

**CITY OF LINCOLN, NEBRASKA  
COMMISSION ON HUMAN RIGHTS  
MINUTES**

**Thursday, June 25, 2009  
City Council Chambers**

**CALL TO ORDER:**

The June 25, 2009 meeting of the Commission on Human Rights was called to order at 4:00 P.M. by Chairperson Wendy Francis.

**ROLL CALL:**

The roll was called and documented as follows:

**MEMBERS PRESENT:**

Commissioners Karla Cooper, Gene Crump, David Fikar, Wendy Francis, Sitaram Jaswal, Lori Lopez-Urdiales, Jose Quintero.

**MEMBERS ABSENT:**

Commissioners Dick Noble, Hazell Rodriguez

**STAFF PRESENT:**

Director Larry Williams, Senior Civil Rights Investigator Angela Wortman, Civil Rights Investigator Margie Kniep, Interim Senior Office Assistant Mary Reece, and Summer Youth Works employee Keri Anderson.

**APPROVAL OF MAY 14, 2009 MINUTES:**

A motion was made by Commissioner Crump and seconded by Commissioner Lopez-Urdiales to approve the minutes of the previous meeting. Chairperson Francis requested a change from "Chairperson Lopez-Urdiales" to "Commissioner Lopez-Urdiales" in the last paragraph of the first page.

Chairperson Francis then asked for the roll call. Voting "aye" were: *Commissioners Crump, Fikar, Jaswal, Lopez-Urdiales, Quintero, and Francis*. Abstaining was *Commissioner Cooper*. Motion carried 6-0-1.

**APPROVAL OF JUNE 25, 2009 AGENDA:**

A motion was made by Commissioner Lopez-Urdiales and seconded by Commissioner Cooper to approve the June 25, 2009 meeting agenda.

Ayes: *Commissioners Cooper, Crump, Fikar, Jaswal, Lopez-Urdiales, Quintero, and Francis.*

Nays: *none*

Abstaining: *none*

Motion carried 7-0.

**CASE DISPOSITIONS:**

**LCHR No.: 08-0828-056-E-R**

Motion: A finding of **Reasonable Cause**

By: *Commissioner Crump*

Second: *Commissioner Jaswal*

Chairperson Francis commented that investigation showed quite well, that there was poor documentation of written warnings by the Respondent.

Hearing no further discussion, Chairperson Francis then asked for the roll call.

Ayes: *Commissioners Crump, Fikar, Jaswal, Lopez-Urdiales, Quintero, and Francis.*

Nays: *Commissioner Cooper*

Abstain: *none*

Motion: Finding of **Reasonable Cause** carried 6-1-0.

**LCHR No.: 08-0911-059-E-R**

Motion: A finding of **No Reasonable Cause**

By: *Commissioner Fikar.*

Second: *Commissioner Crump.*

Hearing no discussion, Chairperson Francis then asked for the roll call.

Ayes: *Commissioners Cooper, Crump, Fikar, Jaswal, Lopez-Urdiales, Quintero, and Francis*

Nays: *none*

Abstain: *none*

Motion: Finding of **No Reasonable Cause** carried 7-0.

**LCHR No.: 08-1224-003-PA**

Motion: A finding of **No Reasonable Cause**

By: *Commissioner Fikar.*

Second: *Commissioner Cooper.*

Commissioner Fikar asked for further explanation about the incident with the Complainant and the lighter. Investigator Kniep explained that when urine was being tested for drugs, one method of 'cheating' was to bring in a urine sample donated by someone else. She further said that urine sample containers have a built in thermometer strip to ensure the specimen is at body temperature; one way around this is to use a lighter to warm a substitute specimen ensuring a fraudulent but acceptable temperature reading. Dr. Jaswal clarified that samples are brought from outside. Investigator Kniep answered yes, samples were provided by someone other than the person being tested.

Hearing no further discussion, Chairperson Francis then asked for the roll call.

Ayes: *Commissioners Cooper, Crump, Fikar, Jaswal, Lopez-Urdiales, Quintero, and Francis.*

Nays: *none*

Abstain: *none*

Motion: Finding of **No Reasonable Cause** carried 7-0.

**LCHR No.: 08-1224-074-E-R**

Motion: A finding of **No Reasonable Cause**

By: *Commissioner Cooper*

Second: *Commissioner Jaswal*

Commissioner Crump asked to clarify where the termination was from, if it was from his place of employment and the first allegation was against the off-site testing agency. Investigator Kniep said yes.

Hearing no further discussion, Chairperson Francis then asked for the roll call.

