

**CITY OF LINCOLN, NEBRASKA  
COMMISSION ON HUMAN RIGHTS  
MINUTES**

Thursday, October 29, 2020  
555 S. 10<sup>th</sup> Street, 1<sup>st</sup> Floor  
City County Building, Council Chambers

**CALL TO ORDER:**

The October 29, 2020, meeting of the Lincoln Commission on Human Rights (LCHR) was called to order at 4:02 p.m. by Carlos Garcia, Chair.

**ROLL CALL:**

The roll was called.

**COMMISSIONERS PRESENT:**

Carlos Garcia (Chair), Precious Loving-Afuh (Vice Chair), Rose Godinez, Jolene McCulley, Sheri Blok, Jonathan Rehm, and Terry Warner.

**COMMISSIONERS ABSENT:**

Emira IbrahimPasic and Rachel Zeng.

**STAFF PRESENT:**

Mindy Rush Chipman, Rob Rowan, Abigail Littrell, Shanna Eckman and Sally Casillas.

**APPROVAL OF SEPTEMBER 24, 2020 MINUTES:**

A motion was made by McCulley and seconded by Blok to approve the minutes of the previous meeting.

Hearing no discussion, Garcia asked for the roll call. Voting “aye” were Garcia, Loving-Afuh, Godinez, and McCulley. Motion carried.

**APPROVAL OF SEPTEMBER 24, 2020 AGENDA:**

A motion was made by Werner and seconded by Loving-Afuh to approve the meeting agenda.

Hearing no discussion, Garcia asked for the roll call. Voting “aye” were Garcia, Loving-Afuh, Blok, Godinez, Werner, and McCulley. Motion carried.

\*At 4:12 PM Rehm arrived.

**CASE DISPOSITIONS:**

**LCHR #19-1217-034-E-R**

A motion was made by Loving-Afuh and seconded by Blok to enter a finding of **no reasonable**

**cause** on all allegations.

Godinez commented that she agrees that there is no reasonable cause on the first allegation; however, raised concerns regarding the retaliation charge as Complainant was terminated nearly one month after the meeting with Respondent Human Resource and Executive representatives and the alleged timecard fraud. Godinez acknowledged that adjusting other employee's timecards violated Respondent's policy and Loving-Afuh clarified that the timing of Complainant's termination was around the Thanksgiving holiday, and that the meeting and timecard adjustments occurred on November 18-19, 2019 and was terminated less than a month later December 10, 2019.

Hearing no further discussion, Garcia asked for the roll call. Voting "aye" were Garcia, Loving-Afuh, Blok, Rehm, Werner, Godinez, and McCulley. Motion carried.

**LCHR #20-0207-001-H**

A motion was made by Werner and seconded by Loving-Afuh to enter a finding of **no reasonable cause** on all allegations.

Garcia clarified that although unlawful discrimination can be shown through a policy's disparate impact on a protected class, the evidence offered in this case provides insufficient data or statistical analysis to support a finding of disparate impact. Godinez questioned whether or not Complainant must show the policy at issue caused the disparity by statistical disparity. Littrell replied percentages, data and comparators information can be used to evidence disparities. Garcia noted the lack of data available as the Respondent does not own many properties, the property at issue was recently acquired by Respondent, and Respondent does not keep prior applications, so in this case not enough data is available to support a reasonable cause finding based on disparate impact.

There was more discussion about Respondent's criminal history policy. Garcia and Loving-Afuh questioned the legality of the policy itself, to which Littrell and Rush Chipman clarified that the policy on its face is neutral and lawful, as individuals with criminal records are not considered a protected class in our jurisdiction; however, neutral policies that result in a disproportionate impact on a protected group are unlawful under the Fair Housing Act and Title 11 of the Lincoln Municipal Code.

Hearing no further discussion, Garcia asked for the roll call. Voting "aye" were Garcia, Loving-Afuh, Blok, Rehm, Werner, and McCulley. Godinez abstained Motion carried.

**LCHR #20-0416-007-E**

A motion was made by Werner and seconded by Garcia to recommend a finding of **no reasonable cause** on all allegations.

Godinez acknowledged that there were performance issues and the investigation uncovered no comments or hostility toward Complainant based on her marital status. Commissioner Blok commented that the interactions described appear to be the demise of a relationship.

Hearing no further discussion, Garcia asked for the roll call. Voting “aye” were Garcia, Loving-Afuh, Blok, Godinez, Werner, and McCulley. Rehm abstained. Motion carried.

**LCHR #20-0629-011-E-R**

A motion was made by Rehm and second by Werner to enter a finding of **reasonable cause** on all allegations.

Rehm stated he believed there was reasonable cause to find discrimination based on disability occurred because Complainant’s bladder issue created a limitation and need for Complainant’s requested accommodation. The Respondent did not provide the accommodation.

Rehm and Garcia discussed that Complainant told the Respondent about his incontinence issues and need for an accommodation; however, Loving-Afuh disagreed that the Complainant told the Respondent that he was disabled and needed the access to a restroom as a disability-related accommodation.

Commissioners Garcia, Rehm, and Werner discussed whether the Respondent’s failure to provide onsite restroom access for over two and a half weeks was reasonable. At the request of Garcia, Littrell clarified that an employee with a disability is not required to provide a note from their doctor in order to make a request for an accommodation.

Hearing no further discussion, Garcia asked for the roll call. Voting “aye” were Garcia, Blok, Rehm, Werner, and McCulley. Godinez abstained. Voting “no” was Loving-Afuh. Motion carried.

**PRE-DETERMINATION SETTLEMENT AGREEMENTS:**

**LCHR #20-0903-005-H**

A motion was made by Werner and seconded by Blok to accept the Pre-Determination Settlement Agreement.

Hearing no discussion, Garcia asked for the roll call. Voting “aye” were Garcia, Loving-Afuh, Blok, Rehm, Werner, Godinez, and McCulley. Motion carried.

**LCHR #20-0903-006-H**

A motion was made by Werner and seconded by Loving-Afuh to accept the Pre-Determination Settlement Agreement.

Hearing no discussion, Garcia asked for the roll call. Voting “aye” were Garcia, Loving-Afuh, Blok, Rehm, Werner, Godinez, and McCulley. Motion carried.

**LCHR #20-0903-007-H**

A motion was made by Werner and seconded by McCulley to accept the Pre-Determination Settlement Agreement.

Hearing no discussion, Garcia asked for the roll call. Voting “aye” were Garcia, Loving-Afuh, Blok, Rehm, Werner, Godinez, and McCulley. Motion carried.

**OLD BUSINESS:**

**Outreach**

Rush Chipman reminded Commissioners this year’s Dia de los Muertos / Day of The Dead 2020 events will be virtual. Rush Chipman also provided an update on LCHR’s Fair Housing Initiative Program (FHIP) grant, which allowed Sally Casillas and Haefaa Hasan to be part of the LCHR’s team.

**NEW BUSINESS:**

**Director Update**

Rush Chipman requested Commissioners who are interested to form a working committee to improve the format that internal investigative reports are presented to the Commissioners.

**PUBLIC COMMENT:**

No public comment.

The meeting was adjourned at 5:05 p.m.

**Next Meeting:**

Thursday, December 10, 2020, at 4:00 p.m.  
Third Floor County/City Building  
555 S. 10th Street, 1<sup>st</sup> Floor  
City County Building, Council Chambers