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**MINUTES
BELOIT EQUAL OPPORTUNITIES
AND HUMAN RELATIONS COMMISSION**

Wednesday, April 16, 2014 at 5:30 PM

1. Call to Order and Roll Call

The meeting was called to order at 5:40 pm by Chair Marilyn Sloniker.

Present: Commissioners Marilyn Sloniker, Joseph Hansen, Steve Howland, Mary Weaver, Rick Valdez, Mike Zoril, and Staff Representative Teri Downing. Absent: Commissioner Kinkaid.

2. Approval of Minutes of the February 19, 2014 Meeting

Commissioner Howland moved for approval and Commissioner Hansen seconded. Motion carried.

3. Public Participation

There were no members of the public present.

4. Discussion of Fair Housing Month Activities

a) Fair Housing Poster Contest

Staff indicated that she was contacted by the Merrill Community Center and it was requested that the winners be announced at the May 4, 2014 Council Meeting. She explained that this would allow people to continue to vote for posters during the full month of April.

b) Mock Hearing

There was no discussion.

5. Review and Approval of EOC Rules of Procedure

Staff indicated that the Analysis of Impediments identified inconsistent administration of the Fair Housing Code as an impediment to Fair Housing choice, and that the EOC had decided to create rules of procedure to assist in eliminating this impediment. The EOC has been working on bylaws throughout 2013 and a final draft is attached for review and approval. She indicated that the Deputy City Attorney could not attend, but any Commissioner questions will be forwarded to the Attorney's office.

Commissioner Zoril made a motion to add a sentence to the first part of section 1(1)(c) stating "at least five (5) calendar days before a regular meeting" and "at least 24 hours before special meetings." Commissioner Hansen seconded. **Motion carried.**

Commissioner Zoril referred to sections 1.4(c)(2) and 1.4(c)(3) where it says "or by notice given orally", he would request to take everything out of section 3 because it is



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best to have a paper record. He made a motion to strike everything in section 1.4(c)(2) after the word “meeting” and totally strike section 1.4(c)(3). Commissioner Hansen asked if the intention was to not have any notice given orally. Commissioner Zoril said he is against having oral notification that he wants email or mail to verify the notice was given, otherwise they may not get quorum. Commissioner Valdez said that if the ability to call people is removed, the Commission is binding itself not to do it by removing all ability to orally notify the parties. Commissioner Hansen said he agreed with Commissioner Valdez and that he would like to have the ability to orally notify, and that perhaps there can be documentation of the notification by using a call log. Commissioner Sloniker agreed and said she would like to have as many options available as possible. She asked staff whether a call log is kept when making phone calls. Staff said there is a checklist that is checked off by hand when packets are sent out, and that emails are saved so there is a written record of when it went out. Staff said that she would keep a call log if notifying orally.

Commissioner Howland said that the public needs to be notified 24 hours before a meeting and wants to make sure that an oral notification option allows this. Staff indicated that what the Community Development Director does for special meetings of the CDA is sends the agenda to the media and Clerk’s Office via email 24 hours before the meeting, then follows up with phone calls to the Board Members. Commissioner Zoril said he would like to have both written and oral notification. Commissioner Howland suggested rewording 1.4(c)(3) to indicate oral notification would be the back-up type of notification, and that parties are notified via mail or email.

Commissioner Zoril withdrew his motion. A short discussion followed regarding rewording and in which section to place the wording.

Commissioner Zoril made a motion to strike and replace section 1.4(c)(3) with “If notice is only given orally, city staff will keep a log of date and time each Commissioner was notified.” Commissioner Valdez seconded. **Motion carried.**

Commissioner Zoril referred to page 4, section 1.5(b)(2). He questioned whether the reference to 25 voting members would apply to this Commission. Staff explained that the Commission may want to create different committees regarding specific subjects or projects regarding a race relations such as a neighborhood group regarding discriminatory issues. She also explained that for the development of the Analysis of Impediments to Fair Housing there was an advisory committee that had approximately 20 participants. She clarified that these committees would not be presiding over cases, but would just be advisory regarding specific projects. Commissioner Zoril then asked if this section conflicts with section 1.5(a)(3). Commissioner Valdez explained that there is regular and ad hoc committees are subcommittees of the Commission, and the special committees referred to in section 1.5(b)(2) could be larger committees created for a specific project or subject.

