



**Human Rights Commission
Regular Meeting
Agenda Packet
November 19, 2020
Virtual/Electronic Meeting
6:30 pm**

Agenda Packet Contents

1. HRC Regular Meeting Agenda 11-19-2020
2. DRAFT HRC Regular Meeting Minutes 10-15-2020
3. OHR Enforcement Process Charts (Current Ordinance)
4. Prince William County HRC Conciliation/Public Hearing Policies
5. DRAFT HRC Resolution HR20-2
6. DRAFT City Temporary Staffing Discussion Points
7. OHR Monthly Staff Report – November



**Human Rights Commission
AGENDA
Regular Meeting
November 19, 2020
Virtual/Electronic Meeting
6:30 pm**

Please take Notice that this virtual meeting of the Human Rights Commission is for the purposes of planning, developing and drafting management and administration documents for the Human Rights Commission. For the purpose of addressing issues during the quarantine, this virtual meeting will be a limited public forum to discuss the agenda items designated under Section 5 below and to ensure the continuity of services provided by the Commission. The Commission Chair may limit public comments or discussion points that are unrelated to agenda items under Section 5 or that pertain to topics outside the scope of this Agenda. Members of the public are limited to three minutes of comment time per person related to the Agenda below. A maximum of sixteen public comment time slots are allotted per meeting. This will be a virtual/electronic meeting open to the public and registration information is available at www.charlottesville.gov/zoom.

Link to Human Rights Commission shared Box folder: <https://app.box.com/s/xy3wonn2s1tj8h7trkknvd79bipyxezy>

1. WELCOME

- a. CALL TO ORDER
- b. WELCOME NEW COMMISSIONERS!
- c. ROLL CALL
- d. MISSION (recited by all): *Act as a strong advocate to justice and equal opportunity by providing citywide leadership and guidance in the area of civil rights.*

2. MATTERS BY THE PUBLIC

- a. PUBLIC COMMENT (Webinar attendees use the “raise hand” function, phone attendees use *9)
- b. COMMISSION RESPONSE TO MATTERS BY THE PUBLIC

3. MINUTES

- a. Regular meeting 10-15-2020

4. BUSINESS MATTERS

- a. OFFICER NOMINATIONS*
- b. ENFORCEMENT PROCESS REVIEW
- c. HR20-2 REVISIONS
- d. CITY TEMPORARY STAFFING DISCUSSION
- e. OHR STAFF REPORT
- f. CHAIR UPDATE

5. WORK SESSION

- a. AD-HOC COMMITTEE UPDATES

6. MATTERS BY THE PUBLIC

- a. PUBLIC COMMENT (Webinar attendees use the “raise hand” function, phone attendees use *9)
- b. COMMISSION RESPONSE TO MATTERS BY THE PUBLIC

7. COMMISSIONER UPDATES

8. NEXT STEPS

9. ADJOURN

* ACTION NEEDED

Individuals with disabilities who require assistance or special arrangements to participate in the public meeting may call the ADA Coordinator at (434) 970-3182 or submit a request via email to ada@charlottesville.gov. The City of Charlottesville requests that you provide a 48 hour notice so that proper arrangements may be made.



**Human Rights Commission
Meeting Minutes
Regular Meeting
October 15, 2020
Virtual/Electronic Meeting
6:00 pm to 8:00 pm**

Link to rebroadcast: <https://boxcast.tv/channel/vabajtzezyv3iclkx1a>

1. WELCOME

- a. CALL TO ORDER
 - i. Chair, Shantell Bingham called the meeting to order at 6:39pm
- b. ROLL CALL
 - i. Shantell Bingham
 - ii. Sue Lewis
 - iii. Jeanette Abi-Nader
 - iv. Ernest Chambers
 - v. Jessica Harris
 - vi. Laura Keppley
 - vii. Kathryn Laughon
 - viii. Andrew Orban
 - ix. Ann Smith
 - x. Lyndeale von Schill
- c. MISSION (recited by all): *Act as a strong advocate to justice and equal opportunity by providing citywide leadership and guidance in the area of civil rights.*

2. MATTERS BY THE PUBLIC

- a. PUBLIC COMMENT
 - i. None.
- b. COMMISSION RESPONSE TO MATTERS BY THE PUBLIC
 - i. None.

