

CITY OF CHARLOTTESVILLE

"A World Class City"

Human Rights Commission

P.O. Box 911 · Charlottesville, Virginia 22902

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www.charlottesville.gov/963/Human-Rights-Commission



Mary Bauer (Chair)

March 1, 2021

Kathryn Laughon (Vice-Chair)

Charlottesville City Council

Jeanette Abi-Nader

P.O. Box 911

Charlottesville, Virginia 22902

Shantell Bingham

Sent via electronic mail

Ernest Chambers

Wolfgang Keppley

Dear Councilors:

Susan W. Lewis

I write to express concern about several matters related to the Human Rights Commission ("Commission"), which I currently chair, and the Office of Human Rights.

Tobiah Mundt

Andrew Orban

Alex Oxford

Lyndele Von Schill

First, on February 1, 2021 I attended the City Council meeting in order to, among other things, implore the Council to take action to hire a Director for the Office of Human Rights. The last Director left over a year ago, and since that time, to my knowledge, no action has been taken to hire a replacement. No job advertisement has been posted, leaving us, at best, many months from having a Director. Instead, we have been repeatedly advised that other positions need to be hired first. Frankly, that demonstrates a lack of concern for an office that has as its fundamental purpose combatting inequity and discrimination.

In addition, the Commission is concerned about an arbitrary City rule related to the number of hours the Commission is permitted to meet in any given month. We have been directed that the Commission and any committees consisting of three or more Commissioners cannot meet for more than a total of six hours in any given month. In practice, we are even more limited than that, as we have been advised that we are permitted one two-hour meeting and one noticed committee meeting per month. These rules, we are told, are in place during the pandemic because a City employee is required to be present during Zoom meetings. That explanation appears nonsensical. The Commission is consistently staffed by a City employee, Todd Niemeier, who is employed by the Office of Human Rights. Prior to the pandemic, the Commission held many meetings with Mr. Niemeier as the sole City employee present. We respect that Council's intent in limiting the number of meetings held by boards and commissions is to ensure that the Communications Department staff are not overworked. Meeting limitations, however, have a significant impact on the

Commission's ability to get work done. We recognize the substantial work that Communications staff do to ensure that all boards and commissions meet state law requirements for public notice, public engagement, and public access. We request that the Commission, with the support of Office staff, be trained and permitted to run meetings independently, thereby allowing for more frequent sub-committee meetings.

The failure to take action to hire a Director, coupled with the limitations on Commission meeting times, are all the more absurd when recently added amendments to the City's Human Rights Ordinance are considered. Those amendments impose substantial new requirements upon the Commission, but they do that without providing any resources to accomplish those requirements.

Additionally, we have concerns about the process by which those amendments were adopted, a process that raises serious concerns about transparency and equity. As you likely know, the Commission worked over the course of many months to propose revisions to the ordinance and submitted those proposed changes in January for its first consideration by Council on January 19. The matter was added to the consent agenda for the February 1 meeting. However, just a few days prior to that meeting, a City resident made suggestions for additional revisions. Despite the fact that you were told that the Commission anticipated requesting additional revisions in the relatively near future (revisions that would be necessary in order to enter into a FHAP agreement with the federal Office of Housing and Urban Development) the Council took action to add these last-minute revisions without any opportunity for the Commission to officially react and take action in response. This gives the impression to the Commission - a body appointed by Council to represent the diversity of the city - that one person's voice has more weight than the work done by the Commission over months. On January 31, literally the day before the City Council was set to vote about revisions to the ordinance, I was provided a new version of the ordinance with a number of substantial changes. Later, I discovered that the version I was provided on that Sunday was not even the exact version adopted by Council.

