

MEMORANDUM

TO: Fargo Human Relations Commission
FROM: Karin Flom, Assistant Planner
DATE: November 13, 2020
RE: Human Relations Commission Meeting on November 19, 2020

The next meeting of the Fargo Human Relations Commission will be held on Thursday, November 19, 2020 at 12:00 p.m., as a **virtual meeting**. If you are not able to attend, please contact staff at 701.241.1474 or Planning@FargoND.gov.

**HUMAN RELATIONS COMMISSION
Thursday, November 19, 2020 at 12:00 p.m.
Virtual Meeting**

AGENDA

1. Welcome & Introductions
2. Approve or Amend AgendaAction Item
3. Approve or Amend Minutes.....Action Item
4. Public Comment – Citizens to be Heard.
Individuals wishing to speak during public comment must contact the Planning Department in advance at 701-241-1474 for instructions.
5. Old Business
 - a. Statement on Racial Covenants.....Action Item
 - b. MLK Day Planning Update
 - c. Update from HRC Work Plan Work Groups
 - d. Meeting Frequency & Structure Discussion
 - e. HRC Liaison Positions Discussion
6. Staff Report
7. Announcements
8. Adjourn

Human Relations Commission meetings are broadcast live on cable channel TV Fargo 56 and can be seen live by video stream on www.FargoND.gov/streaming. They are rebroadcast each Thursday at 12:00 p.m. Minutes are available on the City of Fargo Web site at www.FargoND.gov/humanrelations.

People with disabilities who plan to attend the meeting and need special accommodations should contact the Planning Office at 701.241.1474. Please contact us at least 48 hours before the meeting to give our staff adequate time to make arrangements.

MEMORANDUM

TO: Fargo Human Relations Commission
FROM: Karin Flom, Assistant Planner
DATE: November 13, 2020
RE: Meeting Report

Item 1. Welcome & Introductions

Chair Matuor Alier will call the meeting to order.

Item 2. Approve or Amend Agenda

Chair Alier will seek a motion to approve or amend the agenda.

Recommended Motion: To approve the November 19, 2020 agenda.

Item 3. Approve or Amend Minutes

Chair Alier will seek a motion to approve or amend the minutes of the October 15, 2020 Human Relations Commission meeting.

Recommended Motion: To approve the minutes of the October 15, 2020 meeting.

Item 4. Public Comment – Citizens to be Heard

Chair Alier will open the floor to public comment. **Individuals wishing to address the Human Relations Commission must contact the Planning Department in advance at 701-241-1474 for instructions.** Speakers must state their name and will be limited to two minutes. Comments should not contain profanity or personal attacks. At the chair's discretion, an overall time limit may be placed on this agenda item. If time permits, the chair may choose to call on staff or liaisons to engage in dialog about any of the public comments received.

Item 5a. Old Business: Statement on Racial Covenants

Member Barry Nelson will lead a discussion on the recognition of the history and existence of racial covenants in Fargo. Included in the packet is a statement for the HRC's consideration during the meeting as well as a previous lay-down item from the August 2020 meeting.

Recommended Motion: To approve the statement as proposed by Member Nelson.

Item 5b. Old Business: MLK Day Planning Update

Planning staff have hired Reach Partners to conduct MLK Day event planning activities. Staff will provide a brief update about work done to date.

Item 5c. Old Business: Update from HRC Work Plan Work Groups

One representative from each HRC Work Plan group will present a summary of their kick-off meeting. The HRC Work Plan groups are structured around the work plan goals

and consist of the following members:

Goal 1: Create a more inclusive community via formally protect rights.

Members: Carolyn Becraft, Cody Severson

Goal 2: Increase and promote diversity, equity, inclusion, and anti-discrimination practices within City government.

Members: Matuor Alier, Laetitia Hellerud, Abdiwali Sharif, Ahmed Shiil

Goal 3: Promote and grow community-wide efforts related to advancing diversity, equity, inclusion and anti-discrimination.

