



Health, Education & Welfare Committee Agenda July 22, 2024 at 5:00 PM

Health, Education & Welfare Committee

Dara Wood, Chair
Keely Paul
Jay Shatz

Staff Liaison

Scot Lahrmer, Village
Manager
Andy Kaake, Law Director

MINUTES

1. Approval of minutes: February 21, 2024

TOPICS OF DISCUSSION

1. Update the Nondiscrimination Ordinance

ADJOURNMENT

Health Education & Welfare Committee Meeting 2-21-24

Present:

Committee: Dara Wood, Chair, Jay Shatz, Keely Pau. Scot Lahrmer, Village Manager, Andy Kaake, Law Solicitor.

Human Rights Commission Members: Rabbi Matthew Kraus, Nancy Warren, Evelyn Jones, Donna Hermann. Jen Scott: statewide Field Manager for Equality Ohio
Molly Blenk, Brad Wise, AD Motzen, Bob Hermann

Background: We have been looking at the Human Rights over the past several months. The HRC has suggested some changes. The HEW committee asked the Law Solicitor to look at these changes as we were in support of stronger language and an educational component. Mr. Kaake worked on a draft and presented that at a meeting a few months ago. One piece of it was an option for mediation, and it was proposed the Village would pay for this. Rabbi Kraus had gotten some feedback from Jen Scott at Equality Ohio and she shared that she felt the new language overall did not strengthen and in many cases weakened our HR ordinance. They wanted Ms. Scott to come to their next meeting to share her thoughts on the versions and perhaps offer some ideas for other language that would strengthen but not increase risk to the Village, legally or financially. We will do this with the HEW committee and Mr Kaake, the law solicitor.

Jen Scott feedback: Jen expressed she was happy to look at and strengthen AV HR ordinance. Concerns she had looking at the revisions from Andy:

- enforcement mechanism - They like mediation but it is voluntary and no process beyond that, so there isn't anything real here to get people to participate in that.
- Religious exemptions – the religious exemptions as written are too broad and do not match state and federal in comparison to other protected classes
- She would remove section on education 102.08 c – state and federal cover education and regulate it, and they recommend the local jurisdictions stay silent on that.

Other things Ms. Scott shared: 35 locations in Ohio have human rights ordinances in place. Larger cities have staff that handle it, smaller go through human rights commission.

Mrs. Warren asked – what is liability to the people on human rights commissions in the cities dealing with these issues, she said she isn't a lawyer but thinks – they are acting as individual in their role as commission.

Mr. Shatz: Law is evolving with the supreme court case so is there a reason to see what happens with this as it may change things.

Ms. Wood shared: There is some concern with how much this has already cost the Village in legal fees. It has been over \$7000 and will grow with Mr Kaake being here tonight. She would love to strengthen the language and include some education pieces (and we may not have to recreate this as there is probably a lot out there we could use/adapt.)

Discussion:

Ms. Wood: We have spent over \$7,000 and it continues to grow and that is concerning as we have not made any changes. She was in favor of stronger language but not wanting to put the village at any legal risk or financial risk. We have spent quite a bit and are no closer to any

changes we are actually further. She recommended wanting to see us focus on creating some education pieces, as opposed to changing the language to avoid more expense and liability to the Village.

Mr. Kaake asked - how do communities deal with the legal fees that can be incurred developing and if cases come to fruition. Ms. Scott responded that they have staff or commission look at it. Our concern is the expense to investigate etc.

Also - How do they deal with confidentiality with all the records since this is all open to public record. Anything with HRC or Village is subject to public records. How is that handled so not public. Ms. Scott said she would need some legal advice, but she thinks you can set it up that certain things are protected.

The question was asked if the village adjudicates and issues fines on other things so why is this different, and couldn't we just stop if it gets too costly. Mr. Kaake: people acting in a public capacity can be exempt from being sued. Discrimination cases have more financial risk because investigation. Also, why lead them up that path if aren't going to follow through and it could be issue of why did we let this one go and continue with another one.

Jen: they haven't seen a lot of challenge of the city and even statewide ordinances
Rabbi Kraus asked if can we get info on costs of a communities that have had an issue/case.
Ms. Scott said she would look into this.

Mr. Shatz: His concern is not just the cost, its staff time and energy – do we want their time and energy put into investigations etc, if that is something that the state level would handle. We have already sent a strong message with the current ordinance. We have ability to do an education element that makes strong statement as well. Taking financial risk when there is a good amount of court turmoil going on may not be the right approach now.

Ms. Wood: cost, risk – don't agree with us doing paying for mediation,

Ms. Paul agrees: feels as if writing a blank check and costs could escalate quickly, she is concerned with similar things other committee members have stated. She feels the fines, cases are going beyond legislation- she would like to see religious exemptions more clear but concerned about enforcement side of it.

