



SOMERVILLE HUMAN RIGHTS COMMISSION

October 20, 2005, 6:30 p.m.
Tufts Administration Building, 167 Holland Street, Somerville
Meeting Minutes

Members present: Susan Goldstein, Mike Koehler, Mary Lu Mendonca, Kevin O'Malley, César Urrunaga, Yvette Verdieu

Non-members present: Christopher Hope, Lauren Nadler, Nathan Phelps, Yari Weaver, Kerry Venegas

1. Administrative matters

Kevin noted that there were not enough members present to form a quorum, so there could be no voting on official business. A vote to accept the minutes from the September meeting was postponed until next month. Lauren Nadler and Nathan Phelps introduced themselves as students studying public policy at Tufts University.

2. Director's report

Mary Lu submitted the director's report and orally reviewed a number of items. She said that a recent "meet-and-greet" event with directors of the Women's and Multicultural Commissions was well-attended by local officials and representatives of community groups. Mary Lu reported that the City has asked her to consider taking on the position of Americans with Disabilities Act (ADA) compliance officer. Commissioners expressed concern that the additional work would take away from time spent on HRC work. Susan also pointed out that there could be an ethical conflict if the Commission were to receive a complaint that the City's non-compliance with ADA resulted in discrimination against a disabled individual.

Mary Lu went over a list of issues and incidents that had been reported to her as areas for potential action by the HRC. It was noted that the list could be used to come up with common themes to discuss at our upcoming retreat. One reported incident was an altercation between police officers and an employee of the Community Action Agency of Somerville (CAAS) who was assisting a client as an interpreter. Mary Lu has been kept informed of developments through a series of letters between CAAS and the police officer assigned to investigate the incident, and there are plans to hold a meeting so all sides can be present for a discussion of the incident. Mary Lu noted that there had been no complaint filed formally with the HRC, and said that she intends to stay out of any dispute about the facts of the underlying incident. She is drafting a letter that will highlight two issues that had been raised by the exchange: first, access to police documents that fall under the public records law,

and secondly, ensuring that complaints and requests for internal affairs investigations are handled properly. Kevin added that the HRC might also play a role as mediator in the CAAS situation. Other commissioners pointed out that the CAAS incident ties in with larger concerns about adequate translation services in the City.

Mary Lu invited commissioners to attend an upcoming meeting sponsored by the HRC to discuss community response to hate incidents and involvement in the No Place For Hate program. Kevin explained to new members and visitors that No Place For Hate is a program administered by the Anti-Defamation League through which municipalities work to put on events and run programs that foster tolerance and diversity.

3. Commissioners' reports

Mike and Yvette reported that they spent an afternoon promoting the HRC through a "walking tour" of the Union Square neighborhood. Although there was nobody home at most of the houses on the tour, Mike and Yvette talked to a couple of residents and left HRC flyers at the empty houses. They distributed about seventy-five flyers in a short period of time, and considered the tour a success. Other commissioners expressed interest in distributing flyers in their own neighborhoods. Mary Lu will get flyers to César and Chris for this. Commissioners also planned to hand out flyers at subway stations on Tuesday morning between 7:00 and 8:30 a.m. Mary Lu will get flyers to César and Kevin to distribute in Davis Square, and to Mike for distribution at Sullivan Station.

Commissioners reported on the progress of translating our brochure into several key languages. Mary Lu is almost done with the Portuguese translation. Kerry is working on the Spanish translation and will send a draft to César for revision. Mary Lu noted that a contact at Concilio Hispano volunteered to review our translation and edit it using a neutral Spanish dialect.

We are making progress on the translation of our brochure into several key languages. Kerry is working on the Spanish version and will e-mail it to César for editing. Mary Lu will send their draft to Concilio Hispano to work on a final draft. Mary Lu is almost done with the Portuguese version of the brochure. Yvette said that she had been in touch with a contact about doing the Haitian Creole translation. The contact could not help, but will refer us to another translator. Mary Lu raised the issue of what to do if someone calls the office in response to these flyers and expecting us to have staff fluent in different languages. It was decided that Mary Lu will refer the callers to the different multilingual commissioners.