Members: Hamida Dakane, Barry Nelson, Cheryl Schaeffe

Item 5d. Old Business: Meeting Frequency & Structure Discussion

Due to time constraints at the October 15 meeting, this discussion was continued to this meeting. Based on survey results and work group meetings, staff will present and lead a discussion of meeting frequency & structure options and solicit feedback from members.

Item 5e. Old Business: HRC Liaison Positions Discussion

Due to time constraints at the October 15 meeting, this discussion was continued to this meeting. Staff will lead members in a discussion about identifying gaps in representation at the HRC.

Item 6. Staff Update

Time permitting, Chair Alier will open the floor to commission members to ask any questions on the staff update which is included in the agenda packet.

Item 7. Announcements

Chair Alier will open the floor to commission members for any announcements.

Item 8. Adjourn

Upon no further business, Chair Alier will adjourn the meeting.

**BOARD OF HUMAN RELATIONS COMMISSIONERS
MINUTES**

Regular Meeting:

Thursday, October 15, 2020

The Regular Meeting of the Board of Human Relations Commissioners of the City of Fargo, North Dakota, was held in the Commission Chambers at City Hall at 12:00 p.m., Thursday, October 15, 2020.

The Human Relations Commissioners present or absent were as follows:

Present: Cheryl Schaeffe, Matuor Alier, Barry Nelson (via conference call), Hamida Dakane, Cody Severson, Ahmed Shiil, Carolyn Becraft

Absent: Laetitia Hellerud, Abdiwali Sharif-Abdinasir

Item 1. Welcome and Introductions

Chair Alier welcomed Members to the meeting and introductions were made.

Item 2. Approve Order of Agenda

Member Becraft moved the Order of Agenda be approved as presented. Second by Member Severson. All Members present voted aye and the motion was declared carried.

Member Shiil present.

Item 3. Approve Order of Minutes

Member Schaeffe moved the minutes of the September 17, 2020 Human Relations Commission meeting be approved as presented. Second by Member Dakane. All Members present voted aye and the motion was declared carried.

Item 4. Public Comment

No public comment provided.

Item 5. Presentation: Employer and Employee Rights and Responsibilities under Title 1 of the ADA (Americans with Disabilities Act): Jerry Christiansen, Freedom Resource Center

Jerry Christiansen gave a presentation on the background of the Freedom Resource Center, the work they perform, and an overview of employer and employee rights and responsibilities as related to disabilities and accessibility.

Discussion was held on what is considered a disability.

Paul Zondo inquired about job applications asking about disabilities, and cultural views seeing disability as a weakness.

Victoria Johnson spoke regarding if limited English skills were protected under the ADA.

Discussion continued on continuing the legacy of Keith Bjornson, and examples of unreasonable accommodations.

Item 6. Old Business

a. Hate Crime Response process – Lt. George Vinson, Fargo Police Department

Lieutenant George Vinson, Fargo Police Department, provided an overview of hate crimes, how to report them, and how they are processed.

Discussion was held on local tracking of hate crimes.

Faith Dixon spoke on her concerns of police processing of hate crime reports, how activists can respond to threats of violence, and community/police education.

Further discussion as held regarding continuing community conversations, documenting incidents and threats, and harassment versus terrorizing.

Ms. Johnson inquired on next steps of receiving threats.

Lt. Vinson stated officers are committed to doing what is best for the community.

b. Meeting Frequency & Structure Work Group Update

This item was tabled to the next meeting.

c. HRC Liaison Positions Work Group Update

This item was tabled to the next meeting.

Item 7. Staff Update

Assistant Planner Catlyn Christie noted the staff report was included in the packet for Board members to review.

Item 8. Announcements

No announcements were given.

Item 9. Adjourn

The time at adjournment was 1:00 p.m.