Rabbi Motzen feels the religious exemptions have not been strong enough.

Are there education programs that have been effective in other communities – yes there are and Jen could share. Some have done quarterly DEI trainings.

HRC will look at what was in the newest draft – what can we change that the committees are comfortable with – so we can update and make changes – take out the items that are risk to us, like mediation and fines, but do not want to go on for months and months and spend a lot more in legal fees.

April 15, 2024

To The AV HEW Committee:

Thank you for considering our suggestions for clarifying and strengthening the HR Ordinance. To develop our recommendations, we solicited input from other communities and human rights experts. Our proposed revisions included specific protocols and options for village residents who may be experiencing discrimination, and consequences for offenders.

HEW requested review and input on the document from Andy Kaake, Law Director of Amberley Village. Presented in early 2024, Mr. Kaake's streamlined document improves both clarity and brevity of the Ordinance. Mr. Kaake's document also included a voluntary mediation option.

HRC strongly supports approval of Dr. Kaake's version, including the proposed changes in Sections 102.01, 102.02, 102.04, 102.05, 102.06, 102.07, 102.08, 102.09, 102.11. We believe these changes improve and strengthen the Ordinance. HRC does not support the proposed changes in Section 102.10, which do not improve or strengthen the Ordinance.

Best,

The AV Human Rights Commission

Jymi Bolden, Donna Hermann, Evelyn Jones, Matthew Kraus, Nancy Steinberg Warren

CHAPTER 102: HUMAN RIGHTS COMMISSION; DIVERSITY AND INCLUSION

§ 102.01 STATEMENT OF INTENT.

- (A) It is the intent of Amberley Village to protect and safeguard the right and opportunity of all persons to be free from all forms of discrimination, including discrimination based on one's ~~membership in a protected class such as~~ age, race, color, religion, ethnicity, national origin, ancestry, disability, marital status, family status, military status, sex, gender identity or expression, or sexual orientation ("~~P~~protected ~~C~~elass"). The purpose of this chapter is to promote the public health and welfare of all persons who live in, work in, or visit the ~~V~~village.
- (B) It is important to ensure equal access to employment, housing, public accommodations, and education in the ~~V~~village. The denial of these rights to persons in a ~~P~~protected ~~C~~elass is contrary to the principles of freedom and equality of opportunity and is destructive to a free and democratic society.

(Ord. 2018-4, passed 4-9-18)

§ 102.02 DEFINITIONS.

All words utilized in this ~~Ordinance~~chapter shall be construed and ascribed ~~their ordinary~~ meaning in accordance with the definitions and terms of art used in Ohio's and the federal anti-discrimination statutes, specifically O.R.C. § 4112.01 et. seq. and Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. unless otherwise defined herein. and as interpreted and applied by Ohio and federal courts.

(Ord. 2018-4, passed 4-9-18)

§ 102.03 HUMAN RIGHTS COMMISSION; PURPOSE.

A non-partisan Human Rights Commission is hereby established to be known as the Amberley Village Human Rights Commission (the "Commission"). The purpose of the Commission is not to penalize, but to encourage and endeavor to bring about mutual understanding and respect among all persons, and to safeguard the right and opportunity of all persons to be free from all forms of discrimination.

(Ord. 2018-4, passed 4-9-18)

§ 102.04 HUMAN RIGHTS COMMISSION; MEMBERS.

- (A) The Human Rights Commission shall be comprised of five (5) members appointed as follows: one member shall be appointed by the Village Manager; one member shall be appointed by the Village Mayor; and three members shall be appointed by a majority vote of Village Council. At least three (3) # members of the Commission shall be residents of the Village. Council may appoint a non-resident who has subject matter experience in

investigating or addressing claims of discrimination or harassment. Council may also appoint a non-resident who is the owner, operator, or official in charge of the operation of a business located within the Village.

- (B) Members of the Commission shall serve voluntarily and without compensation, except for reimbursement of any reasonable and necessary expenses incurred in performance for the Commission. No member shall be a current employee, officer, elected official, agent, or contractor with the Vvillage.
- (C) Except for members' initial terms which shall be staggered, each member shall serve a term of three years commencing on the effective date of this chapter. Members shall be eligible for reappointment; however, no member shall serve more than three consecutive terms. Members shall serve beyond the end of a term until a replacement is appointed by the respective authority. A member shall be deemed to have abandoned the position and resigned upon missing three consecutive regular meetings of the Commission without being excused by the Commission as reflected in the minutes. Any vacancy shall be filled by the authority which made the initial appointment for the position. Members appointed to fill a vacancy shall serve the remainder of the term of the vacant position.