4. Other business

Film series

Yvette proposed that we acknowledge Black History Month in February of next year. Commissioners agreed that this was a good idea, though there were concerns that it might interfere with planning for our Martin Luther King Jr. Day event. Susan proposed a film series, possibly to be held at the library, with discussions following the films. Kerry suggested the movie "Crash" and Chris mentioned "Do the Right Thing". A number of people recommended the movie "Blue Eyes, Brown Eyes" by Jane Elliot. There was a discussion of the legality of showing these movies in public. Kevin said that he has many videos that belong to the HRC for which we would not need permission. Chris suggested that we might be able to use Barnum Hall at Tufts University as a forum. Susan said that in the past we have held film showings at various locations throughout the city to make it more accessible to a greater number of people.

Translation Issues

The Commission agreed that we should pursue the goal of making more city services available in languages other than English. The Multicultural Commission is working on this as well.

Enforcement Powers

After last meeting's discussion of enforcement powers, Mary Lu examined our ordinance to discover whether we have the power to take any punitive action after investigating complaints. We have no ability to award damages. The few things we can do are as follows: publish findings, insert complaints and resolutions into municipal personnel files, attempt my negotiation to resolve complaints, and recommend actions to the mayor. We can also refer complaints and recommend actions to all appropriate governmental agencies.

Commissioners were concerned that we lack the power to effectively resolve complaints. Kevin spoke about our power to exert pressure generally as a governmental body, and described one situation in which a restaurant refused to deliver food in a particular neighborhood; by merely contacting them and expressing displeasure at their actions, we were able to pressure the establishment into changing their policy. Kevin pointed out that we have never come to a point where simple pressure did not result in a resolution.

Kevin also suggested that we might be able to transition back into working under contract with the Massachusetts Commission Against Discrimination (MCAD). Mary Lu said that MCAD used to contract cases out to many local commissions, but currently does so only with Amherst and Cambridge. When asked about the possibility of reinstating our contract, MCAD explained that there were so many open cases in Somerville that we would need to commit enough resources (including, at minimum, a full-time investigator) to demonstrate our ability to deal with the complaints properly. Kerry suggested that Mary Lu contact the MCAD to ask whether they know whether other local commissions went on to acquire enforcement powers through other avenues after the MCAD contracts ended. Mary Lu will also pose the question at a meeting of the Massachusetts Association of Human Rights/Relations Commissions.

Complaints Filed by Commissioners

Mary Lu said that one of our commissioners (who was not present for this meeting) had expressed his intention of filing a complaint with the HRC. Mary Lu had contacted the rest of the commissioners previously to express concern about whether such a complaint would create a conflict under any applicable rules or laws. Nothing in our by-laws or governing ordinance prohibits commissioners from filing complaints with us. Mary Lu said she called the State Ethics Commission to inquire about the applicable law (M.G.L. ch. 268A regarding conflicts of interest for municipal employees.) Mary Lu was advised that to consider sections 19 (prohibiting municipal employees from taking official actions that might affect their financial interest; i.e. if a complainant were to pay a lawyer to represent him before the commission) and 23(b)(3) (requiring employees to file a written disclosure before taking actions that might give the appearance of impropriety.) The Ethics Commission does not advise persons speaking on behalf of others without explicit permission, so Mary Lu was unable to learn whether there would be different requirements for other members of the Commission. She encouraged everyone to call individually.

Commissioners discussed additional implications of the situation. Because of the possibility that we would hear and investigate the complaint in question, it was decided that we would keep the

discussion hypothetical and avoid referencing the facts of this particular complaint. Many commissioners felt generally that hearing a complaint by a commissioner could affect the credibility of our findings. Kerry noted that this should concern us particularly since – as noted in the previous discussion - our findings are only effective because of their credibility rather than their enforceability. César pointed out that we are a resource for all Somerville residents, and thought commissioners should have the same opportunities as other residents to file complaints. Other commissioners thought that referring such complaints to MCAD would be an option.

Mike said that he understood the conflict of interest law to require only that the complaining commissioner file a disclosure first. Kerry suggested that find out, perhaps by contacting MCAD, whether other local HRC's have dealt with this issue in the past.

Discrimination Against Homeless Persons

Mary Lu introduced Yari Weaver, who called the HRC office recently to express his concern over the way homeless persons are treated in Somerville. Yari is a case manager for homeless services who used to work in the city. He was concerned specifically about an incident involving Christo's Pizza restaurant in Davis Square, which allegedly mistreated one of Yari's clients. Although it was unclear whether Yari could complain on someone else's behalf, Mary Lu invited him to come and share his general concerns at the HRC meeting.