MEMORANDUM

TO: Fargo Human Relations Commission

FROM: Karin Flom, Assistant Planner

DATE: November 13, 2020

RE: Agenda Item 5a: Old Business: Statement on Racial Covenants

Member Barry Nelson has prepared the following statement on racial covenants for the Human Relations Commission's consideration at the November 19 meeting. In addition, a previously prepared staff report on the history of racial covenants is included as an attachment to this memo. It was previously a lay-down item at the HRC's August 20, 2020 meeting.

"The Emancipation Proclamation of 1862 freed all the slaves on the North American continent. Yet, many laws were passed in its place to keep the black Americans suppressed whether that was in voting or property rights. These became known as the Jim Crow laws and were most visible in the South. Less visible were covenants meant to keep black Americans out of defined neighborhoods. These "covenants" were designed to exclude black people from purchasing or even occupying properties in specific parts of the city. Recently it became known that such covenants or at least one such covenant existed within Fargo, which stated: "It is understood that this lot shall never be sold to or occupied by a colored person". It is understood that this covenant has no legal bearing currently. However, it is important that this part of Fargo's history be revealed and recognized. We may never know whether such a covenant caused hardship to an individual or family, but it is important that we own this part of our racist past and offer an apology for past and present wrongs."

Attachments:

- 1) Staff Report on racial covenants

MEMORANDUM

TO: Fargo Human Relations Commission

FROM: Karin Flom, Assistant Planner

DATE: August 20, 2020

RE: Racial Restrictive Covenants Report

During the public comment period of the June 20, 2019 Fargo Human Relations Commission, Fargo resident Gini Duval raised the question of whether a law or ordinance existed about prohibiting African Americans from living around St. John's Church. The following information is the result of staff research and consultation with the City Attorney.

The issue described by Ms. Duval is what is known as a *racially restrictive covenant*. A covenant is a legal agreement between parties to do or not do an action. In particular, a restrictive covenant forbids a party from a particular action. Racially restrictive covenants placed restrictions on conveying the property to, or forbidding occupancy by (e.g., renting or leasing), a member of a particular race or ethnicity. These covenants in particular were "private" covenants between individuals. In the United States, racially restrictive covenants are typically contained in the deed and "run with the land," meaning they exist in perpetuity from one owner to the next.

In speaking with the City Attorney regarding the restrictive covenant in the Belmont Park Addition (the neighborhood around St. John's Church), he stated that the particular racial restriction included in the restrictive covenants that were recorded at the time of platting of that Addition is well known among real estate practitioners in the community and it is uniformly treated as being unconstitutional, unenforceable and, therefore, is uniformly disregarded.

Racially restrictive covenants came to widespread use in the 1920s – 1940s (though covenants have been found both before and after this timeframe). These covenants were a response to the 1917 U.S. Supreme Court decision *Buchanan v. Warley*, which struck down a Louisville, Kentucky ordinance restricting the sale of real property based on race.^{1 2} Similar ordinances existed across the country at this time, including Baltimore, Atlanta, Birmingham, Miami, Charleston, Dallas, New Orleans, Richmond, and St. Louis.³ While the practice began with developers and real estate professionals,⁴ the federal government promoted the use of racially restrictive covenants. The

¹Catherine Silva, "Racial Restrictive Covenants History," The Seattle Civil Rights & Labor History Project, University of Washington, https://depts.washington.edu/civilr/covenants_report.htm.

² Motoko Rich, "Restrictive Covenants Stubbornly Stay on the Books," *The New York Times*, April 21, 2005, <https://www.nytimes.com/2005/04/21/garden/restrictive-covenants-stubbornly-stay-on-the-books.html>.

³Larry Santucci, "How Prevalent Were Racially Restrictive Covenants in 20th Century Philadelphia? A New Spatial Data Set Provides Answers," Federal Reserve Bank of Philadelphia, November 2019, <https://www.philadelphiafed.org/-/media/consumer-finance-institute/payment-cards-center/publications/discussion-papers/2019/dp19-05.pdf>.

⁴ Santucci.

