

MINUTES
OLMSTED COUNTY HUMAN RIGHTS COMMISSION
THURSDAY, JULY 20, 2017
as amended THURSDAY, AUGUST 17th

- 1) Commissioner Dooley called the meeting to order at 7:04 pm in the Olmsted County Government Center, Room 104. Present: Commissioners Witz, Skolnick, Osowski, Julius, Belisle, MacLaughlin, Ramaker, Dooley and Mustafa. Youth Commissioners DeGrand, Uhm and Lichen. Organizational Development Coordinator Buzard and County Commissioner Thein. Absent: Commissioners Linkenmeyer and Mohamed. County Commissioner Wright. Director, Intergovernmental Relations Mueller.
- 2) Welcome given to Officer Rey Caban, who will be joining the Commission. Officer Caban spoke to the Commission in 2016 about the Police Department's drone program. There were general introductions, including Bella Lichen, newly appointed Youth Commissioner. Welcome given to guest speaker Linda Hillenbrand and members of the public by Commissioner Dooley.
- 3) No public comment. Mary Gorfine, Program Coordinator for the Olmsted County Youth Commission was introduced as a member of the public. Laura Blatti, Administrative Coordinator for Olmsted County was also introduced. Ms. Blatti is currently working on a inventory of all the County's boards and commissions.
- 4) Approval of Agenda: Commissioner Dooley noted during earlier remarks that after the presentation by Linda Hillenbrand there would be a discussion and quiz provided by CNN on free speech. Commissioner Julius made a motion to add an item under Action Items to discuss staffing the OCHRC booth at PrideFest. Commissioner Dooley stated it would be added under item 9, Updates from Commissioners. Commissioner Witz made a motion to approve the agenda. Commissioner Julius seconded. All in favor; none opposed. The agenda as amended was approved.
- 5) Approve/Amend June 15th minutes: Commissioner Dooley noted several corrections to the June 15th minutes. Commissioner Belisle made a motion that the Commission defer a motion to approve so amended minutes could be sent in writing. Commissioner MacLaughlin seconded. All in favor; none opposed. The motion carried.
- 6) Informational Items:
 - a) Presentation by Linda Hillenbrand. Ms. Hillenbrand is the Director of Human Resources for the City of Rochester, and presented on the City's newly adopted Social Media Policy. The policy came about after a city employee posted some things on his Facebook page that were offensive to members of the community, and was difficult for the city and community. As part of the response, City Council members and members of the Police Oversight Commission requested a social media policy for city employees. Ms. Hillenbrand noted that she was reluctant because the city does have policies about behavior of employees, and social media is an evolving issue. She also noted that many people are concerned that such a policy takes away rights to free speech. The city spent several months researching and writing, and it was reviewed by Department Heads and the Personnel Advisory Committee of City Council before going to the full City Council in November 2016 for approval. The first policy stated it applied to employees, board members and unpaid volunteers of the city. While the policy was written for three audiences, the majority of language addressed employees, and Ms. Hillenbrand noted that the policy was confusing. The policy also addressed the administration of social media sites, which does not affect boards and commissions at all. Requests came back to modify the policy, and now names "city representative" to address employees, boards and commission members. Training material has also been created for new board and commission members. The presentation is aimed at defining social media, reviewing the purpose of the policy, discussing "personal use" of social media and reviewing freedom of speech issues, and how complaints that come to the city's attention are handled. Ms. Hillenbrand noted that while social media platforms are considered informal communication, they carry the same formal weight of other forms of communication in the courts. Because board and commission members are considered ambassadors of the city, their words are considered as representing the city, and reasonable limits are in place on their speech. Limits include discussion of the city, employees, operations or other issues relating to the city. She stated that some of the issue relates to branding and marketing of the city as well as "unauthorized" representation of the city, as well as using harassing or obscene language. She gave a list of items considered violations (non-exhaustive) from the policy. She discussed free speech, and information as it relates to an