Commissioner Zoril referred to Section 1.6(a) and 1.6(b). He said the language was not consistent between the two sections: 1.6(a) states “rules may be amended by vote of a



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majority at any regular or special meeting” but section 1.6(b) states that “a majority vote of members of the Commission in attendance”. There was a short discussion about quorum. Commissioner Howland made a motion to replace “at” with the words “in attendance” in part 1.6(a). Commissioner Zoril seconded. **Motion carried.**

Commissioner Zoril referred to page 8, Section 3.1(a). He said that he had concerns that allowing the holding open of a violation from the last act or occurrence leaves it open for abuse. He said that the intent of the one year deadline is to tighten up the timeline so a person can't sit on it for a long time. Commissioner Valdez said he would not be in favor of limiting the length of time for when a person could file a complaint. Commissioner Howland said he thinks the time limit is clear. Commissioner Sloniker said she agreed, and that she could see that there may be times when someone may not know for a long period of time that they were being continuously discriminated against. Staff gave an example of a previous complaint in which the victim had been discriminated against by being charged more rent than other similarly situated tenants due to her race, but she did not know until the fifth year when she saw a rent ledger. So this person was still able to file a complaint based on the date of last occurrence. She also explained that the 365 time period from date of last occurrence follows state and federal law and to change this would require an ordinance change.

Commissioner Zoril referred to page 8, section 3.1(b)(2). He said he would like to add that a complainant must specifically reference the ordinance number being violated at the time the complaint is filed. He explained that during the mock hearing there was confusion over this issue. He said he fears that if that had happened in a real hearing the Commission would be in violation 7.2(a)(1) which refers to the Commission's duty to conduct a fair and impartial hearing. Commissioner Valdez referred to the Complaint Form. Commissioner Zoril said that he does not see anything in the complaint section that lists a violation of a specific code, just general categories such as race, gender, etc. Commissioner Valdez said that the complainant should report the discriminatory act, not a specific code. Commissioner Zoril disagreed and said that an example is when someone is charged with speeding, the officer lists the specific code on the citation that has been violated. Staff explained that the duty of the Commission is to enforce the code just as the officer does in the example. The officer is not the victim of the speeding, s/he is the enforcement official so cites which section of code is violated on the citation. The Commission has an investigator and investigative report to help them or the attorneys determine which section of code has been violated. Commissioner Howland said if the Complainant has to determine which section of the code has been violated, then we are forcing the complainant to investigate, which would make it a burden to file a complaint. He said the parties have recourse to appeal in civil court if they don't like what the Commission comes up with. Commissioner Sloniker said that some people are not educated enough to look up the ordinances, or they may be fearful of coming forward, or may have a language barrier. She said she believes it would be a hardship for many to read through the ordinances. Commissioner Valdez said it would be an undue burden on the victim.



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Commissioner Hansen said that the investigator will provide the ordinance number violated. Commissioner Zoril said that as long as the investigator gives the code that is violated, the defendant can look it up. Staff said that there is a Notice of complaint that explains the violation to the respondent as well. Commissioner Zoril said that this was not provided at the mock hearing, and staff explained that the law students thought the Commission had access to the contents of the complaint file.

Commissioner Zoril said he had a question about section 3.2, which refers to amending a complaint. He said that the respondent needs to be notified when a complaint is amended or supplemented to make sure both parties are kept in the loop. Staff explained that if the complaint was amended the respondent would be notified. There was general discussion between Commissioner Zoril and Howland regarding rules of evidence. Commissioner Zoril explained that his question is about the timeline; Section 3.2(b) gives the respondent notice of the right to file a written answer within 20 days, but there is nothing in the bylaws that applies the same standard to amendments. Commissioner Howland said if an amendment was filed, it would be considered a new complaint and the 20 day clock would start over again. Commissioner Slonicker explained that the ordinance references amendments in Section 20.05(6) of the Fair Housing ordinance which requires that each party be notified if a complaint is amended or withdrawn. Commissioner Hansen said that if there is a change or amendment, the procedure would revert to 3.2(d) regarding notification; the complaint would essentially start over.

Commissioner Valdez made a motion to add the language “and all amendments” after the word “complaint”. Commissioner Zoril made a motion to amend the motion to add “and all amendments and supplements” after the word “complaint.” Commissioner Valdez said there are no supplements referenced anywhere. Commissioner Zoril explained that supplements would include additional documentation such as copies of receipts or other evidence submitted to the Investigator. Commissioner Valdez explained that those items are evidence, which is given directly to the investigator during an investigation, not an amendment to the complaint. Commissioner Zoril withdrew his motion and seconded Commissioner Valdez’s original motion to include wording that the respondent will be notified of all amendments. **Motion carried.**

