

CIVIL RIGHTS COMMISSION MEETING

CITY OF DAVENPORT, IOWA

Tuesday, October 8, 2024; 12:00 PM

226 West 4th St. Davenport, IA 52801- City Council Chambers

- I. Roll Call
- II. Approval of Agenda
- III. Approval of Minutes
 - A. September 2024 Minutes
 - B. September 2024 Special Meeting Minutes
- IV. Director's Report
 - A. September 2024 Director's Report
 - B. September 2024 Case Status Report
- V. New Business
 - A. Finance Presentation from Finance Department
- VI. Old Business
- VII. Public Comment and Presentation
- VIII. Adjourn
- IX. Next Meeting

City of Davenport
Civil Rights Commission

Department: Civil Rights
Contact Info: |
Subject:
September 2024 Minutes

Action / Date
10/8/2024

Attachments:

1. DCRC September 2024 Minutes

DAVENPORT CIVIL RIGHTS COMMISSION
Minutes of Regular Meeting
Tuesday, September 10, 2024; 12:00 PM

The Davenport Civil Rights Commission (DCRC) met at 12:00 p.m. Tuesday, September 10, 2024, at Davenport City Hall, 226 W. Fourth St., in the Civil Rights Commission Conference Room. Commission Chair Michael Guster, presided.

COMMISSIONERS PRESENT:

Ethelene Boyd
Michael Guster
Frank Holley
Glenn Peterson (arrived at 12:20 p.m.)
Charlene Upchurch-Taylor
Jeff Transou

COMMISSIONERS ABSENT

Angela Reyes

OTHER PERSONS PRESENT:

Director Lacey

AGENDA

Commissioner Guster called for the approval of the agenda. All Commissioners voted to approve the agenda by unanimous consent.

APPROVAL OF MINUTES

A. August 2024

A motion was made by Commissioner Boyd to approve the August 2024 minutes, it was seconded by Commissioner Upchurch-Taylor. All Commissioners approved the minutes.

REPORT OF THE DIRECTOR

Director Lacey stated there was no right to sue letters for the month of August. One housing case settled in mediation in the month of August. The housing case involved allegations of disability discrimination involving a failure to accommodate. The case settled for specific action and relief in the public interest.

The Director stated that she is still awaiting results for FOIA's from the Iowa Public Information Board from March. Documents were incomplete or did not match the request.

Director Lacey worked on pre-hearing and post-hearing preparation and is currently waiting on a brief.

Director Lacey continues to monitor COVID-19 rates and its impact on office functions, stating the new variant seems aggressive.

The Director attended a League of Civil and Human Rights Agencies meeting. The Director stated she is working with DOJ CRS, Commissioners and members of the League of Iowa Civil and Human Rights Agencies to plan and schedule an upcoming training with the League of Iowa and Civil and Human Rights Agencies, the training is currently scheduled for September 24-25, 2024. The link to register was emailed to the Commission and League members.

Director Lacey stated she continues to work on training related to the staffing realignment due to the forced departure of the Asst. Director/Housing Programs Manager. The Director stated she continues to work on relations between the Commission and City Hall. So far, the interviews she has had are not going very well.

The Director and Commissioners Guster, Holley, Upchurch-Taylor and Boyd attended a joint DCRC and City Council meeting. Commissioner Guster stated that insinuations were made about Director Lacey. Commissioner Holley stated that he felt the lack of attention and no follow-ups were of concern to him. Director Lacey stated she would send a document out to all Commissioners, and then Mayor Matson and Jazmin Newton and Nicole Gleason.

In new business, the Commission discussed the training on 9-24 and 9-25-2024. The need to register was discussed and it was decided that Director Lacey would register all Commissioners except Commissioner Peterson. It was suggested that Commissioners arrive at 7:30 or so to get their name tags. Both days' training goes from 8 a.m. to 5 p.m.

The Commission discussed the Public Hearing Decision to be made at the special meeting on 9-23-2024 at 10 a.m. The case DCRC# 0050-0015-21 must be reviewed within 30 days, and the Commission will need to accept, reject, or amend the Hearing Officers decision.

NEW BUSINESS

A. October Meeting Location-Finance Presentation

The Commission discussed the location of its next regular meeting which would also include a finance presentation from City finance staff. The location decided was City Council Chambers at City Hall, Davenport. The date of the meeting will be October 8, 2024, at 12 noon.

OLD BUSINESS

Commissioner Reyes Memorial for Brenda Drew-Peebles was discussed briefly.

PUBLIC COMMENT AND PRESENT and PRESENTATION

None

ADJOURN

Commissioner Upchurch-Taylor made a motion to adjourn the meeting, Commissioner Holley second the motion. All Commissioners approved the motion to adjourn the meeting at 1:32 p.m.

