



Approved

**CITY OF YPSILANTI  
HUMAN RELATIONS COMMISSION MINUTES  
REGULAR MEETING  
MONDAY, August 22, 2016  
7:00 P.M.  
CITY COUNCIL CHAMBERS**

**I. CALL TO ORDER**

The meeting was called to order at 7:04 p.m.

**II. ROLL CALL**

Krista Nordberg	Present
Jennifer Symanns	Present
Theresa Saunders	Present
John Shuler	Present
Tanasia Morton	Present
Sammy Jones-Darling	Present

**III. AGENDA APPROVAL**

**Commissioner Jones-Darling moved, seconded by Commissioner Morton to approve the agenda.**

On a voice vote, the motion carried, and the agenda was approved as submitted.

**IV. APPROVAL OF MINUTES**

– July 25, 2016

**Commissioner Saunders moved, seconded by Commissioner Jones-Darling to approve the agenda.**

On a voice vote, the motion carried, and the minutes was approved as submitted.

**V. AUDIENCE PARTICIPATION/COMMISSION RESPONSE**

None

**VI. DISCUSSION ITEMS**

— Discrimination Ordinance

Commissioner Jones-Darling stated during the last meeting there was discussion regarding adding immigration status to the non-discrimination ordinance. He said while examining the ordinance he realized the technical language was out of date which could provide possibilities of discrimination, especially involving sex and gender. He said the definitions in the ordinance also required some re-working. He said under "Investigations" he created a section "D" which directs the Human Relations Commission to keep record of all complaints would be retained for three years.

Commissioner Morton asked if the edits came from the state's model.

Commissioner Jones-Darling responded in the affirmative and explained all edits were based on the Civil Rights Commission. He stated the states model is more expensive than the Elliot-Larsen Civil Rights Act.

Commissioner Morton stated the definition for minority is listed as "a person who is African American, Native American, Spanish-surnamed or Asian" and said there are other minority classifications.

Commissioner Jones-Darling stated the word "minority" is not present in the remainder of the ordinance.

Commissioner Nordberg asked if there is a reason it should not be removed from the ordinance.

Commissioner Saunders stated the meaning of minority has also changed over time.

Commissioner Nordberg stated if "minority" is not referenced anywhere else in the ordinance she would suggest removing it.

Commissioner Jones-Darling agreed. He added given the current issues facing this country he sees the addition of retaining complaints for three years as crucial.

Commissioner Shuler stated the definition of sexual orientation does not include sexual activity.

Commissioner Jones-Darling responded when sexual orientation is being discussed it does not necessarily mean sexual activity, what it means is an emotional attraction.

Commissioner Shuler stated would it create a possibility of discrimination if sexual activity is not included.

Commissioner Jones-Darling responded the ordinance does include sexual attraction.

Commissioner Shuler responded sexual attraction does not mean the same thing as sexual activity.

Commissioner Jones-Darling replied he would imagine the interpretation of the ordinance sexual activity would be a part of sexual attraction but if it is the will of the Commission to include sexual activity in the definition it can be added.

Commissioner Symanns asked in what scenario would sexual activity not being included in the definition cause an issue.

Commissioner Shuler responded his intention is to avoid a chance of misinterpretation.

Commissioner Jones-Darling replied at that point the issue would be for the courts.

Commissioner Morton stated the possibility could then arise that a judge would not rule in favor of the ordinance's intent and it might be best to include it to remove that possibility.

Commissioner Jones-Darling replied the definition includes the phrase "related behaviors" which would refer to sexual activity.

Commissioner Symanns stated there has always been a hyper focus on the sexual activity of gays and lesbians which can be a sensitive topic among that group.

Commissioner Jones-Darling noted the state model ordinance was drafted by the Civil Rights Commission with the input of local and national LGBT organizations.

Commissioner Saunders stated the definition of sexual expression contains the word "expression". She clarified saying the definition should be explaining expression.

Commissioner Jones-Darling responded "expression" is explaining the phrase gender expression.

Commissioner Saunders asked if it would be clearer to state gender based appearance.

Commissioner Jones-Darling replied that could conceivably create a loophole to discriminate based on their femininity or masculinity.

Commissioner Morton responded the definition includes behavior.

Commissioner Jones-Darling said an argument could be made that behavior is not a form of expression.

Commissioner Saunders replied she is not sure how that is possible given the definition of sexual orientation.

Commissioner Jones-Darling responded it is a parallel to including sexual activity.

Commissioner Shuler said he is somewhat confused why the ordinance states discrimination complaints would be heard by the HRC and not a court of law. He added the HRC investigates patterns of discrimination, and not a single occurrence.