In the end, we were left with two options, neither of which was acceptable: we could demand more time to consider these new revisions or we could ask for passage of the ordinance with revisions we did not have adequate time to consider. This put the Commission and the Office of Human Rights' staff in an impossible position, since we were aware that several individuals had filed complaints that could not move forward without the amendments proposed by the Commission. Our choice, then, was to prioritize these individual victims of alleged discrimination by urging passage of the ordinance. However, the Commission feels called to point out that the process adopting the ordinance was concerning, in that the exact proposed revisions were not made available to the Commission or the public prior to its debate by Council. As I mentioned, I received a version of the amendments on the Sunday prior to the vote, and I shared it with the Commissioners. However, because of rules regarding required notice of meetings, we did not have time to convene and take action to consider the new changes.

Several of the changes raise concerns for the Commission. They either propose changes the Commission considered and rejected or they propose new language whose purpose and meaning is unclear to us. Of course, it is City Council's job to consider and enact ordinances, and we understand that you have the authority to override the Commission. Nonetheless, the process for adopting these revisions was secretive and fundamentally disrespectful of the work of the Commission. It also appears that the Council was interested in imposing significant new

requirements of the Commission without affording any resources to get that work done. Specifically:

- The Council added a change to the ordinance to shrink the Commission to nine members. While there may be an argument to decrease the size of the Commission over time, this change did not think through how those changes might be made in a way that preserved the workflow or the diversity of the current Commission. You may know that Commissioners have worked hard to recruit members to reflect diversity of many kinds on the Commission—in terms of protected classes, skillsets and experiences. The quick adoption of a numerical change to the Commission did not take time to consider how to preserve that kind of vital diversity in its membership. The new ordinance also imposes requirements that two individuals have a particular background or experience. Why that provision was necessary is unclear to me, as it is apparent that the Commission already has more than two members who satisfy these requirements. It also potentially sets an expectation that this number is a target, rather than a baseline, for future Commissions.
- The ordinance added the following language at the last minute: “The City Council shall establish policies and procedures for the performance by the Commission of the roles, duties and responsibilities set forth within this article....” Frankly, members of the Commission have no idea what this is intended to accomplish. I welcome your counsel as to its intended purpose. It is difficult to take a hard position on this language because its meaning is utterly unclear to us.
- The ordinance added a requirement that the Commission shall make quarterly reports to Council. While I have no objection to doing this, and would welcome greater interest by Council in the work of the Commission, it appears that Council is imposing work requirements on the Commission without affording any resources to get it done. Again, this added provision highlights the need for the City to promptly hire a Director of the Office of Human Rights—a position that, I might add, is mandated by City law in the Human Rights Ordinance itself.
- The ordinance added the following provision: “On or after July 1, 2021, the Commission will conduct at least one such research project or review every two years.” This provision again raises concerns about the process that resulted in its adoption. This language was different from versions of the bill shared with Commissioners before February 1. Again, this provision imposes new obligations on the Commission without affording any resources. And it imposes obligations to take on certain kinds of work, i.e. a research project, rather than other kinds of important work the Commission might believe to be more urgent, such as advocacy to bring about particular change.

While I appreciate that the City Council appears to be interested in the work of the Commission and seems to want the Commission to be bold and ambitious in its work, this process has not been undertaken in a way to successfully achieve that goal. The non-transparent process, coupled with unclear mandates to take on work without resources, is just not the way to inspire—or even mandate—great work. Instead, I welcome Councilors to attend Commission meetings (and I thank Vice Mayor Sena Magill for her attendance at many of our meetings) to enter into a real conversation about the equity work that needs to happen. The Commission is eager and willing to embrace ambitious goals and do the hard work of fighting for equity. We would be far better positioned to do that if the Council engages in dialogue about that work and offers real resources to get that work done.

I conclude as I started—by imploring you to take action to get the hiring process underway for a Director of the Office of Human Rights. In addition, please rescind the arbitrary rule that allows the Commission and its subcommittees to meet for a total of six hours in a month. It is impossible to imagine that we will be able to create bold, ambitious research projects or reviews (or other important work) without resources and with the limitations that have been placed upon us.

The Commission remains very willing to meet to talk about these issues and would welcome the input and participation of Councilors at any time. Please do not hesitate to contact me directly to discuss this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mary Bauer', with a long horizontal flourish extending to the right.

Mary Bauer

cc: Chip Boyles, City Manager