individual's official duties as an employee or board member "on or off duty" is not protected speech. Commissioner Dooley noted that the report that comes from Mediation and Conflict Solutions on the Human Rights line is confidential and Commissioners may not "share broadly" comment publically on it. Commissioner Skolnick noted that the city policy that Ms. Hillenbrand was presenting covers city boards and commissions, and the Human Rights Commission is an Olmsted County Commission, following county standards, unless anyone is on a city board as well. If a person states something as a private citizen, speech is protected under the First Amendment, and "law is emerging" about free speech. Commissioner Belisle asked if there was an issue an employee's supervisor or HR would address, but who would address issues of volunteer board and commission members? Ms. Hillenbrand stated she would address with how complaints are handled. She discussed "balancing test" of freedom of speech versus efficiency of government. Complaints will go to City Administrator or Human Resources Department, who will evaluate the substance of the complaint. She also noted since the policy was approved, only one complaint came across her desk of a serious nature needing an investigation. How it is handled depends on nature, but would likely be handed to an external investigator to handle and pursue. Commissioner Dooley also stated that while we don't follow city social media policies, we do follow state data practice laws. Ms. Hillenbrand gave some examples of lack of public trust and cases when volunteers did lose their positions and other general considerations for government interests versus freedom of speech. Commissioner Skolnick noted it is a controversial policy and wondered what the urgency was, and expressed concern that individuals would feel "a chilling effect" and hesitate to speak out on city issues when necessary, for fear of loss of appointment. Ms. Hillenbrand expressed similar reservations, and expressed that she understands the chilling effect of expression. Commissioner Julius noted the section about "grammatical correctness" and her concern about a chilling effect related to individuals who may not speak or write English as a first language, and Ms. Hillenbrand noted that was corrected, and related to official, internal website use. There was discussion of the versions of the policy that people had read that seemed over-broad in the words of Commissioner Witz. Commissioner MacLaughlin suggested that the city make it known that the policy is reactionary, and that city staff would not be seeking out violations. Ms. Hillenbrand noted that no one is assigned to monitoring social media sites and channels, and there was general discussion of policy versus procedure. Ms. Buzard also noted a personal example of social media use relating to a city employee that went "viral" that could have been controversial. Commissioner Julius requested a copy of the latest policy and Ms. Hillenbrand stated she would send it to Ms. Buzzard to forward. There was ongoing discussion of other recent social media use issues in the community. It was also noted that City Council members "self-regulate" in terms of the policy but it does apply to them. Commissioner Belisle asked about "single channel" media such as texting and Facebook messenger to send individual messages, and Ms. Hillenbrand noted that such messages "can actually go further" with forwarding, screen shots and other media technology, and all private communication could be considered public. Ms. Hillenbrand thanked the Commission for their feedback and discussion.

b) Addressing Identity Evropa: Our Future Belongs to Us: Commissioner Dooley stated that the spelling is correct, and there are flyers that have been posted around town, and showed some examples. She noted that posters are not allowed on city light posts and are considered "trash" by the city, but taking down from bulletin boards may be a legal issue. She went on to discuss freedom of speech and noted that the group is considered a hate group. Commissioner Mustafa explained that she had looked into the group on the Southern Poverty Law Center site and other internet sites, and it is a small group of rising white supremacists around the country and noted there is a chapter in Minneapolis out to recruit, including the Heintz Center and RCTC. Commissioner Mustafa noted she started a counter-campaign with others to post #notinmytown messages around the community. Commissioner Julius also noted there is an active KKK group in Albert Lea that has been "ballooning up" into the area. Commissioner Mustafa noted it is concerning that groups are emboldened. Commissioner Dooley noted that the Commission is a government entity and any action taken as a group needs to be done in an open meeting. Commissioner Witz noted it is any gathering of a quorum of the Commission is a violation. Commissioner Julius expressed concern that a group of individual Commission members gathering is a violation and wants to see more action from the Commission. There was general discussion of open meeting rules and potential violations related to the recent campaign, and messages that were sent to invite individuals to an event in response to the flyers. Commissioner Dooley proceeded to have the Commission take the free speech quiz as a group. See link at: <http://www.cnn.com/2017/06/01/us/free-speech-hate-speech-quiz/index.html>

c) MN Department of Human Rights 50th Anniversary Celebration Film. "Our Rights: Justice for all and panel discussion, Thursday, August 24th at 7 pm in the Rochester Public Library. The time was noted as 9:05 and the item was skipped.

- d) Update from State Department of Human Rights Workforce Participation Goals: the item was skipped.
- e) Q&A for Mediation Services: it was noted that MCS Director Moore was absent, and there was no discussion.
- 7.) Treasurer's Report: there were no changes to the Treasurer's Report. Commissioner Witz made a motion to approve. Commissioner Julius seconded. All in favor; none opposed. The motion carried.
- 8.) Action Items
 - a) OCHRC By-law changes: Commissioner Dooley noted that at June 15th meeting by-laws changes were proposed, but the Commission did not have a super-majority to vote at the last meeting. She added a proposed change around the timing of the distribution of minutes, but per the by-laws the Commission could not vote on that change since there had not been 14 days notice. Commissioner Dooley requested a motion to accept the other changes previously submitted, including the change in Commission location and the addition of "or designee" to Secretary responsibilities. Commissioner Witz made the motion and Commissioner Ramaker seconded. All in favor; none opposed. The original set of by-laws changes were approved.
- 9.) Updates from Commissioners:
 - a) PrideFest booth: Commissioner Julius asked for volunteers to staff the booth on Saturday, and to discuss with her schedules.
 - b) Commissioner Skolnick noted that during the search for a City Administrator for the City of Rochester, non members of protected classes applied. He suggested an affirmative action study for the city to look at hiring practices.
- 10.) Adjourn: Commissioner Mustafa made a motion to adjourn. Commissioner Witz seconded. All in favor; none opposed. The motion carried and the meeting adjourned at 9:15 pm.