Commissioner Nordberg responded a pattern begins with one person.

Commissioner Shuler replied one person is not a pattern.

Commissioner Nordberg said the HRC would not know if there is a pattern if it does not investigate.

Commissioner Symanns stated the Commission would not be adjusting or assessing penalties. She said the only change Commission Jones-Darling made was the addition of the HRC retaining record of complaints for three years and if complaints are received and out of the purview of the HRC it will not investigate them.

Commissioner Shuler said the ordinance states the City Attorney is to submit an opinion to the HRC, but other than that there is no reference to the HRC.

Commissioner Jones-Darling responded in the enforcement section that power falls to the City Attorney's Office and the HRC can investigate.

Commissioner Shuler stated he would like to compare the ordinance to what the Charter outlines the purpose of the Human Relations Commission because he is not sure it is the HRC job to complete these investigations.

Commissioner Nordberg stated there might be occurrences that the HRC disagrees with the City Attorney.

Commissioner Shuler replied the ordinance does not specifically state why the City Attorney Office would submit its opinion to the HRC.

Commissioner Jones-Darling stated the HRC is tasked to ensure that anti-discrimination is followed throughout the City. He added the HRC could also offer a counter opinion if it disagrees with the City Attorney.

Commissioner Shuler agreed but stated the ordinance also states the HRC would be responsible for hiring a mediator and he is not sure if that is the job of the HRC. He added the HRC is prohibited from hearing acts off discrimination on a case by case basis.

Commissioner Jones-Darling responded the ordinance was approved by Council and the HRC is bound to implement the ordinance.

Commissioner Shuler stated what drew him to this section is another paragraph was added.

Commissioner Jones-Darling responded everything in the City's Ordinance is in the state's model. He added everything in the City's Ordinance as it stands now is also in the state's model.

Commissioner Shuler asked if the HRC would retain a record of complaints or would the City Attorney's Office.

Commissioner Jones-Darling responded most likely the City Clerk's Office would retain records.

Commissioner Shuler asked if the ordinance should read "the City Clerk's Office would retain records of complaints for three years". He asked what Commissioner Jones-Darling's intent was regarding immigration status.

Commissioner Jones-Darling responded he is not certain if adding immigration status would conflict with state or federal law. He said his concern was creating a legal issue for the City. He said he would like the Attorney's Office opinion on if adding immigration status would conflict with state or federal law. He said if a person was to challenge the ordinance and it included immigration status they would have grounds to remove the whole section.

Commissioner Nordberg responded that is not usually how courts operate. She added she does not see anything contradictory in including immigration status.

Commissioner Symanns added federal law will always trump City Ordinance and this body should be less concerned with searching for a conflict in federal law.

Commissioner Nordberg said if the Commission recommends the changes to City Council and the Attorney's Office finds in issue it will inform the HRC.

Commissioner Jones-Darling agreed.

Commissioner Shuler stated if the ordinance will include "immigration status" it will need to be defined.

Commissioner Nordberg responded the ordinance does not include a definition for "national origin".

Commissioner Jones-Darling replied the Elliot-Larsen Civil Rights Act defines national origin and if a judge were to review this ordinance and would apply that definition.

Commissioner Shuler stated he does not believe that immigration status is included in the Elliot-Larsen Civil Rights Act so it would need to be defined in the ordinance.

Commissioner Jones-Darling responded in the affirmative.

Commissioner Nordberg offered to draft a definition of "immigration status".

**Commissioner Morton moved, seconded by Commissioner Jones-Darling to table this item until the September 26<sup>th</sup> meeting.**

On a voice vote, the motion carried, and the Non-discrimination Ordinance was tabled.

## **VII. AUDIENCE PARTICIPATION/COMMISSION RESPONSE**

None

## **VIII. PROPOSED BUSINESS**

Commissioner Nordberg suggested speaking with the school district about the passage of Indigenous Peoples Day and activities that could coincide with that day.

Commissioner Saunders stated that was discussed while the Commission was drafting the resolution.

Commissioner Saunders stated there has been a push to close schools for a lack of academic performance. She said the reason she brings this to the attention of the Commission is because someone needs to speak up on behalf of children.

Commissioner Jones-Darling responded the Michigan Department of Education does not have control of that policy and falls within the Governor's purview.

#### **VIV. NEXT MEETING DATE**

— September 26, 2016

#### **X. ADJOURNMENT**

**Commissioner Symanns moved, seconded by Commissioner Nordberg to adjourn the meeting.**

On a voice vote, the motion carried and the meeting adjourned at 8:14 p.m.