

**West Vincent Township
Human Relations Commission**

August 22, 2022 7:00 PM

Attendance: Luis Cantarero, Chair, Robin Austin; Brad Dyer; Absent Geetha Boreddy, Julie Foster, Vice-Chair

Also attending: Sara Shick, Supervisor; Dana Alan, Supervisor

Approval of Minutes: A MOTION and a second were brought forward to approve the minutes of July 25, 2022. *Motion carries unanimously.*

Review of Ordinance Updates – Mr. Cantarero noted that the commission needs to have an update on the conversation about the ordinance. Ms. Foster attended the Board of Supervisors meeting last week, along with Mr. Austin. Mr. Austin stated that the Board of Supervisors voted to table the discussion until October 3, 2022. This will be a workshop meeting and not a business meeting.

Dr. Dyer commented that he did not think Ms. Foster spoke at the Board of Supervisors meeting last week on the Commission's proposed position statement to the Board of Supervisors asking the Board of Supervisors to vote in opposition to the proposed amendment. Ms. Alan stated that Ms. Foster did not read it, Ms. Foster only made a few comments. The Board of Supervisors did receive that statement prior to the meeting. Ms. Shick stated that she did not feel the Board has received comments from the Commission on the proposed ordinance changes that Mr. Granger sent. Mr. Cantarero stated that they did; the commission reviewed that the last time they met. The responses were in Ms. Foster's email. Mr. Cantarero stated that what Mr. Granger sent did not consider was the Commission was proposing; that is what the Commission wants to talk with the Supervisors about. The changes that were requested were not even considered.

Dr. Dyer stated that he brought with him the statement that Ms. Foster made regarding removing Sections E through N of the Human Relations Ordinance. Mr. Dyer brought a copy that will be included in tonight's meeting minutes.

Mr. Cantarero stated that the commission went through this at the last meeting. The hand-outs clearly showed the response from the solicitor that clearly showed all the information that Ms. Foster and the Commission proposed before had been red-lined. That is why the Commission would like to have the conversation with the Board.

Mr. Cantarero feels that everything is falling in order. October 3, 2022, the Human Relations Commission will meet with the Board of Supervisors and have the conversation regarding what the Commission is requesting and what is being decided on. The Commission would like to go through everything before the decision is made.

MOTION by Dr. Dyer to include the memo that was sent to the Board of Supervisors from Ms. Foster into the Human Relations Commission minutes; second by Mr. Cantarero. *Motion carries unanimously.*

Ms. Shick explained to the Commission the Board of Supervisors process for the agenda.

There being no further discussion, the **MOTION** and a second were brought forward to adjourn.
Motion carries unanimously.

Meeting adjourned at 7:20 PM

Respectfully Submitted,
Kathy Shillenn, Township Secretary

MEMORANDUM

TO: John Granger, Bernie Couris, Sara Schick, Dana Alan

FROM: West Vincent Township Human Relations Commission

DATE: August 15, 2022

RE: Statement on removing sections 6.E-N of the Human Relations Ordinance

The West Vincent Human Relations Commission opposed the proposed ordinance revision to remove Human Relations Commission Ordinance Sections E-N, which allows the Board of Supervisors to vote to elect expanded procedures to investigate alleged ordinance violations, and if the investigation finds probable cause, hold a hearing to determine whether the ordinance was violated. The proposed revision to the Human Relations Ordinance removes all of the enforcement mechanisms the township has to implement the law.

Specifically, Section E provides an option for the Board of Supervisors to expand procedures to complaints that are not resolved during mediation, provided funding is available.

Section F provides for nondismissal of complaints where mediation was not successful.

Section G provides for an investigation of the alleged conduct in the complaint to determine whether probable cause exists that the respondent discriminated against the complainant.

Section H states that the Commission shall dismiss the complaint if no probable cause is found.

Section I requires the Commission to endeavor to eliminate the unlawful discrimination by persuasion, conciliation and conference. If mediation and conciliation again fails to resolve the complaint, then Section J allows the Commission to give notice to the respondent that it must answer the allegations of discrimination in a hearing where one or more members of the Commission will hear evidence presented by the parties or their representatives. The complainant's failure to attend the hearing will result in dismissal.