Ayes: *Commissioners Cooper, Crump, Fikar, Jaswal, Lopez-Urdiales, Quintero, and Francis.*

Nays: *none*

Abstain: *none*

Motion: Finding of **No Reasonable Cause** carried 7-0.

**LCHR No.: 08-1231-004-PA**

Motion: A finding of **No Reasonable Cause**

By: *Commissioner Crump*

Second: *Commissioner Fikar*

Commissioner Jaswal opened the discussion by asking for explanation of the store policy of not opening packages. Investigator Kniep answered that nothing from the store were to be opened prior to purchase. Commissioner Jaswal asked if this policy was written or posted anywhere. Investigator Kniep answered it was not posted in the store and she was not provided with anything written down; it seemed to be an unwritten policy. Commissioner Jaswal commented that had he been in the same situation as the Complainant then he could imagine himself doing the same as the Complainant to ensure that a battery fit and worked. Investigator Kniep replied this was part of the issue; the Complainant had earlier been at another location of the store and an employee had opened a battery package prior to purchase so that the Complainant could make sure they fit her camera. Investigator Kniep continued this was one of the crucial differences; the employee opened the package and not the Complainant. Investigator Kniep continued her opinion was that when things became heated, words got lost and it was difficult to ascertain what was actually said back and forth. Investigator Kniep added that much of the issue was due to the fact that the Complainant alleged she had received no employee assistance. Commissioner Fikar asked if a lot of time passed between the purchase of the first battery and the incident. Investigator Kniep said she did not know. Commissioner Jaswal said in his eyes if one went in to buy a battery and it fit then one could be expected to pay for it; however, if the battery was the incorrect size or did not fit then one should not be expected to pay for it. Commissioner Fikar added that one should not just open up packages without assistance. Commissioner Jaswal commented that was the problem, the Complainant could not get assistance. Investigator Kniep said the employee stated she had shown the Complainant the batteries and pointed to the battery which would fit the Complainant's camera. Commissioner Cooper stated there was clearly no customer service and wondered whether the Complainant would have had more assistance had she been of another race, however, that was not the thesis of the current case. Investigator Kniep stated in Public Accommodation it is about the refusal or denial of service, bad customer service aside. Commissioner Jaswal said it looked as if the customer were being accused in this instance. Investigator Kniep said this was what the customer was alleging. She continued that her feeling was that the employee had not handled the situation correctly; moreover, evidence showed that the Complainant immediately got defensive when approached by the employee which led to escalation. Investigator Kniep said it came down to the law; whether the Complainant had been refused or denied service based on race. Commissioner Jaswal clarified that the Complainant said she would pay for the batteries, which indicated she intended to pay for the batteries if they fit. Investigator Kniep stated the Complainant was not even alleging that she would only pay for the batteries if they fit; the Complainant stated she would pay for the batteries when she was done shopping. Commissioner Jaswal stated the problem was to decide whether discrimination occurred. He added, he agreed with Commissioner Cooper that had the two parties involved been replaced with two white people; there would have been no issues. Investigator Kniep stated her understanding of public accommodation law had originally to do with someone who came into a restaurant and was refused service, for example. She continued this was exactly what the Commission had to decide whether a form or denial of service had taken place. Commissioner Cooper asked how one denied service, the Complainant's customer service had been denied.

Investigator Kniep replied the Complainant had been allowed in the store and allowed to purchase a battery; ultimately the customer did receive that service. Commissioner Francis asked at what time the situation escalated, whether that could be determined from surveillance tapes. Investigator Kniep said the surveillance videos only showed when the Complainant entered the store and left the store nine minutes later. She continued the situation appears to have escalated when the employee heard the battery package being opened. Commissioner Fikar asked if the Respondent ever had people switch their old batteries with new batteries in the package as a form of shoplifting. Investigator Kniep said yes, this was not the same in this, but in theory it could happen. Commissioner Jaswal said it was not the same situation; the Complainant had already interacted with store staff and knew the employee was standing right next to her. Therefore it could be presumed it was not her intent to steal the battery. Commissioner Jaswal continued it seemed to him that there had been some denial of service. Commission Crump stated he felt the Complainant had been denied good service, but she was entitled to service and to be treated fairly and had been treated so until the conversation escalated. Commissioner Cooper inquired about the training received by staff members at the Respondent, whether sensitivity training could be suggested. Investigator Kniep answered yes, it could be, and she continued that she had spoken to the Respondent about the type of training offered and to whom it was offered. Investigator Kniep said the Respondent offered an open range of training, available to any staff member upon request and that the employee in question had not gone through any training since her hiring two years ago. Commissioner Cooper stated she could understand the Complainant wanting to make sure the battery fit before she attempted to take pictures.

Hearing no discussion, Chairperson Francis then asked for the roll call.