NEXT MEETING

The next regular meeting of the Commission is October 8, 2024, at 12 noon. The next Commission meeting is a special meeting scheduled for September 23, 2024, at 10 a.m.

Submitted by Jeff Transou, Secretary

City of Davenport
Civil Rights Commission

Department: Civil Rights

Contact Info: |

Subject:

September 2024 Special Meeting Minutes

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10/8/2024

Attachments:

1. DCRC Special Meeting Minutes 9.23.24

DAVENPORT CIVIL RIGHTS COMMISSION
Minutes of a Special Meeting
Monday, September 23, 2024; 10:00 AM

The Davenport Civil Rights Commission (DCRC) met at 10:00 a.m. Monday, September 23, 2024, online using ZOOM. Commission Chair Michael Guster, presided.

COMMISSIONERS PRESENT:

Ethelene Boyd
Michael Guster
Frank Holley
Glenn Peterson
Charlene Upchurch-Taylor
Jeff Transou

COMMISSIONERS ABSENT

None

OTHER PERSONS PRESENT:

Director Lacey
Attorney Elliott McDonald of the Brooks Law Firm
Devin Kelly, filling in for Tyler Adams with Roxanne Conlin and Associates

AGENDA

Commissioner Guster called for the approval of the agenda. Commissioner Boyd made a motion to approve the agenda, Commissioner Upchurch-Taylor second the motion. All Commissioners voted to approve the agenda.

APPROVAL OF MINUTES

None (special meeting)

NEW BUSINESS

A. H-0050-0015-21

The Commission reviewed the proposed decision from Hearing Officer Kathleen O'Neill. Respondents were represented by Attorney Elliott McDonald of the Brooks Law Firm and the Complainant was represented by Devin Kelly, who was filling in for Tyler Adams with Roxanne Conlin and Associates. Mr. McDonald stated that in a case of discrimination citing the cat's paw theory has never been applied in a housing case. Mr. McDonald stated if the case is sent back then the District Court is not going to do anything different than all the courts all over the

country. He stated that none of them have approved of this theory in a housing case. Commissioner Holley stated he wasn't familiar with the cat's paw theory, but it appeared to him that in this case the Respondents actions were influenced or based on the position of the neighbor and that the landlord's actions were merely reflecting the neighbor's position based on racial discrimination. Commissioner Holley stated he felt the information received, Mr. McDonald's argument was seemingly undermined by the facts that were presented in the exhibits, specifically if you look at the timeline and the Respondents' actions, the threats made by the neighbor and the Respondents' response to the threats, it seems to reflect the discriminatory intent of the neighbors, indicating that there was definitely discriminatory animus, and that the Complainant's allegations about the discriminatory complaints were actually reported to the Respondents.

Commissioner Transou asked Mr. Kelly what his take was on the cat's paw theory and whether it could apply to a housing case. Mr. Kelly stated that the Respondents council was correct here that the theory of cat's paw sprung out of the area of employment and that yes, its purpose was to hold a larger entity of another entity responsible for being essentially used or manipulated or coerced in one, either implicitly or explicitly, and into another person's discriminatory conduct. Mr. Kelly stated he wasn't familiar with any case that does apply cat's paw theory to the housing arena, but he thinks looking at the Civil Rights Act, for example, knowing that the statute states that the purpose is to ferret out discrimination in all its forms. Mr. Kelly stated that he would think the basis and rationale and the purpose behind allowing and recognizing that theory in the employment area applies and makes just as much sense in employment as it would in this housing case. Mr. Kelly went on to say that from their perspective, the neighbor essentially used this landlord to further her own racist goals and objectives. He stated that the landlord was made aware of that and allowed himself to be used as a pawn, therefore the theory makes sense and it makes sense to apply it in the housing arena, at least to the set of facts presented in this case.

Mr. McDonald responded to Mr. Kelly's comments stating that there was no evidence in the record that Larry Mays had any participation in the discriminatory animus. He stated there was no evidence showing that Mays had knowledge of the neighbor's racial activities towards the Complainant and that the ALJ specifically made a finding that there was no evidence that connected Mays to the neighbor. It was then discussed that the Respondent had put forth a false reason for the eviction when he indicated that he wanted to sell the property though he never did. Commissioner Guster stated he was concerned about a handwritten letter about selling the property, saying it seemed frivolous at best. The reasons put forth to explain the decision to evict Complainant were discussed however the record shows that there was no clear reason provided for an eviction. Commissioners discussed a typical sale of a property where tenants usually can stay until a sale and lots of times even after a sale a new landlord still wants the tenants already there. There was more discussion about eviction and the route this one took. The Commission decided that based on the facts presented within the record, the Hearing Officer erred in granting the Motion for Summary Judgment as there are sufficient facts in dispute to allow the case to proceed to public hearing for a determination on the merits.