Yari said that he has seen discrimination against homeless individuals by various businesses throughout the city, by public and private agencies, MBTA officials, and police officers. As a case worker, he often heard of businesses banning homeless persons from returning to establishments and questioned whether this was legal. Yari said he has heard of MBTA employees publicly humiliating homeless persons by screaming at them over the speakers at subway stations. Once he saw an MBTA employee spit at a homeless person. He said that police target and arrest homeless people for no reason. He described the Christo's incident in more detail and said that he called the Better Business Bureau after this incident and that they referred him to MCAD, who referred him to us. He wondered whether he should be able to file a complaint with MCAD on someone's behalf as an advocate. Yari encouraged the HRC generally to find ways to make businesses accountable for their mistreatment of homeless persons.

Susan spoke about the legal distinction between public and private establishments. Under Massachusetts law, persons cannot be refused access to public places but not necessarily to private establishments. Susan also pointed out that homeless individuals are not a protected category of persons under our anti-discrimination law. She said that businesses might well have legal authority to turn away patrons who they feel are scaring away other customers.

Kerry thought there were two issues being raised: first, a specific complaint about the pizzeria incident; second, whether the HRC could help raise awareness of the issue generally within our community. Commissioners felt that the second issue was a more appropriate way of treating the issue, particularly considering the concerns about the complaint being made on another person's behalf. Mary Lu brought up the idea from our September meeting about educating local businesses about human rights. Several commissioners agreed that our role would be to educate employers who could then go on to instruct employees to treat all customers respectfully. Kevin thought that educating business owners might not be helpful. If we were to do a training on anti-discrimination law, for example, business owners would get affirmation that they can control who patronizes establishment so long as they do not discriminate against a protected class. Kevin pointed out that this would not be helpful to persons claiming discrimination based on homelessness, which is not a protected class. Mike thought that education and trainings for business owners would still be helpful.

Yari proposed that the HRC look into setting up consumer advisory boards modeled after those in other communities. These can be helpful and could involve homeless persons in advocating on their own behalf as members of the boards. Yari also proposed that we hold a forum on homelessness in Somerville.

César thought we could raise awareness of the issue through our film series. He thanked Yari for informing us about his experiences, and noted that an important first step is that we at the HRC become informed about the issue so that we can go out and educate others. Kerry noted that there may be localities in the Southwest U.S. that have included homelessness in discrimination statutes or local ordinances. She will contact a colleague at Spare Change newspaper for film suggestions and information about laws that we might look to as models. Other commissioners thought hosting a speaker on homelessness issues might be a good idea. Mike had heard of a speaker who gives presentations on life as a homeless youth; he also will contact someone at Spare Change to inquire about getting in touch with this or other speakers.

Mary Lu noted that there are other organizations working on homelessness issues in Somerville already. Many commissioners agreed that it would be a good idea for the HRC to become more involved in preexisting efforts, and Mary Lu said she would begin doing outreach by contacting the Somerville Homeless Coalition and distributing our brochures to various organizations that work on these issues. Commissioners felt that the HRC would not want to duplicate efforts, for example, by planning a forum and finding out that other organizations have already organized something similar. Lauren thought that it would be wise to start working on smaller initiatives and build up to a large public forum.

Retreat

The Commission decided to hold its Fall retreat on Saturday, November 19, 2005, from 8:30 a.m. to 12:30 p.m. Mary Lu will contact the VNA, with César's help, to see if there are rooms available there. Kevin offered to provide bagels and coffee if someone else would arrange to pick them up and bring them. César volunteered. Mary Lu said that a retreat does not seem to fall under any exemptions of the open meeting law, so it will be a public meeting and notice will be posted at City Hall.

Martin Luther King Jr. Day Celebration

Mary Lu reported on a recent meeting with the Early Childhood Advisory Council, which also hosts a MLK Day celebration. There was a wonderful discussion, and the group decided we would like to maintain our separate events while having a common theme focused on MLK's vision of class unity. Mary Lu will make arrangements to meet with Kevin and Mike to plan logistics for our event. We also need to meet with the superintendent to ask about having the event at the East Somerville Community School again this year. Susan and Kerry volunteered to go with Mary Lu and meet with the superintendent about this and other issues.

Lauren asked for more information about the event. Kevin explained that we hold a ceremony on the holiday each year with speeches and entertainment. We also give out awards to people and organizations who work to promote MLK's ideals in Somerville. Kerry suggested we consider having an open-mike format for part of the entertainment this year. Mike thought we should repeat last year's service project that got kids involved in the organization of the event.

Next meeting

At our next meeting, Kevin would like to discuss amending our ordinance to lower the number of members required to be present for a quorum.