



**MINUTES  
BELOIT EQUAL OPPORTUNITIES  
AND HUMAN RELATIONS COMMISSION  
Wednesday, August 19, 2009**

1. Call to Order and Roll Call

Meeting was called to order at 5:37 PM by chair Alex Brower.

Present: Commissioners Alex Brower, Carolyn Lawrence, Emma Harrell, Martin Densch, Lynda Owens, and Staff Representative Teri Downing.

Excused: Thomas Ryan

2. Approval of Minutes of the April 15, 2009 Meeting

Commissioner Lawrence asked when questions will be answered that were asked at the last meeting. Staff explained that one of the reasons that the City Attorney is on the agenda for this meeting is to answer questions that were brought up at the last meeting. Commissioner Lawrence and Commissioner Harrell asked Tom Casper, City Attorney, if he would be willing to answer questions that were brought up at the last meeting regarding who revised the investigator's contract, whether commissioners are covered under insurance, and the complaint process. Mr. Casper responded by saying he will answer questions during the agenda items they are brought up in because we are required by law to stick to the agenda.

Commissioner Harrell moved for approval of minutes of the regular meeting held on April 15, 2009. Commissioner Lawrence seconded the motion. Motion carried.

3. Nomination and Election of Officers

a. Nomination of Chairperson: Commissioner Lawrence nominated Emma Harrell as Chairperson. Commissioner Brower seconded. Motion carried.

b. Nomination of Vice Chair: Commissioner Brower nominated himself as Vice Chair. City Attorney, Tom Casper, explained that no second is required by Robert's Rules for the motion to carry. Motion carried.

4. Public Comment

Commissioner Lawrence asked why there was no public participation section on the agenda. Staff explained that it was an oversight. Chair, Emma Harrell opened the meeting to public comment at that point. Members of the public were present, but none of them commented.

5. Staff Update on Commission Meetings and Markley Investigations Contract

Staff explained that the EOHRM Meetings will now be held in the City Hall Forum instead of the City Manager's Conference Room. The reason for this is because hearings before the EOHRM will be held in the Forum and the Commissioners need to be experienced and comfortable in this setting. Having regular EOHRM meetings in the forum also

ensures the availability of the Forum when hearings are scheduled. The EOHRC will only meet when there is business.

Commissioner Harrell said that her understanding of the ordinance is that meetings are supposed to be held each month, and she wants to make sure that the Commission is following the ordinance. City Attorney Casper explained that this comes out of custom and practice that a number of City Committees do not hold a meeting when there is no business for the agenda, using the Alcohol Committee as an example. Commissioner Harrell said that she is still going to look this rule up in the ordinance and let the Commission know.

Staff notified the Commission that Katherine Kemnitz and Marian Griffin have resigned from the EOHRC Commission. Commissioner Lawrence thanked them both for their service and contributions to the Commission.

Staff also explained that the contract with Markley Investigations for fair housing complaints has been reviewed and revised by the City Attorney and has been signed by the City Manager. The contract is for one year and will expire 7/15/2010. Commissioner Harrell asked for a copy of the revised contract, and staff explained that it will be emailed to the Members.

Ms. Harrell asked if the Commission was supposed to review it before it was signed. Staff explained that the City Attorney is responsible for reviewing and revising all City contracts and that although the contract was brought to the Commission in the past, it should have just gone directly to the City Attorney's office when it was ready to expire.

Commissioner Harrell said that she thought according to the ordinance that the investigative services were supposed to be put out for bid. Mr. Casper explained that for professional services it does not need to go out for bid. The state requires bids for construction contracts and any contracts over a certain dollar amount. Sometimes the City does Request for Proposals for professional services. This decision it is up to each department. Commissioner Lawrence mentioned that there were two other proposals along with Markley Investigations in response to the original Request for Proposal.

Commissioner Owens asked if the Commission could get statistics on the number of housing discrimination case we have had and their results over the last 10 years. Staff said she would email this information to the Commissioner.

