

County of Kern
HUMAN RELATIONS COMMISSION-MINUTES

Regular Meeting
Tuesday June 11, 2013

Commissioners Present: Walter Williams (ww), Marisa Banks (mb), Greg Collins (gc), Marcus Mitchell (mm), Andre Taylor (at), Fiona Lytle (fl)

Commissioners Absent: Jewelle Scales

Equal Employment Opportunity Officer: Michael Goulart (mg)

Others Present: Frederick Jenkins, Marquez Equalibria, Ron Wakabayashi

1. **FLAG SALUTE**
2. **PUBLIC PRESENTATIONS: None**
3. **APPROVAL OF MINUTES**

May 15, 2013 Monthly Meeting

Motion to approve minutes (at), 2nd: (gc), all ayes

4. **OLD BUSINESS:**

a) Discussion of Annual Essay Contest

(mm) We talked about this at our last meeting and we discussed that would like to move forward. Prior to the last meeting former Commissioner Bernal was heading up the event. It is our intention to move forward and do the Essay Contest again so we need to do some work to start to prepare for that but we need someone who is willing to chair the committee.

(fl) I am willing to chair.

(mm) We would like you to engage a subcommittee and explore dates. Michael has all of the information about prior contests and can share it with you.

(mg) I will provide the information to Commissioner Lytle.

(mm) If you have some creative ideas and approaches please let your creativity flow. Don't be limited by what we have done before.

(at) I will also volunteer to be part of the subcommittee and I am going to volunteer Commissioner Scales in her absence.

(mm) Welcomed Commissioner Williams to the meeting.

5. NEW BUSINESS

a) Discussion of Human Relations Commission Vision Planning

(mm) We had a brief meeting to discuss vision planning but there is nothing reportable. I do have some documents to share with Commissioners that are from previous work that has been done (Commissioner Mitchell provided copies of the KCHRC Community Resolution Model and Commission Legacy Statements.

Motion to receive and file: (gc) 2nd: (mb), All ayes

b) Discussion of Commission recruiting/outreach

(mm) As you know there are still four vacant positions on the Commission. There are two in District One and two in District Two. If you know of people in the community that live on those districts and are interested in and may be good Commission members now would be a good time to have them submit applications. I am going to be asking the two Supervisors to actively fill the vacancies. We have talked about doing a recruiting mixer in the fall.

(ww) I know that Anna Vigil has put an application in and she is just waiting to hear.

(mm) What district is she in?

(ww) District One I think, Shafter.

(mm) Shafter is in District One which is Gleason's district.

(at) As far as recruitment, one of the things that we had talked about was walking the halls to talk to the Supervisors to let them know that there are applications that need to be reviewed. We need to let them know that we are interested in doing some work and we need their assistance in feeling the remaining vacancies.

(mm) We need to make sure that there are applicants in the districts that have vacancies.

(mb) What about Louis Medina?

(mm) I spoke with him today to find out if he had been contacted. He is in District Three, which is full. I asked him to follow up but he would not be eligible unless he could be appointed in another district.

(ww) Where is Scrivner's area?

(mm) Tehachapi, Mojave, California City, Boron, Rosamond, some of metro Bakersfield.

(mg) Each District includes a part of metro Bakersfield, as well as, outlying County areas. With the exception of District Three.

(mb) We have talked about walking the hall and we have developed talking points, now is the time to just do it.

(mm) I will ask specifically about Ana's application.

(at) I have contact information for members of the Board. We had originally talked about all of us walking the halls to talk to members of the Board. I think that Marcus can communicate the information to the Supervisors. It is simple to set up a meeting with the Supervisors. Be prepared for a short meeting, usually five minutes or less. We just need to have talking points prepared to let them know what our interest is and what we need.

(gc) Andre said that sometimes Supervisors appoint without doing an actual interview and I thought that part of the process was the interview. I think that the interview should be an important part of the process because if they appoint someone without knowing what the person is actually about it may be detrimental to what the Commission is trying to do. I applied because I want to see something start to get done with the Commission.