Commissioner Zoril referred to page 11, section 4.3(b)(3) regarding third party mediation. He asked who pays for the mediation services. Staff explained the City of Beloit pays for it out of the Fair Housing funds. Commissioner Zoril said it should be mentioned in the bylaws. Commissioner Valdez said he would like to avoid adding this because if the City Council decides to change the ordinance to bill the parties equally, we would then need to change our bylaws because the ordinance always supersedes our bylaws. There was discussion among the Commissioners and staff about whether it is explicit in the ordinance that the City pays for mediation services. The ordinance was referenced, and it is silent on who pays. The Commission decided to have staff ask the Deputy City Attorney whether there is value in adding that the City will pay for mediation services is to the Rules of Procedure. Commissioner Howland requested that the Commission revisit this issue so they could move on.



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Commissioner Zoril referred to page 13, section 5.3(e) regarding that either party can request to view the investigative file and the requesting party shall pay reasonable fees for copies. He requested that the Commission change the language to indicate that the parties involved in the case not be charged a fee, only third party requesters would be charged. Commissioner Valdez explained that this section allows the parties to view the file at City Hall at any time for free. There is only a cost when there are physical copies made. Staff explained that copies are \$0.25 per page charge, which is the same as open records requests, but items emailed are without charge at this time. Commissioner Zoril said he would prefer that both sides are able to get at least one copy without paying out of pocket expenses. Staff indicated that she would check whether copy fees are a city policy. Commissioner Howland pointed out that the Commission does not have the authority to change City policy, especially if there are budget implications. Commissioner Zoril requested to revisit this issue after staff has checked whether there is a City policy regarding copy charges.

Commissioner Zoril referred to page 24, section 9.2 regarding awarding reasonable attorney fees. He said that the Rules only allow for awarding attorney fees in the case discrimination was found, but he would prefer that the Commission remove the portion after "remedies" so the Commission has the option to award attorney fees in the case where the Commission does not find discrimination, or it was not proved. He said this way the respondent can recover attorney costs from the complaining party, and it would go both ways not just a one-way. Commissioner Valdez explained that the Commission only has the authority to issue sanctions in a discrimination finding. He said the parties can seek a civil action to recover attorney fees. Commissioner Howland read section 20.05(12) of Beloit's Fair Housing Code regarding civil enforcement, which the awarding of reasonable attorney fees in the commencement of an action in an appropriate court. Commissioner Zoril said the wording does not sound fair because the complaining party may be able to get attorney fees covered, but the other side does not. Commissioner Howland explained that the party is free to pursue that in civil court. Commissioner Zoril asked if the Commission would consider taking out section 9.2 of the Rules of Procedure all together. Commissioner Valdez explained that the Commission then would lose the ability to have a remedy for the complainant to recover fees. Staff explained that section 9.2 was specifically added to the bylaws because one of the Commissioners had requested at a previous meeting that it be added because it was not explicitly stated in the bylaws but was in the ordinance.

Commissioner Zoril stated again that he would prefer to change this section so the Commission could award attorney fees to either side. Commissioner Howland explained that we cannot add it to the bylaws because it is not within the Commission's authority. Staff explained that in order to have the ability to award attorney fees to both sides, it would have to be an ordinance change. She explained that the Commission cannot put something in the bylaws if the ordinance does not allow it. Commissioner Zoril asked whether this is something the Commission would like to pursue. Commissioner Howland said it would not be something he would be interested in because he believes it would encourage more lawyers to be present in the proceedings, to try to exploit the process.



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He said he would prefer to keep the proceedings more on a citizen level where rarely will lawyers be involved. He said that the Commission still has the power to limit an amount that the one person is ordered to pay, and that by passing such an ordinance change would prevent people from bringing complaints and encourage respondents to hire attorneys. Commissioner Hansen agreed with Commissioner Howland.

Commissioner Sloniker said that the Commission's focus is on discrimination issues and to eliminate them. There was further discussion about the number of complaints and that the complaining party still must prove their case before attorney fees are awarded. Commissioner Zoril again expressed his disagreement, but said that he believes the consensus is to leave 9.2 as-is and move on.

Commissioner Zoril referred to page 25, section 10.1 regarding that documents shall not being served by facsimile transmission or by electronic mail. He asked whether this is something that would conflict with section 3.1(b) where it refers to being able to file a complaint by email. Commissioner Valdez explained that section 3.1(b) refers to notifying the EOC liaison's office of a complaint, whereas section 10.1 refers to the Commission being served by fax or email. Commissioner Valdez then explained that section 10.2 clarifies the official service that must be performed. Commissioner Zoril asked to move forward.