#### **6. Review of Complaint Process and Role of EOHRC by City Attorney**

Commissioner Harrell asked if the Commissioners are covered under insurance. City Attorney explained that, yes, the City has a policy with Cities and Villages Mutual Insurance Company (CVMIC) and some State Statutes also protect public commissioners from being sued. The only caveat is if someone intentionally used their public position to do something in a way to harm someone else.

Commissioner Lawrence asked what the result of the request for reallocation of funding for Study Circles result was. Staff explained that an email was sent to all Members explaining that the CDA Board recommended the reallocation of CDBG funds of \$5000. However, the City Council voted not to reallocate. At the Council meeting, Councilor

Leavy explained that in the past, historically Study Circles were not well attended and he would rather see the money go toward Fair Housing education in a seminar-type setting.

Tom Casper pointed out that the money was not reallocated to any other use, but is still available as it originally was, for fair housing activities. Commissioner Harrell commented that she doesn't believe we have a lot of information out in the public to let people know how to go about addressing issues of discrimination.

Commissioner Lawrence asked if there was a relationship between the City's property code enforcement and housing discrimination. Mr. Casper explained that this would fall under a general discrimination complaint; that the City's Chapter 20 Code is specific to discrimination in preventing equal and fair access to housing or housing related accommodations. If someone believed City Inspectors were paying more attention to a person's property because of one of the protected classes, they would need to notify the State or Federal divisions because it is not related to "access" to housing.

Commissioner Lawrence asked if there was someone who could come to an EOHRC Meeting and explain which situations are specifically considered fair housing discrimination. Staff asked if the commission would like someone from the HUD office to come to a meeting and give a presentation and answer questions. Members said yes.

Staff explained that in response to the many questions that Commissioners had at the last meeting regarding the City's ordinances, the Markley Investigations contract, the Commission's role in the investigations, and the fair housing complaint process, the City Attorney will explain this process.

Attorney Casper explained that the EOHRC's ultimate duty is to act as a final decision maker on whether a housing discrimination complaint is valid or not valid. The Commission is charged under the ordinance with making final determinations on those issues. To get to this point there would be a hearing in front of the Commission with attorneys, evidence, and witnesses. He explained that in order to get to this point, there is a process.

He explained that first a complaint comes in. Then there has to be an investigation with standard investigative techniques in order to develop a determination of probable cause to proceed or no probable cause. He explained that because of due process, Commissioners cannot act as an investigator or initial decision maker on probable cause when they are to be the body that sits in final judgment of the case.

He also explained that if the parties come to an agreement, either through conciliation through the investigator or through mediation, the agreement must come before the Commission for approval. He said that ultimately the Commission sits in final judgment on all cases whether probable cause is found or not found and even if the parties reach an agreement.

Mr. Casper then discussed the flow-chart outlining the City's Fair Housing process. There is first an initial intake where a determination is made about whether the complaint is a fair housing complaint or not. If it is not, then the complainant is referred to the appropriate agency.

Ms. Harrell asked if the people doing the intakes have had any training on how to distinguish between a housing discrimination complaint and another complaint. Staff explained that Holly Hartley has been an intake person since before she got to City Hall so is unsure what kind of training she has had. Staff explained that knowledge of the Fair Housing Code and discussions with the City Attorney are what help her determine whether a call is housing discrimination or not. She also explained that if a call comes in that we are unsure about; the complaint is referred to the investigator.

Ms. Harrell asked if the guidelines that were developed regarding the EOHRC Fair Housing process could be given to complainants. Staff asked if the Commission would like Markley to give the guidelines to people when he starts his investigations.

Commissioner Lawrence asked what number is on the flyer that Markley has handed out. Staff explained that the phone number goes to Holly Hartley in the Housing Services division of the City. Tom Casper gave her the flyer he had with the revisions marked on them. She also asked where the flyers have been given out. Staff said that the flyers had been distributed before she started but there are some located on third floor of City Hall where Housing Services and the Housing Authority are located.