*Ayes: Commissioners Cooper, Crump, Fikar, Lopez-Urdiales, Quintero and Francis.*

*Nays: Commissioner Jaswal*

*Abstain: none*

Motion: Finding of **No Reasonable Cause** carried 6-1-0.

**LCHR No.: 09-0123-005-E-R**

Motion: A finding of **No Reasonable Cause**

*By: Commissioner Fikar*

*Second: Commissioner Jaswal*

Commissioner Fikar asked if the Respondent had provided evidence of several complaints from staff and clients regarding the treatment of children. Investigator Kniep answered that yes, they had.

Hearing no further discussion, Chairperson Francis then asked for the roll call.

*Ayes: Commissioners Cooper, Crump, Fikar, Jaswal, Lopez-Urdiales, Quintero, and Francis.*

*Nays: none*

*Abstain: none*

Motion: Finding of **No Reasonable Cause** carried 7-0.  
**LCHR No.: 09-0406-004-H**

Motion: A finding of **No Reasonable Cause**  
By: *Commissioner Crump*  
Second: *Commissioner Fikar*

Commissioner Fikar opened by asking how long the Respondent expected to receive daily logs regarding noise violations. Investigator Kniep replied it was simply daily until some sort of resolution could be achieved, there was no fixed time. Chairperson Francis clarified by saying the Respondent requested the Complainants to log the noise violations in order to try to find a pattern and try to confirm the happenings. Investigator Kniep agreed and added that when the disturbance occurred during the daytime, the Complainants was to contact the Respondent so that the property manager could witness the noise disturbance. Chairperson Francis then asked if the Complainants had called the Respondent. Investigator Kniep answered the Complainants alleges they did call the Respondent, however, the Respondent denies that ever happened and the only phone contact the property manager had with the Complainants only occurred because the tenants upstairs called to complain that they were being harassed by the Complainants. Chairperson Francis asked if the upstairs tenants felt as if they were being harassed because of the police calls and Investigator Kniep said yes. Chairperson Francis further asked at what times of the day the police calls were. Investigator Kniep stated they varied; a few were during the day, the majority was after 9:30 p.m.

Commissioner Jaswal asked if the 14/30 notice had any effect. Investigator Kniep said it seemed to have, when she conducted the on-site interview with the Complainants, they stated the noise situation had gotten better, there were still a few disturbances as were documented in the daily logs they provided for the Respondent at that time, but for the most part the situation seemed to have gotten better.

Chairperson Francis asked how many apartments were in the building. Investigator Kniep answered six, three on each side with a middle section with a stairwell dividing the sides. Chairperson Francis asked specifically how many other units share a wall, floor or ceiling with the Complainants. Investigator Kniep answered that the Complainants themselves only shared a ceiling with the unit above them, and that unit shared a floor and a ceiling with the apartment above and the apartment below. Commissioner Crump asked if there was anybody on the other side of the Complainants and Investigator Kniep answered, no, not directly sharing a wall. Chairperson Francis asked if there were a hallway between the units. Investigator Kniep said there was and it was used as a supply storage area, however, the noise allegations were only against the tenants upstairs and not directed towards any shared walls.

Commissioner Cooper asked if the vandalism was germane to the noise issue. Investigator Kniep said it was not although it was the original suspicion. Commissioner Cooper asked who had been

determined to have committed the vandalism. Investigator Kniep answered it was a nurse who had accidentally scraped the Complainant's car. Commissioner Cooper apologized for her memory and asked if the Complainants had been evicted. Investigator Kniep said no, no action had been taken against the Complainants.

Chairperson Francis asked when the tenant in the apartment above the Complainants had been evicted. Investigator Kniep said they hadn't been, they had received a 14/30 notice of non-compliance and nothing else. Chairperson Francis clarified this did not evict them; it simply gave them notice that they had 14 days to correct the action or they would be evicted. Chairperson Francis asked how long ago that notice had been given. Investigator Kniep answered it was shortly after March 16, the date the Respondent received the first batch of disturbance logs from the Complainants.

Chairperson Francis asked if it were known whether the flooring in the apartment above was carpeting or wooden floors and Investigator Kniep answered no, she did not know. Commissioner Crump asked if it were the Respondent's policy to request a tenant to keep noise logs. Investigator Kniep replied it was not, normally during the day a tenant calls the office if there is a noise disturbance and a staff member investigates. However, in this case, Investigator Kniep continued, there were so many incidents, the Respondent wanted to have the additional documentation. Chairperson Francis asked if someone from the management company was on-site during the day and Investigator Kniep answered yes. Chairperson Francis then asked how far away the office was from the Complainants's apartment. Investigator Kniep said it was one or two blocks. Chairperson Francis commented it was close enough proximity that if a call were received someone from the office could go over in a reasonable period of time.