Commissioner Zoril referred to section 10.2(b) regarding service by mail. He said his issue was with the last part that reads "or at the location where the alleged act of discrimination occurred." He explained that if the alleged discrimination occurred on one of the landlord's properties and the landlord does not personally live at that property and someone mails it to that property, it could be possible the complainant might get it instead of the respondent. He said if a complainant truly wanted to never let the landlord know that a complaint was filed, then the landlord would never have the notice and the complainant would win by default. Commissioner Zoril made a motion to take out "or at the location where the alleged act of discrimination occurred." Commissioner Howland said that this clause gives the EOC options to serve notices if there are no other options. He provided the example of a landlord that has 4 or 8 units, there is probably an office, or in the case of an absentee landlord. He said it gives an option to make contact, if other options are not available. Commissioner Hansen said he agreed with Commissioner Howland and said that it should be obvious that we would not send notices to the respondent to the complainant's address, home, or business address. He said he is not in favor of removing the language, and we need to have common sense not to send it to the complainant's single family residence if it is that obvious. Commissioner Valdez said that the last clause is vague and oddly stated, and that he would prefer to have the opinion of the Deputy City Attorney on wording for legal clarification. There was further discussion by Commissioners regarding how to serve a respondent if the alleged discriminatory act occurred when a person was applying for housing and the landlord met them at a McDonalds or at a park bench and there was no other contact information.

Commissioner Howland made a motion to approve the EOC Rules of Procedure as modified. Commissioner Hansen seconded. Commissioner Zoril said it would be his



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preference to wait for answers on the three questions deferred to Attorney Krueger. Commissioner Valdez asked staff to read back the three questions to better understand what they are waiting on.

Staff read:

1. Guidance regarding section 4.3(b)(1) regarding whether it should be put in the bylaws that mediation services are to be paid by the City of Beloit. The Commission requested to ask the City Attorney's office for their recommendation either way.
2. Staff is to check whether it is a City policy to charge \$.25 per page or can the Commission waive this charge for the parties in housing discrimination cases, and only have third parties pay these charges.
3. Legal guidance regarding whether to remove or reword section 10.2(b) "or at the location where the alleged act of discrimination occurred" so it cannot be misconstrued in its intent. Also request clarification on what that means.

Commissioner Zoril requested to delay approval of the Rules of Procedure until Attorney Krueger responds to the questions.

Commissioner Howland amended his motion to say, a motion to approve the Rules of Procedure as we have so amended this evening with the understanding we will revisit the three points that are in question and see what Council has to say to advise us on those points at a future meeting. There was some discussion amongst Commissioners regarding procedure and whether the Rules of Procedure would go to the City Council if approved tonight. Staff indicated that they would not until the other three remaining questions were answered and a final version was approved. Commissioner Valdez asked whether the current motion is to limit the Commission's review at the next meeting to the three points in question. Commissioner Howland said yes. Commissioner Valdez seconded the motion. Commissioner Zoril asked for clarification on what the motion is doing. Commissioner Valdez explained that the motion is basically laying it over to our next meeting, but the Commission will limit its discussion to only the three outstanding points.

Commissioner Sloniker requested that the motion be restated. Commissioner Howland stated "I move we pass the EOC Rules of Procedure as we have amended them with the proviso we will revisit the three points at our next meeting with the input of counsel for final approval." Commissioner Zoril asked for clarification that this is not a final approval. Commissioners Valdez and Howland explained that what is being approved are the Rules of Procedure and the amendments made tonight, but the next meeting the Commission will discuss only the three remaining points being deferred to the Deputy City Attorney. Commissioner Howland explained that the approval process has been going on for quite some time and he would like to see the Commission approve as much as possible and not revisit the same points over and over. **Motion carried.**



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6. Commissioner Comments and Upcoming Events

Commissioner Valdez requested that staff consult with the Deputy City Attorney regarding how open records laws apply to personal email since Commissioners use their personal email for Commission purposes. What requirements should Commissioners be mindful of? For example, do Commissioners need to save certain records, and if so for how long, should they keep a special folder with EOC information, which emails can be deleted, etc.

Commissioner Zoril requested that the new draft of the Rules of Procedure that includes the amendments is redlined so the Commission can be clear where changes occurred.

7. Next Meeting Date: June 18, 2014

Chairperson Sloniker announced the next meeting date of June 18, 2014.

8. Adjournment

Commissioner Valdez moved for adjournment and Commissioner Sloniker seconded. Motion carried. The meeting was adjourned at 7:45PM by Chairperson Sloniker.

Date approved by EOC

Teri Downing
Director of Community and Housing Services