(mm) I think that is an important piece and something that we should include in the talking points. As an example, Commissioner Taylor and myself were both appointed without going through an interview. It all depends on how they get information about you.

(gc) I understand that but when I was reviewing the application, part of the application states that there is an interview, whether it is with the Supervisor or their Chief of Staff. That statement either needs to be removed or reworded.

(mm) I think that is the standard language for all boards not just ours.

(ww) I agree with him (Commissioner Collins) because I was interviewed. It doesn't make sense for them to appoint someone that does not fit in with us.

(mg) I would just remind you that any board or commission appointment is not the duty or responsibility of that board. The sole responsibility for appointments to boards and commissions is with the Board of Supervisors. Asking for this Commission to have the ability to appoint commissioners is not going to happen.

(ww) I think that they need to interview because think isn't a joke and we don't need someone that is just going to be a rubber stamp. They should send two that they want and we should be able to pick.

(mm) That is not the way the process works. I don't think that they are trying to send a message that it's not important to interview but they may get

information from sources other than the interview.

(mg) Mr. Collins has a great idea about including it in the talking points with members of the Board. I have worked with the Human Relations Commission for over seven years. I would say that many of the members of the Board may not be completely familiar with the work that the Commission is tasked with. I will also say that in those seven years there have been a number of people that were appointed to the Commission that may have been more interested in padding their resume than in doing the work of the Commission. When you have a chance to talk to the Board members discuss what the Commission does and the needs that you have as a Commission.

(at) It will be good for us to have that conversation with the Board members to let them know what we are here for and how important the work is. We also need fellow commissioners that have the same commitment.

(ww) If I have a feeling something is wrong I'm going to say its wrong. I will let you know my opinion and then whatever decision you make, so be it.

c) Discussion of Committee participation

(mm) We have been light in terms of Commission members and are committees reflect that. At this time I would like each Commissioner to take a look at the committees that we have and let us know if there is a committee that you would be interested in chairing.

(mb) Did we talk about combining some of these at a previous meeting?

(mm) Right now we will just be filling them as they stand. In order to change the committees we would have to change the Bylaws. These are the standing committees that are outlined in the Bylaws. The last two committees are ad-hoc. J, Annual report committee, at one point I volunteered to chair that. If there is someone else that would like to chair feel free to speak up.

(at) I will work with you on the Annual Report Committee. If you are the chair we can do it together.

(fl) I am willing to edit the Annual Report.

(at) I would also like to chair the Law Enforcement Committee.

(gc) I have one question. There is no Senior Citizens and Aging Committee however one appears in the Bylaws. Was that removed with an amendment? If it still exists, I would like to chair.

(fl) I would like to chair the Education/Essay Contest Committee. I will also look into Grants and Funding.

(ww) Does the expulsion issue fit into the Education Committee?

(mm) That issue is not part of the Education Committee. It has not been given to a committee. Currently the full Commission is handling the expulsion issue.

(at) It seems that the expulsion issue would fit under education as it is an education issue. Shouldn't the Education Committee deal with any education issues?

(gc) The way I took it was that it was an issue that was brought to the Commission and the Commission is investigating or researching the issue and it is separate from the Essay Contest and Education.

(at) What I am saying is that is people bring us issues dealing with education they should go the Education Committee.

(mm) Right now the expulsion issue is being reviewed by the Full Commission. It has not been given to committee.

(mg) Because we are discussing the Bylaws I think it is appropriate to look at Committee C, Equal Employment Opportunity/Affirmative Action. Because of Proposition 209, affirmative action is illegal in the State of California. The County does not have the ability to create any type of affirmative action program any longer. It may be appropriate to remove "affirmative action" from the committee title.

(ww) What type of issues would the Housing committee deal with? Would it deal with issues related to housing conditions?