Federal Housing Administration (FHA), created in 1934, refused to underwrite mortgages for homes that did not contain a racially restrictive covenant.^{5 6}

Racially restrictive covenants were legally challenged. In 1926, the U.S. Supreme Court in *Corrigan v. Buckley* upheld the use of racially restrictive covenants between individuals as these were private agreements, in contrast to the government-imposed racial segregation ordinances of the previous decade.⁷ In 1948, the U.S. Supreme Court ruled in *Shelley v. Kraemer* that enforcement of racially restrictive covenants by the government through the courts was a violation of the Fourteenth Amendment's Equal Protection Clause, although it did not rule the existence of the covenants between private parties illegal.⁸ This did not occur until the 1968 Fair Housing Act, which made illegal any refusal to rent, sell, or finance based on membership in a protected class.

It is unknown how many properties in the U.S. have a racially restricted covenant. A property owner may not know of one because a title company may redact or not report on the racial covenant since it is known to be unenforceable, or may not have looked far enough back in records.⁹ Mapping and cataloguing efforts of racial covenants exist, such as in Minneapolis/Hennepin County through the project "Mapping Prejudice," and "Segregated Seattle."^{10 11} These mapping efforts seek to demonstrate the extent of the covenants and the role of government in institutionalizing segregation and inequality, particularly economic inequality as homeownership became a primary source of wealth generation for the U.S. middle class.¹²

While these covenants are unenforceable today, their legacy remains. However, removing them directly from the historical record is legally and financially challenging. In cases where the covenant is part of a development (such as Belmont Park Addition), these private covenants usually may only be removed by unanimous written consent of all property owners in the development. In others, removing the covenants would require changes to state recordation laws which prohibit the altering of documents. Instead of changing the original document, three states (California, Minnesota, and Washington) currently have avenues for individual owners to file modification documents to their properties.¹³ These modifications state the property has an illegal and unenforceable discriminatory covenant and legally strikes those provisions but does not alter the underlying original document.

⁵ Nick Watt and Jack Hannah, "Racist language is still woven into home deeds across America. Erasing it isn't easy, and some don't want to," CNN, February 15, 2020, <https://www.cnn.com/2020/02/15/us/racist-deeds-covenants/index.html>.

⁶ Terry Gross, "A 'Forgotten History' Of How The U.S. Government Segregated America," NPR, May 3, 2017, <https://www.npr.org/transcripts/526655831>.

⁷ Silva.

⁸ "Shelley v. Kraemer - 334 U.S. 1, 68 S. Ct. 836 (1948)," Law School Case Brief, LexisNexis, <https://www.lexisnexis.com/community/casebrief/p/casebrief-shelley-v-kraemer>.

⁹ Rich.

¹⁰ "Mapping Prejudice," University of Minnesota, <https://www.mappingprejudice.org/>.

¹¹ "Segregated Seattle," The Seattle Civil Rights & Labor History Project, University of Washington, <http://depts.washington.edu/civilr/segregated.htm>.

¹² Gross.

¹³ Watt and Hannah.

MEMORANDUM

TO: Fargo Human Relations Commission

FROM: Karin Flom, Assistant Planner

DATE: November 13, 2020

RE: Meeting Frequency & Structure Discussion on November 19, 2020

At the September 17, 2020 Human Relations Commission meeting, the Commission created a work group to strategize the ideal format and frequency of business meetings. The work group comprises the Executive Committee (Matuor Alier, Cody Severson) and Members Laetitia Hellerud and Barry Nelson.

This work was prompted by the HRC's recent adoption of its work plan. Staff and the Executive Committee recognize that sitting on the dais is not the ideal environment for effective committee work, strategic planning, or encouraging relationship building among HRC members. Staff prepared a series of questions for the commission in order to understand members' priorities and expectations about HRC meetings.

Through a September 29 work group meeting and e-mail survey responses from other HRC members, staff facilitated a discussion around four questions. A summary of the work group discussion and responses was included in the October 15 HRC packet and is attached to this memo.