Tom Casper continued explaining the complaint process. He said that once a complaint comes in, the parties are notified and then an investigation is done. During the investigation the investigator is supposed to work with the parties to try and come to some agreement. If cause is found and there is unsuccessful mediation, then the case comes before the Commission. At the hearing, the losing party has the right to appeal to circuit court; however the Circuit Court will rely heavily on what Commission decides. If there is a reasonable basis with the evidence presented for the Commission to have reached a certain decision, then the Circuit Court must uphold it.

He also explained that whatever decision is made by the Commission they will prepare findings of fact and conclusion of law and that an attorney, whether the City Attorney or an outside attorney hired by the City, will be advising the Commission on this.

7. Review of Basics of Wisconsin Open Meetings Law by City Attorney

Tom Casper advised that the Commissioners look through the entire power point presentation on WI Open Meetings Law, but he will discuss the high points.

EOHRC Members are subject to the WI Open Meeting Law and if they are alleged with violating the Open Meeting Law, and then found to have violated it, the Commissioner is personally liable. The law is there to regulate public committee members' conduct.

Mr. Casper explained that a Walking Quorum is what is typically violated. He gave an example that if a quorum of members happens to be at the same event and they start to discuss the next agenda and come to a decision to act a certain way on a certain item. He explained that although it is natural to want to discuss items outside of a meeting, to be very cautious because the public has a right to hear the sequential decision making process. Commissioner Harrell asked if this only applies if you have enough members for quorum. Mr. Casper responded that there is also a "negative quorum" which means if you gather enough members to block an action, this is also illegal. He pointed out that if

someone complains it would come through either the Department of Justice or through the District Attorney and both tend to enforce this law. He also said that if the prosecuting authorities refuse to come against a commission and a private citizen is mad enough, that citizen has the ability to bring an action against a commissioner in the name of the state and get the penalties provided for under the state law.

Mr. Casper next discussed that the subject matter and discussions at the meeting must be only on the publicly noticed agenda items. And that no action may be taken on any subject that has not been noticed to the public on the agenda.

Mr. Casper also explained that he thinks it is a good idea to have public participation on the agenda, but if a member of the public brings up a topic and would like action to be taken on that topic, the Commission cannot take action at that time. They have the option to put it on the agenda for a future meeting. If it is urgent, then the Chair may want to schedule a special meeting can be publicly noticed.

Commissioner Lawrence asked if this rule applies to information only. Mr. Casper said it is okay to see the information, but if Commissioners want to discuss and debate it then it should be publicly noticed.

Commissioner Brower asked if the Walking Quorum in the Open Meetings Law applies to any subject that could potentially be on a future agenda even if it is not in the near future. Mr. Casper said that Commissioners should be very careful when discussing these matters in private with other Commissioners because it could become a complaint that they were conducting public business in private.

Commissioner Lawrence asked if Mr. Casper would touch on the subject of Closed Meetings. Mr. Casper explained that even if the vile housing complaint came in, the proceedings would still be open to the public. Commissioner Lawrence then asked that if there were a closed meeting would only Commissioners present and not staff. Mr. Casper explained that it would be up to the Commissioners of who would be present.

Commission Marty Densch added that just because there is a closed meeting, it does not mean that it is not recorded. Minutes would still be taken and they could take no public comment while in closed session, and any action must be taken at the public meeting. Commissioner Lawrence asked if one of the Commissioners would take minutes. Mr. Densch replied that typically the staff person would take minutes even in a closed session unless it is about that person.

#### 8. Adjournment

Commissioner Lawrence moved for adjournment and Commissioner Brower seconded. Motion carried. The meeting was adjourned at 6:54PM by Chair Emma Harrell.

Teri Downing  
Special Programs Administrator