald S. Robinson, III

Staff: Charles Morrison, *Director*
Kevin Trower, *Solicitor*
Connie Miskis Zatek

I. CALL TO ORDER

Chairperson Leah Williams-Duncan called the meeting to order at 3:35 p.m.

II. ADOPTION OF MINUTES

The Minutes of the November 7, 2011, Commission meeting were unanimously adopted as circulated upon motion of Commissioner Horwith and second by Commissioner Craig.

III. COMMITTEE & STAFF REPORTS

A. Compliance Update

Director Morrison reported that the Commission does not yet have a contract with the EEOC, and does not anticipate receiving it until February or March. He said he does anticipate that the contract amount to be substantially the same as for FY2011 -- 73 cases. EEOC pays \$550 for each completed case, which adds approximately \$40,000 to the Commission's budget over the life of the contract. HUD pays substantially more for each case processed, but there are far fewer housing cases.

Commissioner Fogarty indicated that the AIDS Task Force is interested in hosting a community Commission meeting in 2012. There was some discussion that that meeting be scheduled for March or April as part of the Fair Housing month activities.

B. Director's Report

A written report detailing the Commission's activities for November 2011 was mailed to Commissioners prior to today's meeting. The Director highlighted items from that report, which was accepted without questions.

C. Housing Committee

A Housing Committee meeting will be scheduled in the immediate future as plans must be discussed in preparation for April, which is Fair Housing Month. Input is also being sought from other Commissioners and Committee members as to any problems or issues to be addressed, activities to be considered, etc.

IV. NEW BUSINESS /ANNOUNCEMENTS

A. 2012 Calendar

A proposed calendar of Commission meeting dates was distributed, based on continuing to meet the first Monday of each month at 3:30 p.m. Commissioner Craig requested that the calendar, once approved, be sent to Commissioners via Outlook or Google for inclusion on their personal and /or office calendars. Commissioner Pittinger proposed that the Commission also have a public calendar of events posted on the website.

The proposed calendar of Commission meeting dates was approved with the following changes and will be posted/forwarded to Commissioners:

April 2 - instead of April 9 and
July 9 - instead of July 2

B. Proposed Legislation RE: Prior Convictions

Two separate pieces of legislation are being proposed to City Council regarding persons with prior convictions; both were forwarded to Commissioners prior to today's meeting for their information.

Director Morrison briefly explained that one of the proposals was submitted by Councilman Burgess and relates to City employment. Essentially, it stipulates that the City application process NOT ask about prior convictions until AFTER an offer of employment has been made. Director Morrison stated that currently the law permits an employer to ask about a conviction but that it should not be held against someone unless the nature of the offense may be problematic. For example, someone convicted of embezzlement may not be ideally suited for a position as bank teller.

The Director also pointed out that the reality in the United States is that African-Americans and Latinos have more contact with the criminal justice system and that the denial of employment of persons with criminal records could be challenged as having an adverse impact on minorities.

The City of Pittsburgh has no policy and does hire persons with criminal records. Director Morrison stated that if the legislation passes the question of a criminal record would resurface if the person is ultimately selected for employment and then subject to a pre-employment background check. Passage of the legislation would also require the creation of a review board. If the prospective employee does not pass the background check, he or she can then appeal the decision to the review board.

Another group of formerly convicted persons has also brought forth proposed legislation to amend or substitute for Councilman Burgess' proposed legislation which would cover all employers and gives this Commission authority to enforce the legislation. Director Morrison stated that where there is an acknowledged policy and you can establish an adverse impact, discrimination is not difficult to prove. He noted that the Commission has investigated a number of similar complaints in the past.

The Director stressed that this information is provided to the Commission strictly for its information and not intended as a request for endorsement – or not- at this point. Although the authors of the legislation may be appreciative of the Commission's endorsement, they can move forward without it. The Director indicated that the Commission may want to consider making a statement about the legislation at some point in the future.

In response to a question from Commissioner Craig, the Director stated that he has not heard anything from Mayor Ravenstahl regarding the proposed legislation. He stated that he did not think this is something that the Mayor would support because it places additional burdens on city employers.

Commissioner Pittinger asked why a review board needs to be created; why couldn't they just file a complaint with the Commission? Director Morrison speculated that the legislation was probably modeled after similar legislation in another city. He stated that he couldn't say to what extent the City of Pittsburgh is now wrongfully denying persons employment based on a past criminal record. He stated that prior to introducing the legislation, there should have been some kind of study or assessment conducted. The Administration is saying that there is not a problem. Implementing this legislation would add additional time to the hiring process.

Discussion turned to securing an Act 33/34 clearance and expunged records, etc. Director Morrison stated that a criminal record should not be held against a person if the offense is unrelated to the job. The presumption is that a decision is made on equal qualifications – until a pre-employment background check is completed. It was noted that some applications, particular those on line, force an applicant to answer every question or the application is rejected.

Commissioner Williams-Duncan said that this issue is a criminal issue not a protected class issue. Commissioner Pittinger said it is a "huge social question. If the person has done their time, are they made whole again?" Commissioner Pittinger acknowledged that there are those instances where a person with a felony record probably would not be hired whether qualified for not.

Director Morrison stated that the theory is that if a person with a prior conviction "checks the box," they are automatically eliminated from consideration. The proposed legislation would help put them on an equal footing with other similarly-qualified candidates. Commissioner Craig asked if a person does not check the box and does not get hired, can the data be tracked?

Commissioner Williams-Duncan said that she supports the proposed legislation in theory but she is concerned with the Commission's involvement. Commissioner Craig agreed.