During the November 19 meeting, Planning staff will present a summary of the feedback received so far. The presentation will address recurring themes noted in the responses, how Planning staff used this feedback, and an initial three options for meeting frequency and structure for the HRC's consideration.

This agenda item is not an action item. Staff's goal is to receive the HRC's feedback on these options. These are also not the only options available as staff can take feedback received at the meeting and adjust.

Attachments:

- 1) Meeting frequency and structure survey summary

Summary of Survey Responses: Meeting Frequency & Structure

Question 1: What is a successful meeting? One where...

- A space is provided for community members to bring problems or concerns
- Community members attend or view the meeting
- HRC and public mutually engage with one another
- HRC takes meaningful action
- Members diverged on the importance of ending on time, though more were in favor of ending on time than extending

Question 2a: How can you best offer your expertise to the community and board?

- Dedicating focus to the work plan group
- Advocating for change at various levels
- Making connections in their network (frequently mentioned)

Question 2b. How is your availability?

- Extreme range in responses, from no or few extra hours beyond the commission meeting to 8-10 hours a week.

Question 3. If the meeting frequency were to be reduced, what concerns would you have?

- The moment in time the city and nation finds itself in regarding issues in the community. Feel it would be interpreted as retreating from public.
- What about issues that come up in between full meetings? Where could people go?
- Lack of clarity about what the “in-between” meetings would look like or be for.
- Feeling that meetings every month are already rushed – what would happen if there were even fewer?
- People are expecting monthly meetings – confusing about “are they meeting this month or not?”
- A few members opposed outright to reducing frequency.

Question 4. How could we best engage you as commissioners in between meetings?

- Concrete things to do between meetings
- More one on one communication
- Recap at the end of the meeting to provide clarity for who is doing what and when

MEMORANDUM

TO: Fargo Human Relations Commission

FROM: Karin Flom, Assistant Planner

DATE: November 13, 2020

RE: HRC Liaison Discussion on November 19, 2020

At the September 17, 2020 Human Relations Commission meeting, the Commission created a work group to brainstorm about the role of liaisons to the HRC from other agencies or organizations. The work group is made up of the Executive Committee (Matuor Alier, Cody Severson) and Members Carolyn Becraft and Cheryl Schaeffle.

This work was prompted by the HRC's recent experience after holding meetings again in June. These meetings demonstrated that formalized relationships with other organizations would be mutually beneficial. For example, during the June public comment period, residents brought up questions about racial justice in schools. Residents also spoke to the need to not forget indigenous people in our community when we discuss racial equity. In July and August, Fargo School Board President Rebecca Knutson was present to speak to the school naming policy. The Commission does have an existing liaison position with Fargo PD, but this role has been defined based on need and the level of engagement has varied over the years.

Through an October 1 work group meeting, staff facilitated a discussion around the liaison position such as developing a shared definition of the role, understanding the work group's expectations of the roles and responsibilities of a liaison, and considering what expectations a liaison would have. A draft vision statement was included in the October 15 HRC packet and is attached to this memo.

During the November 19 meeting, Planning staff will present the draft vision statement and lead a discussion about gaps in representation at the HRC. This discussion is important because there are a number of opportunities for the HRC to connect with various community members through a mix of established liaison positions, the expanded member roster, and work plan work groups.

This agenda item is not an action item. Staff's goal is to receive the HRC's feedback on the vision statement and to identify gaps in representation in the HRC. The next step would be for the work group to reconvene prior to the December HRC meeting to discuss feedback received.