(mg) The Housing Committee would deal with issues related to housing discrimination, such as individuals being denied equal access to housing based on ethnicity. Issues related to housing conditions would be referred to an agency like Code Enforcement.

The Training/Mentor Program ad-hoc Committee was chaired by former Commissioner Bernal with the assistance of Commissioner Mitchell. Is there still the intent for this committee to go forward?

(fl) What did the committee do?

(mg) The committee was created in concept but there was not any progress or action made.

6. COMMITTEE REPORTS

- a) Community & Media Outreach – No report.

- b) Education/Essay Contest – No report
- c) Equal Employment Opportunity/Affirmative Action – No report
- d) Grants/Funding – No report
- e) Housing – Commissioner – No report
- f) Judicial & Legislative Review – No report.
- g) Law Enforcement - No report
- h) Special Issues – No report
- i) Access and Functional Needs – No report
- j) Annual Report Ad-hoc Committee – No report.
- k) Training/Mentor program Ad-Hoc Committee – No report.

7. STAFF REPORT:

(mg) I would like to take the time to welcome Commissioner Lytle to the Commission. I would also like to welcome Commissioner Collins since I was not here last month. I look forward to working with both of you.

Last month there was some conversation regarding listing names of “others present” at the meeting and listing job title vs. no job title. I indicate my job title because I appear at the meeting and assist your Commission by virtue of being the County Equal Employment Opportunity Officer. In the future I plan to list my name and job title after the Commissioner names and prior to others present.

(gc) That does clarify it for me and if I looked at it that way it would be easy to understand.

(mg) The other issue was revisiting the Brown Act. Bryan Van Wyk, Deputy County Counsel provided training for your Commission two months ago. During last month’s meeting you had questions related to what is a meeting that must be posted vs. a meeting that does not have to be posted. Mr. Van Wyk states that less than a majority of commissioners can meet and discuss issues that are then brought back to the full Commission for action. If a meeting of a standing committee is held that meeting would fall under the Brown Act and need to be posted.

We also discussed the nature of an ad-hoc committee. An ad-hoc committee should be created to deal with an item or issue for a limited period of time and after that issue is resolved the committee would disband. Vision planning, for instance could exist as an ad-hoc committee because information would be brought to the full Commission for action and the committee would disband.

I also asked Mr. Van Wyk if he would be willing to provide additional training to the Commission and he stated that he would. He also proposed that prior to future training the Commission prepare questions related to specific issues or circumstances that he could research and respond to.

On a separate note, we have a request from the Clerk of the Board to ask commissioners with terms that have expired to contact their elected Board representative and let them know their intentions of continuing on the Commission. As of today Commissioner Scales and Commissioner Mitchell have terms that have expired.

(mm) Last week I sent Supervisor Couch a follow up email to a conversation that we had about reappointment and I am expecting to hear back from him.

8. COMMISSION MEMBER PRESENTATIONS OR ANNOUNCEMENTS:

(mm) Marquez Equalibria from the Department of Justice (DOJ) was here for our last meeting and he contacted me and we had a brief discussion about ways the DOJ Community Relations Service can be of assistance to our Commission. He came to town yesterday and Commissioners Scales, Banks, and I met with him.

He had an opportunity to meet with the Sheriff and discuss issues that are going on locally. He asked us if we would be willing to open a dialogue and have a discussion with the Sheriff's Department in general. I am going to let him talk about that and then we would need to take some action on the recommendation.

Marquez Equalibria: I met the Sheriff's office on the Thursday before last. It was an introductory meeting and gave us the opportunity to share with him the kind of service we provide to communities and human relations commissions and the type of work that commission do to assist law enforcement with issues of police/community relations as well as, other issues. We had an opportunity for a question and answer period and to talk about opportunities for activities that we could engage in. From what I understand there has not been an opportunity for the two of you bodies to meet together. In our conversation with some of you yesterday I talked about those opportunities and we discussed best practices and tools of other HRCs. I also got to hear some of your concerns.