Commissioner Holley made a motion to reject the proposed decision and to remand the case back to the Hearing Officer to preside over the contested case proceeding. Commissioner Boyd seconded the motion. Commissioner Guster called for a roll call vote. Commissioner Transou did the roll call.

Commissioner Boyd	Yes
Commissioner Guster	Yes

Commissioner Holley	Yes
Commissioner Peterson	Abstain
Commissioner Upchurch-Taylor	Yes
Commissioner Transou	Yes

The votes were five yes and one abstention, so the motion was passed. Commissioner Peterson stated that he abstained because he felt like he did not have enough information to make a decision.

OLD BUSINESS

None

PUBLIC COMMENT AND PRESENTATION

None

ADJOURN

Commissioner Guster reminded the Commissioners about the upcoming training, all confirmed attendance except for Commissioner Peterson. Commissioner Boyd made a motion to adjourn the meeting, Commissioner Upchurch-Taylor second the motion. All Commissioners approved the motion to adjourn the meeting at 10:45a.m.

NEXT MEETING

The next regular meeting of the Commission is October 8, 2024, at 12 noon. The meeting will be in person in the City Council Chambers at City Hall. A finance presentation will be given to the Commission by finance staff.

Submitted by Jeff Transou, Secretary

City of Davenport
Civil Rights Commission

Department: Civil Rights
Contact Info: |
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September 2024 Director's Report

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1. September 2024 Directors Report

DIRECTOR'S REPORT FOR THE DAVENPORT CIVIL RIGHTS COMMISSION FOR September 2024

I. CASE STATUS

1. No "right to sue" letters were issued in the month of September.
2. No cases settled in mediation in the month of September.

II. OTHER ACTIVITY

1. Director completed case processing documentation.
2. Director still awaiting the results for PRR-149-2024 & PRR-171-2024 which were incomplete. We are currently awaiting further Iowa Public Information Board's (IPIB) action regarding 24FC0017. This complaint, involving the City of Davenport's refusal to produce records pursuant to Iowa Code §22.2(1) in PRR-52-2024, was accepted by the IPIB on March 21, 2024. The subsequently denied FOIAs (PRR-149-2024 & PRR-171-2024) were added to this complaint. The documents received did not match the request and the W2s were all unlawfully redacted. We have not received an updated version as of 09/30/2024.
3. Director reviewed ordinance updates to adopt the 2021 International Building Code, 2021 International Fire Code, 2021 International Residential Code, the 2021 International Property Maintenance Code and the updates to the rental code.
4. Director worked on pre-hearing preparation.
5. Director worked on post-hearing preparation.
6. Director continued to monitor COVID-19 rates and its impact on office functions.
7. Director worked on case resolution documents.
8. Director worked on litigation.
9. Director continued reviewing applications for new staff.
10. Director hired a new Civil Rights Specialist, they will start on October 14, 2024.
11. Director continues to monitor a possible issue involving DCRC witness intimidation and retaliation.
12. Director attended a League of Civil and Human Rights Agencies meeting.
13. Director met with city staff and contractors to review office update options.
14. Director continued working with DOJ CRS, Commissioners and members of the League of Iowa Civil and Human Rights Agencies to finalize the training with the League of Iowa Civil and Human Rights Agencies, the training was held on September 24-25, 2024. The training has received very positive feedback from attendees and they have sent their thanks to DCRC for hosting this year.
15. Director will continue working with Commissioner Boyd on potentially developing a campaign to discuss Environmental Justice and the history of housing discrimination involving the placement of hazardous sites near higher minority populated and lower income communities.
16. Director continues to work on training related to the staffing realignment due to the forced departure of the Asst. Director/Housing Programs Manager.
17. Housing Analyst worked on housing investigations.
18. Housing Analyst worked on housing inquiries.
19. Housing Analyst worked on case resolutions.

III. OLD BUSINESS

1. Ongoing discrimination, harassment and bullying of Commission staff.
 1. Retaliatory actions against Commission staff and further examples of different treatment.
2. Legal Department refusal to accept Commission referral.
3. Use of racial slurs in City Hall. City's failure to initiate complaint investigation.
4. Investigation of hostile working environment, still no findings nearly a year after the initiation of the investigation.
5. New refusal to fulfill records requests, continuing the pattern and practice of harassment from the city's legal department.
6. Continued refusal to process vacation correction, despite receiving their legal opinion which clearly indicates that the Commission's procedure for processing the correction was appropriate.
7. Constructive discharge of Commission employees.

IV. NEW BUSINESS

1. Council consideration of updates to the Building Code, Fire Code and Rental Code

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None

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Finance Presentation from Finance Department

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None

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