Attachments:

- 1) Liaison position draft vision statement

HRC Liaison Positions

Draft Vision Statement

A liaison to the Human Relations Commission serves as a resource and connection point for the Commission, the public, and their employer. The HRC wants to create a liaison role that is mutually beneficial. For this position to be mutually beneficial, the work group is presenting the following vision for liaison roles:

- A liaison should come from an organization or agency which wants to actively and positively participate in the HRC's work. The agency should see their participation and collaboration as valuable to the agency's work and the community.
- The HRC should create a system which allows the liaison to be active and engaged. This system would identify and provide the liaison clearly defined opportunities (and boundaries) to follow-up on issues or questions raised by the HRC and/or the public.
- The liaison is also expected to be proactive on issues concerning the HRC's work. In addition to regularly attending meetings, they should be provided an avenue/opportunity to regularly engage the HRC both during meetings (such as quarterly presentations) and in between regular meetings.
- The liaison should be someone who is knowledgeable about their organization's policies and procedures which are relevant to the HRC's work. The individual should also be in a position where they can bring the HRC's feedback, questions, or concerns to their agency and vice versa.

MEMORANDUM

TO: Fargo Human Relations Commission
FROM: Karin Flom, Assistant Planner
DATE: November 13, 2020
RE: October Staff Report

This agenda item is an effort to summarize and memorialize issues, concerns, or staff action related to the work of the Human Relations Commission since the last meeting. During the meeting, the Chair may open for discussion or questions concerning these items.

1. Local COVID-19 Response

Staff continues efforts to set up a temporary homeless quarantine and engagement center at the former downtown police station. In addition, they are collaborating with shelters to identify winter overflow needs and options as shelters are already reporting to be full.

Staff also continue to support and administer funds for several other supportive services, including housing and utility assistance, enhanced quarantine capacity at local shelters, and mobile outreach through Gladys Ray Shelter and Family HealthCare. If you know someone in need of assistance, call FirstLink at 2-1-1.

Staff is also conducting research to collect data and identify gaps in existing programs that relate to COVID-19 related housing needs. Currently, data has been limited to testimonies from those working closely with those who are significantly impacted by COVID-19, with no one entity compiling the data. Now that resources are making their way into the community, better data collection is expected to be available to better inform funding decisions.

2. Expanded Housing Payment Assistance

The City of Fargo has allocated both CDBG-CV and Red River Coronavirus Task Force funds to rental and mortgage assistance. The assistance program is being carried out by Southeast North Dakota Community Action Agency (SENDCAA) and Presentation Partners in Housing. Due to this new funding source, this program is more flexible. These two organizations are reviewing past applicants and receiving new applications through FirstLink at 2-1-1.

3. HUD CDBG & HOME Funds

The City received over 30 applications in response to its recent Notice of Funding Availability Request for Proposals. This year, funding will be heavily focused on COVID-19 response. A draft of the City's 2020 Action Plans and the 2020-2024 Consolidated Annual Action Plan is anticipated to be available for public comment in December.

4. Human Relations Commission – Increase in Members

At its September 17, 2020 meeting, the HRC voted to increase its membership from nine (9) to eleven (11) members. Planning staff are coordinating with the City Attorney on the City Commission amendment process. The initial receive and file motion for the ordinance was passed 4-1 at the October 19 City Commission meeting. The first reading is scheduled at the November 16 meeting, with final passage anticipated at the November 30 meeting.

5. Housing Ownership Study

The Planning Department is beginning to work with NDSU's Center for Social Research to study the home ownership and rental rates. The first step will be to better understand the characteristics of homeowners versus individuals that rent. A better understanding of the characteristics of homeowners and renters can help us understand residents' housing choice and help guide and inform policy and decision makers as they explore potential avenues to make home ownership more attainable. The objective of this study is to create a socio-economic and demographic profile of homeowners and renters in Fargo, ND and compare those characteristics to other cities.

6. LDC Diagnostic Brown Bag – November 30

There will be a Land Development Code (LDC) Diagnostic Brown Bag meeting on November 30 at 11:30 a.m. to review the consultant's top recommendations. Meeting call-in information will be forthcoming. The public review draft of the Alternatives Analysis and Recommendations Memo can be found online at https://download.fargond.gov/0/lwc_far_ldc_alternatives_memo_10-28-20.pdf.