Commissioner Pittinger questioned if a person is eliminated after an interview because of a past criminal record and appeals to the review committee, and the committee determines the person should be hired, what happens next? Can that person claim they are a protected class and file a complaint with the Commission? Commissioner Williams-Duncan insisted this is not a protected class issue and acknowledged having trouble "tying it together as a protected class issue." Commissioner Fogarty agreed that this follows a "second chance rule" and is not a protected class. Commissioner Craig agreed.

Director Morrison responded that this legislation does not link a past criminal record with a protected class or with race, but makes it an unlawful practice. Commissioner Fogarty agreed it is good to open more opportunities for employment or housing but this is a very subjective topic.

The Director also noted that this places a huge burden on the employer with regard to potential liability should the person with a prior conviction do "something."

Commissioner Horwith asked how this subject might be broached in an interview process. Director Morrison replied that it is lawful to ask such questions during an interview as long as they are asked of all similarly-situated applicants.

Director Morrison stated that at the post-agenda meeting everyone at the table was advocating for the passage of the legislation. At that time he informed Council that as a representative of the Commission he would have discuss it with them, but would not advocate for it. The Director agreed to keep the Commission informed of any further developments.

Ashuana Tracy, Commission intern, asked if a person can file a complaint if they are qualified but do not get the job. Commissioner Williams-Duncan replied that anyone can file a complaint but the problem is to sustain it. If the Commission finds any legitimate reason for the person not to have the job, they won't get it.

Commissioner Pittinger said that this proposed legislation moves from objective qualifications to a subjective decision, and asked who makes those rules?

Director Morrison reported that at two of the three venues for the recent Fair Housing Play people brought up issues of serious problems in finding a place to live that are experienced by persons as they are released back into the community. He noted that this is a huge problem. Often family members in public housing are subject to eviction because of the criminal record of another household member. This is a local policy, not federal law.

With regard to Commission meetings held in the community, Commissioner Fogarty suggested in the future an explanation should be offered to the residents as to what the Commission can and can not do. She stated that the community has expectations of things that the Commission is not equipped to do. Director Morrison replied that an introductory statement is read before such meetings. He acknowledged that the Commission's real authority is on the compliance side – it can order remedies. On the community side, the Commission can listen, evaluate and make recommendations.

Commissioner Fogarty also suggested providing the residents at the end of the meeting what they might expect from the Commission with regard to the issues or concerns they raised during the meeting. The Director stated that everyone who provided a name and address at the meeting received a letter afterward thanking them for attending and explaining what the Commission can and cannot do. He acknowledged that we cannot present ourselves as being able to handle all of their problems. Commissioner Williams-Duncan agreed stating "the last thing we can to do is reopen wounds that are already on the mend."

The Director reminded the Commissioners that the Commission met in the North Side because we heard there were some concerns of significance, and it is important for the community to know that the Commission is interested in hearing those concerns.

With no other business before the Commission, the meeting was properly adjourned at 4:45 p.m. upon motion by Commissioner Fogarty and second by Commissioner Craig.

/cmz



CITY OF PITTSBURGH

"America's Most Livable City"

Commission on Human Relations

Luke Ravenstahl, Mayor

Charles F. Morrison, Director

Leah Williams-Duncan, *Chair*

Winford Craig, *1st Vice Chair*

Lynette Drawn-Williamson, *2nd Vice Chair*

Amanda Z. Rubio, Esq., *Secretary*

Eric Horwath, LSW, *Treasurer*

Elizabeth C. Pittinger, *Chair Emeritus*

Adelaide Smith, *Chair Emeritus*

Lorraine Eberhardt, Ed.D.

Lee Fogarty, Ph.D.

Mary K. McDonald, Esq.

Neil Parham

Gerald S. Robinson, III

Curtis Smith

Rev. Timothy L. Smith, Sr.

MEMORANDUM

To: All Commissioners

FROM: Connie Miskis Zatek
Secretary to Director

DATE: November 28, 2011

SUBJECT: **MEETING NOTICE –**

The next Commission meeting will be held in the Commission's Conference Room on **Monday, December 5, 2011**, as follows:

2:30 p.m.

Compliance Review Section

3:30 p.m.

Full Commission meeting

Enclosed for your review are:

1. **Minutes** of the November 7, 2011 Commission meeting
2. **Director's Report** for November 2011
3. **Case Summary Package** (for Compliance Review Section Members Only)
4. For your information and discussion:
 - FCCP's "Ban the Box" Legislation
 - proposed legislation prohibiting unfair discrimination in employment to persons previously convicted
 - Similar Legislation – limited to City hiring -- proposed by Council member, Reverend Ricky Burgess
 - Post Gazette article related to above

Please note that the 2012 calendar for Commission meeting must be approved at the December 5th meeting. Projected dates, based on continuing to meet the first Monday of each month, were distributed at the November meeting. Copies will be available at the December meeting if needed.

So that we can be assured of a quorum, please call 412-255-2600 if **you are unable to attend the December 5th meeting(s)**.

/cmz

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2012 COMMISSION MEETING DATES

Approved by vote of Commission: 12/5/2011

*Both as amended
Winford Record*

MONTHLY MEETINGS

HELD FIRST MONDAY OF EACH MONTH

(*Unless otherwise noted)

Meetings of Compliance Review Section begin at 2:30 p.m.

Full Commission meetings begin at 3:30 p.m.

Public Hearing Section meets as necessary
following full Commission meeting

Meeting Date

Comments

January 9	(First Monday is New Year's Holiday)
February 6	
March 5	
April 9 2	
May 7	
June 4	
July 2 9	
August 6	No meeting; summer break
September 10	(First Monday is Labor Day)
October 1	
November 5	
December 3	