We talked about first steps that you can take. One of the things to discuss here is the idea of meeting with the Sheriff's department and other law enforcement. You can use the opportunity to share who you are and what you do, what your mission is and what you have been hearing from the community. You can try and identify opportunities to engage and address trust issues in the community and police/community relations.

That is the item for you to discuss. We are here to help you identify some mechanisms and tools, training and ideas that can help you work with the Sheriff's department to discuss some of the key items they will engage in. I can work with you to try and identify those key items. The first step is to have an introductory

conversation with the Sheriff's office. It is one thing for them to hear the concerns from me and it is a whole other thing if they hear it from you because you live here and you hear about these concerns directly from others who live in this community.

The other comment I wanted to share regarding one of the previous topics, recruitment. As we engage in new communities and issues that we want to address one thought is to think about your composition and what assistance new members could bring to the Commission as you engage in these issues. Consider what type of entry that can provide in the community.

(mm) There is one point I would like you to clarify for the Commission. What is the role of the DOJ Community Relations Service in comparison to the enforcement arm?

Marquez Equalibria: There are 54 agencies within the DOJ umbrella. Some are law enforcement agencies. We are different because we were created out of the 1964 Civil Rights Act. We do not have law enforcement powers. We do four things: conciliation, mediation, education, and technical assistance. We assist communities with community conflict. We do not assist people with individual matters such as an individual that faces employment discrimination. We assist communities with issues that impact race, color, national origin, and since the Hate Crime prevention act, we can assist communities in responding to and trying to prevent a hate crime that has impact on gender, gender identity, sexual orientation, religion and disability.

Officer involved shootings and use of force controversies are about 50% of the cases that we handle throughout the country. Police/Community relations is one of the issues that we assist communities and human relations commissions with. We also assist with other issues that may not involve police/community relations. We do not have law enforcement powers.

Just because we are under the DOJ umbrella it does not mean that we share information with other agencies also under the umbrella. We must abide by confidentiality rules. If we are meeting with you in private or if we are meeting with the Sheriff in private and the other party does not want details of the meeting discussed we cannot share it. Maintaining confidentiality allows us to establish trust with those that we work with.

(mm) Who is responsible for issues related to excessive use of force with the police and if there is something to be filed who would do that?

Marquez Equalibria: there are other agencies that do that and we can provide you with contact information. The DOJ has a Civil Rights Division. The FBI has agents that focus on civil rights issues as does the U.S. Attorney's Office. We can provide you with information for all of those agencies. What we cannot do is go to one of those agencies and ask them to take a look at something or ask them to investigate a specific issue. We are an impartial organization that would violate that piece of it. We are trying to engage agencies in a dialogue that would be counterproductive to our goals.

Ronald Wakabayashi: Your question related to excessive force and there are different domains in that. One is an individual incident i.e. I used too much force against you. Another is if there is a department where there is a pattern and practice. There are different remedies for different situations. At an individual level like an officer that uses excessive force under color of authority there are federal statutes but there are also state and frequently local statutes. That will be determined in one process. Pattern and practice can be addressed at different levels. The state Attorney General has the capacity to enter in to that as well. At a federal this particular administration has been very active in terms of pattern and practice activities. Within the Civil Rights Division there is a special litigation section that takes that on.

Even though this administration has been more active there are maybe only 100 departments that have come under review by the DOJ. That's not a lot when you think of how many law enforcement departments are in the country. In some of the recent cases your own Sheriff's Department has asked for the FBI to take a look. That is not an uncommon procedure.

(mm) The purpose of my question was to make sure that the Commission is aware that you are with the Community Relations Service and not part of the agency that investigates or deals with excessive use of force. Your role is to help us build relationships with other partners and agencies but not necessarily to investigate those issues. I wanted to make sure that everyone on the Commission understands how you can help us.