(Ord. 2018-4, passed 4-9-18)

§ 102.05 HUMAN RIGHTS COMMISSION; ORGANIZATION.

The Human Rights Commission is a non-legislative public body of the Vvillage. The Commission shall convene the initial organizational meeting of appointed members at its earliest opportunity. The Commission shall organize at its initial meeting by electing one member as Chair and one member as Vice-Chair. The Commission may select additional members to serve as officers if found to be necessary and proper for the effective organization and operation of the Commission. Each officer shall serve for a term of one year or until a successor officer is duly elected.

(Ord. 2018-4, passed 4-9-18)

§ 102.06 HUMAN RIGHTS COMMISSION; MEETINGS.

- (A) The Human Rights Commission shall convene at least once each year to elect officers and as otherwise requested by a member of the Commission, the Village Manager, the Village Mayor, or the Village Council. Any three members of the Commission shall constitute a quorum for the transaction of business. The Commission may act upon a majority vote of members present at a meeting. The Commission shall report to the Village Council at least twice every 12 months.
- (B) Meetings of the Commission must be public according to the Ohio Sunshine Laws. Public notice of any meetings must be provided at least 48 hours in advance, and minutes must be maintained. Any documents, evidence, and other records maintained or created

by the Commission or submitted to the Commission, are public records subject to the Ohio Public Records Act.

(Ord. 2018-4, passed 4-9-18)

§ 102.07 HUMAN RIGHTS COMMISSION; POWERS AND DUTIES.

The Human Rights Commission is hereby authorized and empowered as follows:

- (A) The Commission may create and modify rules regarding its meetings, hearings, and procedures to carry out its functions. At its discretion, the Commission may accept volunteer services, including volunteer services of private legal counsel.
- (B) The Commission may create committees and sub-committees comprised of members and other volunteers, which in its judgment will aid in effectuating the purposes of the Commission, including, but not limited to: a committee formed to study the problem of discrimination; a committee formed to foster good will, cooperation and conciliation among the diverse groups and population of the Vvillage; and a committee formed to make recommendations to the Commission for the development and implementation of programs of formal and informal education and public awareness.
- (C) The Commission may, with the consent and approval of the Village Manager, call upon other officers, ~~(departments, -~~and agencies of the Vvillage government to assist in its programs and projects. The Commission may recommend to Village Council policies, procedures, practices and legislation in all relevant matters.
- (D) The Commission may enlist the cooperation of racial, religious, ethnic, community and civic organizations, and other identifiable groups of the Vvillage, in its programs and campaigns devoted to the education and advancement of tolerance, understanding and equal protection of the law for all groups and individuals regardless of membership in a Pprotected Class.
- (E) The Commission may seek and accept contributions, financial or otherwise, on behalf of the Vvillage from any person including but not limited to any private, public, governmental, charitable, religious, labor, civic or benevolent organizations, in furtherance of its mission.
- (F) The Commission may formulate and develop programs and opportunities (i.e. forums, workshops, research, and publications) to collect and disseminate information regarding the work of the Commission, to minimize or eliminate discrimination, and to promote good will among all persons who live in, work in, or visit the Vvillage.
- (G) The Commission ~~may shall~~ develop a program to receive and report complaints from persons who live in, work in, or visit the Vvillage. In its discretion the Commission may seek to conciliate any complaint with the express written consent of the complainant in

order to ensure equal access to employment, housing, public accommodations, and education in the Village.

(H) The Commission may refer complaints received to the the Ohio Civil Rights Commission (“OCRC”), Equal Employment Opportunity Commission (“EEOC”), or the U.S. Department of Housing and Urban Development's Office of Fair Housing and Equal Opportunity (“FHEO”), as applicable.

~~(H)~~(I) The Commission shall cooperate and work with relevant federal, state and local government offices and agencies.

(Ord. 2018-4, passed 4-9-18)

~~§ 102.08~~

§ 102.08 VILLAGE SERVICES, FACILITIES, TRANSACTIONS AND CONTRACTS~~PUBLIC CONTRACTS.~~

The Village shall give consideration to all contractors who have a stated inclusive policy against discrimination that is substantially similar to the Village's policy as set forth in this chapter.

(Ord. 2018-4, passed 4-9-18)

~~§ 102.0909~~ CONSTRUCTION; NONEXCLUSIVE REMEDIES.

(A) This chapter shall be liberally construed to accomplish its objectives and purposes. If any provision of this chapter is held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect or invalidate the other provisions hereof, all of which are declared and shall be construed to be separate and severable.

(B) This chapter does not create or establish a cause of action in any court of law or equity and shall not prevent any person from exercising any right or seeking any remedy otherwise entitled to under any other law, regulation, or policy. All remedies provided by this chapter are in addition to, and not in lieu of, other remedies.

~~(A)~~