Section K requires the Commission to determine that a preponderance of the evidence proves that discrimination occurred, state its findings of fact in writing and direct the respondent to end its discriminatory conduct.

Under Section L, the Commission must issue notice and its findings of fact if it concludes there was not sufficient evidence of discrimination and may award attorney's fees to a respondent if the Commission finds the complaint was brought in bad faith or the complainant failed to appear at the hearing.

Section M states any order of the Commission may be appealed to the Pennsylvania Court of Common Pleas.

Section N allows the Township to enforce the Commission's orders by filing a petition in the Court of Common Pleas.

These sections contain the entirety of the enforcement mechanisms for the West Vincent Township's Human Relations Commission Ordinance. This Ordinance provides essential

protection against discrimination that is otherwise legal under current Pennsylvania and federal law. Without the ability to hold hearings or issue orders, the Township has no ability to stop the discrimination that is prohibited by the HRC Ordinance. Indeed, a business that has discriminated in violation of the Ordinance need not respond to the complaint at all. It is the business's choice whether or not to answer the complaint or to attend mediation. There is no consequence at all if the business ignores the complaint. The Township has no authority to compel participation in the process or to end the discrimination.

This leads to the essential question: Why have a law but not enforce it? It appears to be unprecedented in our Township ordinances. For example, the Township has the legal authority to investigate violations of the Zoning Code. W.Vincent Twshp. Code § 390-216.

The Human Relations Commission respectfully exhorts the Board of Supervisors to not eliminate all enforcement mechanisms of the ordinance for the following reasons:

First, the Expanded Procedures in Sections 6.E-N are optional and must be approved by the Board of Supervisors. This has not yet occurred. It remains at the discretion of the Board of Supervisors, and subject to available funding, to invoke those procedures.

Second, a concern has been raised regarding "neighbors investigating neighbors." This sounds like an important principal, but does not apply to this situation for several reasons. The HRC Ordinance only applies to business activity in the township, not the personal conduct of individual neighbors. The overwhelming majority of employees in West Vincent are not residents of West Vincent. Similarly, most businesses operating in West Vincent that are covered under the Ordinance (public accommodations and employers) are owned by non-residents. Therefore, it is most likely that neither party would live in West Vincent Township. Moreover, the American justice system is based on the right to be heard and found for or against by our peers. Our juries, judges and administrative agencies that render determinations must all be from our local jurisdiction, by law. This is the same system that operates for a number of township bodies, including the Zoning Board of Appeals and the Historical Commission, which has the authority to investigate properties proposed for demolition and to determine when an historic structure is subject to demolition by neglect and to "impose fines and penalties." W.Vincent Twshp. Code § 390-189. Finally, the Commission proposed at the September 2021 meeting to engage a professional investigator who does not reside in the Township to conduct an investigation, should the Board of Supervisors elect to adopt the expanded procedures.

Third, eliminating any enforcement of the Human Relations Ordinance effectively permits discrimination in the township. The purpose of the Ordinance is "...to ensure that all persons, regardless of actual or perceived sexual orientation, gender identity or expression (hereinafter collectively, 'characteristics;'), enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing, and the use of public accommodations, it is necessary that appropriate legislation be enacted." W.Vincent Twshp. Code § 6-1. Interviews with the many Human Relations Commissions that operate under similar legislation in Pennsylvania shows how important this law is. None of the interviewed Commissions have ever had to resort to the expanded procedures. But each of them found the possibility of moving to a hearing was essential to gain the productive cooperation of the business alleged to have violated

the ordinance so the Commission could achieve a successful resolution to end the discriminatory conduct. There is no other agency that can enforce our law. There is nowhere else for victims of discrimination to go. The appointed Commissioners to the Human Relations Commission believe in the stated purpose of the Human Relations Ordinance and oppose removing the Township's ability to enforce the law.