Commissioner Lopez-Urdiales asked what the noise specifically was. Investigator Kniep said it was stomping, voices yelling, banging. Commissioner Lopez-Urdiales commented that she knew from her own experience with her grandchild how difficult it is to keep children from running in an apartment and that if an apartment complex is not sound-proofed, it can lead to disagreements with neighbors. Investigator Kniep added that when she had spoken to the officer who responded to one of the noise complaints and he had said, he himself would find the noise annoying but he did not find the noise level to be above that of a typical apartment environment. Commissioner Lopez-Urdiales asked if an offer had been made to move the Complainants perhaps to an upper floor where there would be no neighbors above them. Investigator Kniep answered there had been, but that was not feasible since the Complainants' daughter required some very heavy equipment that would have been burdensome carrying upstairs on a regular basis since there is no elevator in the complex. Commissioner Lopez-Urdiales then asked if there were another apartment complex owned by the Respondent, one level or with an elevator that would have worked for the Respondent and Investigator Kniep said that had been looked into. Chairperson Francis asked if they had offered to blow any insulation into the ceiling and Investigator Kniep answered no.

Commissioner Jaswal asked if the 14/30 notice had been complied with and there had been not action taken as a result of this notice. Investigator Kniep said continued noise logs had been written, she did not find evidence, however, that the Complainants had called the Respondent or the police to complain of noise after the 14/30 notice had been issued.

Hearing no discussion, Chairperson Francis then asked for the roll call.  
Ayes: *Cooper, Crump, Fikar, Jaswal, Lopez-Urdiales, Quintero, Francis.*  
Nays: *none*  
Abstain: *none*  
Motion: Finding of **No Reasonable Cause** carried 7-0.

#### **ADMINISTRATIVE CLOSURES:**

Motion: To accept the **Withdrawal and Close Administratively**  
By: *Commissioner Fikar*  
Second: *Commissioner Lopez-Urdiales*

##### **1. LCHR No.: 09-0409-005-H**

Chairperson Francis then asked for the roll call.  
Aye: *Cooper, Crump, Fikar, Jaswal, Lopez-Urdiales, Quintero, and Francis.*  
Nays: *none*  
Abstain: *none*  
Motion: To accept the **Withdrawal and Close Administratively** carried 7-0.

#### **NEW BUSINESS:**

##### **A. No Commission Meeting July**

Director Williams stated the Commission Meeting in July was cancelled. He explained the reason for that was that LCHR was a little ahead of their contract and LCHR would not receive payment for any cases closed above that number. He added that everything was lagging a bit behind due to the new administration and the stimulus package and that LCHR had just received their new contract from the EEOC although the year was almost over.

##### **B. 2009/2010 Budget Dates**

Director Williams announced the most important dates in the city budget. Those are:

- a. July 8 – Budget hearing in front of the City Council.
- b. July 17 – Tentative changes discussed in City Council
- c. July 20 – Changes identified and voted on in City Council.
- d. July 29 – Budget published to the public
- e. August 10 – Public Hearing on proposed budget.

- f. August 24 – City Council has to adopt budget.
  - g. September 1 – Fiscal year starts.
- C. 2010 Civil Rights Conference  
Director Williams stated that LCHR was moving forward with the Civil Rights Conference for April 2010, which would cover employment, housing and public accommodation in one full day of conferencing. He stated that he felt this would be a more efficient way of treating the topics rather than hosting two separate conferences for Housing and Employment.
- D. Departure Pippi Van Slooten.  
Director Williams announced the departure of AmeriCorps/VISTA volunteer Pippi Van Slooten. She has been offered and accepted a job at the Marine Corps Academy at Quantico. Director Williams said that LCHR had budgeted in the position and hoped to receive another AmeriCorps staff. He also introduced Keri Anderson who is now working at LCHR as part of the Summer Youth Works program.
- E. Conflict of Interest in Open Case Report  
Commissioner Cooper raised the question of what to do about a conflict of interest with one of the upcoming cases. Director Williams said he expected that many of the Commissioners would have a conflict and that they should simply declare their conflict and work their way through it. He added he had already spoken to the City Attorney about the case and she had recommended simply going forward with the case. He continued that there were not many possibilities for the case since the NEOC would also have conflicts of interest with it.

**PUBLIC COMMENTS:**

None

**ADJOURNMENT:**

The meeting was adjourned at 4:50 P.M.

**NEXT MEETING:**

The next meeting will be held Thursday, August 27, 2009 in the City Council Chambers at 4:00 P.M.