Wakabayashi: Our role is different in that all of the participation with us is voluntary. Now that we know each other you can call us and ask if we might come in and talk about what needs to be done. Communities can ask us, local officials can ask us and we can enter by our own volition. We may have a concern that there is a conflict, which is different than if we think that "party x" or "party y" is doing something wrong. That's not our role because we are not investigatory. Whether someone is doing something right or wrong there can still be a community conflict and that is what we are interested in if the conflict is Race, Color, or National Origin based. Although there may seem to be an issue or conflict there may not be one there. It may just be a gut feeling and that is what we try to assist with. If there is that feeling or belief we can do things such as assisting with research but we wouldn't recommend what should happen.

There are some agencies that ask for civilian oversight but the range of that is very broad. Sometimes it is an appointed position like the L.A. Sheriff's Department. There are others where they are elected. There are others where the review occurs within the department with senior command folks. People may say that "we want people from the community doing that" but at the same time data shows that command officers are more severe in their punishment than are civilians. Elected commissions tend to not be the same kind of folks that have the concern in the beginning because you have to look at the kind of people that run for office and get elected.

We say here is all of the information and you think it through. There is no ideal

design for civilian review. There is no magic to the design. The magic is in having an ongoing relationship and that is what we are proposing. Our role is to try and facilitate the entry. To talk to the sheriff and say from what we have seen in the media we think there are some people that might be concerned. We are not sure that there is that concern or not. But, if there is, what would be your interest? We would express that we would like to fix that situation. Law enforcement works better if we have the trust and confidence of the community.

(at) Can you tell me who was at that meeting?

Wakabayashi: No not at this stage. We met with senior folks at the department but that is part of the confidentiality issue. It's not like it is secret but it might not necessarily be informative.

(at) Did you meet with any Chiefs? Because I'm going to go and have a conversation about whether or not they want to meet with the Commission. I was just asking so I can have a heads up before I start that conversation.

Wakabayashi: That's probably not a question that's appropriate for this forum. That's what we want to work through as we navigate this. I'm not saying I have any concern about the question. I am just being cautious. Confidentiality for some people is just professionalism. For us it is in the Statue. It can be criminal and include a fine and jail time. I want to put that in context that we are very cautious because of our mission and purpose but also because of the statute. We do not disclose things like that unless the other party says that it is ok. If we had time to go do that I really think that they would say it is ok. But I don't have that yet.

(mm) Part of our discussion last night was not about any specific cases but how do we begin to engage and open a dialogue with the Sheriff's Department about building relationships with the community and how we can help bring about that trust. We discussed what you are talking about in terms of having a meeting with them. What would you recommend in terms of how the meeting would look?

Equalibria: Let me just say one about making recommendations. We throw ideas out there and let you know what the options are but we let you decide or pick and choose what approach sounds good. One of the ideas is to have an informal meeting to allow for some flexibility. I will put it on the table to see what you think is best. You could also invite the Sheriff to a formal meeting but that may make it more difficult to get into an in-depth conversation.

(gc) What are the steps or the groundwork that we can do to get the ball rolling?

Wakabayashi: You can also think about foundational stuff. The parties can identify what their interests are. You can then address the interests through the conversation. Some of the design pieces would have to address things like the Brown Act. Other design elements could be a precursor, such as, interests, ground rules, where, when, how long to meet for and talking points.

Commissioner Banks makes a motion to move forward with proposing an exploratory meeting with the Kern County Sheriff's Department. Commissioner Lytle seconded the motion. Vote: All ayes.

(ww) We have to remember that in Bakersfield and Kern County we don't have that much confidence in all of the officers that they are going to do their best for us. When you talk about policies, we don't know what policies they have for every neighborhood. In some neighborhoods as soon as something happens the police respond. In other neighborhoods you can have two or three calls and no one responds and then you find out that someone is beat to death or shot.

