

## CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

May 9, 2019

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 4:09 p.m. in the City Council Conference Room on the 9th day of May, 2019, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Bierman, Hickman, Holman and Chairman Clark

ABSENT: Councilmembers Carter and Castleberry

OTHER STAFF PRESENT: Mayor Lynne Miller  
Ms. Kristina Bell, Assistant City Attorney  
Ms. Syndi Runyon, Administrative Tech. IV  
Ms. Kathryn Walker, Interim City Attorney

Item 1, being:

### DISCUSSION REGARDING POSSIBLE AMENDMENTS TO THE CIVIL RIGHTS ORDINANCE AS RECOMMENDED BY THE HUMAN RIGHTS COMMISSION

Ms. Kristina Bell, Assistant City Attorney, introduced Mr. Don Holladay, a very active local attorney in Civil Rights legislation, who worked closely with staff in drafting the ordinance and noted that Human Rights Commissioner Marjaneh Seirafi-Pour was also present. She highlighted potential amendments to Chapter 7, which is the City's Civil Rights Ordinance. Ms. Bell said City Council adopted Resolution R-1516-65 which stated the City's current prohibition of sex discrimination should be interpreted and administered to guard against stereotypes associated with sexual orientation and gender identity.

Ms. Bell said sex discrimination is a protection added several years ago to the ordinance and this Resolution provided guidance to include other classifications. The resolution referenced Resolution R-0809-12, which urged the City to join the National League of Cities' Partnership for Working Toward Inclusive Communities. The resolution also referenced the United States Supreme Court same sex marriage ruling, which effectively legalized same sex marriage throughout the country. The Resolution was a request from Norman United, a local LGBTQ advocate group, and other LGBTQ advocates. The applications mentioned would apply anywhere the Code mentioned sex discrimination and also apply to the City's personnel policy for City employees. The Resolution also applied to all the provisions in our current Civil Right Ordinance, which are the main topics of employment, housing and public accommodations.

The proposed amendments were unanimously recommended by the Human Rights Commission (HRC).

Ms. Bell said sexual orientation and gender identity is what began the process. She met with Mr. Holladay and reviewed the Ordinance and update language in conflict with state statute.

Secondly, they felt like there needed to be clarification of the role of HRC to streamline the complaint process and simplify the protections. The HRC is an advisory board that gives advice and recommendations to Council as a whole. It consists of nine members, who are all citizen volunteers appointed by the Mayor and approved by Council. She said one of the items added in Section 7-102, is a list of duties to provide and promote education and awareness of the rights provided in this Code. Other duties listed generally address education and awareness.

Chairman Clark said she had been talking with staff about updating the inclusive community website for a variety of things and asked about the status of the updates.

Ms. Bell said the City is working on a new City website and staff is working on language now. Chairman Clark ask if the HRC would have an exclusive web page once amendments have been approved. Ms. Bell said traditionally the website is managed by Staff, but there are a lot of moving parts with updates and making sure it is all consistent.

Ms. Bell said the HRC would submit an annual report to Council identifying complaints received and what the resolution was included.

The next set of amendments is to streamline the complaint process. The goal is to find a resolution that offers solutions to grievance individuals. Some of that involves mediation and other alternatives to dispute resolution. Nothing in the ordinance precludes individuals from concurrently seeking other administrative remedies or private relief in Federal, State, or District court. So, this is an additional alternative; but by no means an exclusive alternative. The complaint administrative review process begins by a complainant filing a complaint with the City Clerk on a form that will be adopted by the HRC. It is straightforward and outlines who the parties are, the allegations, and the areas of the ordinance believed to be violated. There is a statute of limitations that requires complaints to be filed within 90 days after an alleged act of discrimination or retaliation has occurred. The complaint would be reviewed at its next regularly scheduled or special meeting that is at least 30 days after the complaint has been received. This provides time to serve notice to the respondent, to allow the respondent to respond, and to explain mediation or other settlement options.

Chairman Clark said HRC is one of the most active boards and commissions and she thinks they should meet monthly especially if we are going to add a provision like this. Ms. Walker said yes the Commission sets their schedule under the ordinance and how often they need to schedule those.

Chairman Clark asked what kind of training would be provided to the Commissioners. Ms. Bell said that is not something the Commission has considered; however, that is certainly something to look into in case there is training that could be conducted. Councilmember Bierman said there is also material offered by the United Nations Human Rights Commission and other established Human Rights organizations.

Ms. Bell said the ordinance also provides a provision for dismissal if a majority of the commission approves or if there is a complaint that is unfounded or no additional action is warranted.