The trust goes both ways but I believe this is how it is. The police still stereotype like with Black profiling and they are profiled by the community and the Blacks because of how we are treated. For us to have a discussion you are talking about trust. Some police need cultural sensitivity here. At the same time the community needs to be exposed to what are their protocols? Did that arrest or that killing fit the protocol, was there a need for that much force, whatever? There has been distrust here ever since the 60s.

To me the HRC talking to them is a political thing. What about when we want to bring an effect with the community? The community can help make some decisions. There are certain things that the Sheriff of Police Department don't want to talk about and to me as long as you do that nothing is going to get settled. From what I understand any time its written up and filed or done and over with its public knowledge. But there are still some things that haven't been shown on tape that would help a lot of anger and maybe it would help the trust.

How do we engage into the part that's going to break you are crack you just like the Zimmerman case. I am in deep fear that it that doesn't go the way it should of what's going to happen across the country.

(gc) Commissioner Williams, we all have different aspects that we are looking at and I think that what we have with the Commission is going to open the door to start those communications. We all have interests that go beyond this room and these folks are the conciliation and mediation aspect of it. That's the reason I asked if there was some ground work that we could do to get those answers and then provide the community with those answers so that we can mediate the situation. I think the Commission has to remember that we have a hat outside and we have a hat inside. We are going to go and talk and find out what it is that either answers the question or gives us another question.

(mm) Continuing what Commissioner Collins is saying, we have to open the dialogue at some point and it doesn't seem like to community has any dialogue with the Sheriff's Department. If we can open the door we can begin to discuss what the community expects and through us we can create some type of relationship. We need to set ground rules and start to talk about how we can work together. That is our role as a Commission. Through an exploratory meeting we can find out what they are open to.

(ww) I agree with you and what you're saying but the bottom line is that are you prepared to ask the hard questions?

Wakabayashi: If you look around the country I don't know if we have any department that operates in an ideal way. Some need more fixing than others. Some communities have engaged and provided more fixing than others.

In our world we tend to approach things from the perspective of, how can we pick up every percentage that we can get to make things better. If we get to 51%, now the odds are on our side. We are not idealists thinking that we can fix everything and that is not our responsibility. What we want to do is if people have an interest in this our role is to see if we can help. Sometimes we are a referee. Everyone has their own passion from law enforcement to other members of the community. We get involved with groups like the one in L.A. that is made up of mothers that have all lost children due to law enforcement actions. They have a bond but the main goal that they have is that they don't want to see it happen to someone else. They can tell the story differently than you and I can.

Folks in communities have a lot of good ideas and if everyone can contribute a piece to the puzzle then we can move forward. Sometimes we have the ability to provide entry just because of who we represent. I also have 35 years of experience dealing with Human Relations organizations. I was the executive Director of the L.A. City Human Relations Commission. I know most of the directors around the state.

You talked about suspensions earlier. The major initiative of the California Endowment is dealing with suspension related issues. Dr. Ross has a program called "Men and Boys of Color" and it talks about how we are losing them. It is hard to know all of this stuff, whether we are human relations or law enforcement or whatever. We may be able to do some research or refer you to the right place such as Dr. Ross and his program.

All we are saying is that there is no silver bullet, we make no promises. Our work is your work and for what you put into it we want to make it happen. I think that there is an interest from the Sheriff's Department that they want to have good police and community relations. You only have trust and confidence if you think you are going to be treated fairly. The trust makes the whole community safer. We don't have answers but we have a process.

Equalibria: The last thing that I would add is that it will help to establish ground rules and have a discussion before the meeting. An example is to decide that you will be an advocate for the process v. being an advocate for a community so that there is a perception of neutrality.

(mm) On another issue I wanted to report that I sent a draft letter to you and I received feedback from Commissioner Collins. I am going to send the letter to Michael to mail this week.

9. **ADJOURNMENT**

Motion to Adjourn: (at) 2nd: (fl), All Ayes, meeting adjourned at 7:03 p.m.