Councilmember Hickman said with all the recent events in town, there has been discussion about hate crimes and asked if Norman actually has an ordinance on hate crimes. Ms. Bell said there is a section in the Code dealing with assault and battery, destruction of property and things like that; but there are no specific provisions relating to hate crimes. She said there is actually a State Statute

that prohibits a municipality that is not a court of record to enact any ordinance making them lawful and any act or admission declared by State Statute punishable as a felony and hate crimes are considered a felony.

Chairman Clark wanted to make it very clear that the HRC is addressing hate crimes in whatever avenue is most appropriate and asked if language could be added making hate crimes a felony so it does not look like it is being ignored. Ms. Bell said Staff could add some kind of language to address it. Ms. Walker said when it gets reported to police, the police will route it to the correct place, whether it is District Court, Municipal Court or they may suggest Federal Court action.

Ms. Marjaneh Seirafi-Pour, Human Rights Commissioner, said HRC discussed this with the Police Chief at the last meeting and were told that what happened in Norman a few weeks ago did not reach the level of hate crimes set by the Federal Government. She said just because these crimes are offensive to minority groups and religious groups does not mean it is going to be a federal crime. Chairman Clark stated that is not helping the City appropriately address our community needs. Ms. Bell said that is something Staff can look at and bring more information to the Committee if that is something the Committee would like. Councilmember Hickman agreed with Chairman Clark but said in addition to that or as an alternative, language could be added that if acts in our community do not qualify as hate crimes under Federal and State Laws, complaints could be brought forward to the HRC. Chairman Clark said she liked filling that gap and would support Councilmember Hickman's suggestion.

Mayor Miller said if the Committee wants to have some kind of legal penalty for something that does not meet the State or Federal level for addressing the issue, maybe that does need to be an ordinance of some kind saying that in Norman, we do not allow this. Ms. Walker agreed that it seems more appropriate for criminal charges to be filed in Municipal Court. It is not something that can be addressed at the State or Federal level. The statute for malicious property has a \$1,000 threshold; if the damages are over a \$1,000, it is a felony and if it is under \$1,000, it is a misdemeanor. She said Staff could look at something similar. Chairman Clark said she thinks the Norman community would like to see it addressed.

Councilmember Hickman asked if the HRC could make a recommendation on whether it is a pretentious violation of our anti-discrimination policy based on the conduct of the people and send it to the City Attorney's Office to prosecute under whatever this new provision might be. Councilmember Bierman supported including language as a backstop so that if Norman Police Department or the District Attorney did not feel like it reached the necessary burden of proof threshold to be chargeable or convictable as a hate crime, then at least the HRC could review the evidence and make their determination. Councilmember Holman said the maximum fine in Municipal Court is \$750 so that could be on top of other felony charges. Ms. Bell said staff would have to be careful about filing charges in both places because that could create a double jeopardy situation.

Councilmember Bierman said she was thinking more along the lines of a determination by the HRC whether the crime qualifies as a hate crime. So, there is no double jeopardy risk because they are just making a determination without a fine. Ms. Seirafi-Pour said her concern would be what if that person pays the fines and gets out and then comes to the HRC and said, "Why are you determining a hate crime when the legal system did not label it as a hate crime?". She said she is not a lawyer, but wonders if that opens the HRC up to some sort of legal challenge.

Ms. Bell ask for clarification as to what the Committee was trying to accomplish; is it a policy statement or punishment? Chairman Clark said she thinks as a community, we should have the ability to denounce hate crimes when we see them and not rely on higher entities to do that, based on our own community standard.

Ms. Bell said other amendments that do not really fall into the categories that have already been mentioned include amending the definition of age under the age discrimination employment act, to make it 40 years or older. The second one is changing handicap to disability and amending that definition to make it compliant with ADA. Other amendments include the removal of a minimum of five employees from the definition of an employer, clarifying the definition of domestic service and adding electronic communications to discrimination publication prohibition.

Chairman Clark said the ordinance will move forward to full Council with the added items.

Items submitted for the record

1. Memorandum dated May 2, 2019, from Kristina Bell, Assistant City Attorney, to the Council Oversight Committee, through Kathryn Walker, Interim City Attorney
2. Exhibit One; Resolution R-1516-65
3. Exhibit Two; Chapter 7, Civil Rights, Section 7-101 through Section 7-128
4. Exhibit Three; Chapter 7, Civil Rights, annotated copy of Section 7-101 through Section 7-128
5. Exhibit Four; Chapter 7, Civil Rights, clean copy of proposed changes to Section 7-101 through Section 7-128
6. Exhibit Five; Norman Human Rights Commission Discrimination/Retaliation Complaint Form
7. Power Point Presentation entitled, "Chapter 7: Civil Rights Ordinance Amendments"

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ADJOURNMENT:

The meeting adjourned at 5:28 p.m.

ATTEST:

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City Clerk

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Mayor