3. MINUTES

- a. 8-20-2020 Regular Meeting and 9-17-2020 Regular Meeting
- b. Motion to approve the minutes from 8-20 and 9-17.
 - i. Motion by Andrew Orban
 1. Seconded by Lyndeale von Schill
 - ii. Vote
 1. In favor: 8
 2. Opposed: 0
 3. Abstained: 2 (including Chair)

4. BUSINESS MATTERS

- a. Chair and Commissioners offer gratitude to Ann Smith for her service
 - i. Ann's term ends 10/31/2020
- b. Updates from Council Boards & Commissions Work Session on 10-6-2020
 - i. Council will allow one additional publicly-noticed Commission meeting per month

- ii. Council indicated they would revisit the appointment of new HRC Commissioners at their meeting on 10/19/20
 - iii. Hiring of new Deputy City Manager was estimated to take place in December of 2020
 - iv. Commissioner notes a limited number of slots for additional meetings
 - 1. Brian Wheeler
 - a. There are six slots total per month
 - i. Only one is taken currently
 - ii. Can add HRC to the list
 - v. Council Michael Payne (joining as attendee)
 - 1. Notes that Council really wants to improve communication between Council and Boards & Commissions
 - 2. Asks HRC to continue to let Council know if there are actions that Council can take to support the HRC's work
- c. Nominating Committee formation
 - i. Vice-Chair
 - 1. Notes that if Council appoints new Commissioners before voting, those individuals would be eligible for nomination
 - ii. Nominating committee process
 - 1. Nominating Committee will be three people
 - 2. Committee can reach out to Commissioners for nominations
 - 3. Committee should poll current officers as to whether they would like to run again
 - 4. People who wish to be nominated can still be on the nominating committee
 - iii. Committee volunteers
 - 1. Laura Keppley
 - 2. Jessica Harris
 - 3. Ernest Chambers
- d. HRC resolution regarding local eviction moratorium (HR20-1)
 - i. Originally drafted prior to state-level legislation preventing evictions related to COVID
 - ii. Revisiting now that state protections have expired
 - iii. Resolutions memorialize the thinking of the body
 - 1. Can be for both position and procedures
 - iv. Motion to adopt HR20-1
 - 1. Motion by Sue Lewis
 - a. Seconded by Jeanette Abi-Nader
 - 2. Discussion
 - a. Council may not have local authority to enforce
 - b. Resolution is an HRC statement of position
 - c. Process if approved
 - i. Will share with Council
 - ii. Could bundle additional information regarding housing protections when presenting to Council
 - 3. Vote
 - a. In favor: 9
 - b. Opposed: 0
 - c. Abstained: 1 (Chair)

- e. HRC resolution regarding Commissioner removal (HR20-2)
 - i. While some recent events inspired this resolution, this is a general procedural resolution and not tied to any specific Commissioner
 - ii. Commissioner concern
 - 1. Could have come to the Commission before drafting the resolution
 - 2. Felt like some Commissioners weighed in and others did not
 - a. Chair clarification
 - i. Only Chair, Vice-Chair, and staff have discussed this resolution and provided feedback
 - 3. Commissioner felt that HRC should have had discussion and input before the draft document was written
 - iii. Vice Chair
 - 1. Notes that she reviewed but did not write the resolution
 - iv. Staff
 - 1. States that he drafted in the resolution as a starting point for HRC consideration after a concern was raised about a lack of procedure to deal with an incident involving a Commissioner
 - v. Additional Commissioner discussion
 - 1. Expressed gratitude for a draft procedure to consider as a starting point
 - 2. This reads like a code of conduct policy and needs further clarification
 - a. What is the process of notifying the Commissioner?
 - b. What would be considered behavior that warrants investigation?
 - c. Who conducts the investigation?
 - 3. Language revisions to "Be it resolved" section
 - a. Last point only refers to written determination if good cause
 - i. Need to clarify procedure if no good cause found
 - ii. Introduction refers recommending to City Council to pursue action when in fact this would be an internal process to the HRC
 - b. An accompanying procedural document should clarify the steps
 - c. The resolution can provide the scaffolding for the work moving forward
 - i. Examples
 - 1. Need to form an ad-hoc committee
 - 2. Contacting the Commissioner
 - 3. Sub-committee investigates the incident
 - 4. Defines the conduct that goes against the Ordinance and mission
 - 4. Commissioner concern
 - a. Feels that a situation that merits this response has

- never occurred in the history of the Commission
 - b. This can be addressed through communication with the Commissioner
 - c. No need for a document to define the process
 - 5. Chair responds
 - a. Feels that formality is not always needed
 - b. In this case we may need a procedure to address certain situations
 - c. Notes that how Commissioners conduct themselves in the public eye, specifically on social media, can have negative impacts on the Commission
 - 6. Commissioner suggestion
 - a. Need to call out specific things on social media that may warrant investigation
 - 7. Vice Chair suggestion
 - a. Send resolution back for new draft of "be it resolved" section
 - b. Notes that a policy should not be based on a particular person's actions
 - c. There is no need to rush action on this resolution as it is too close to the person and issue involved
 - 8. Commissioner suggestions
 - a. Move work on HR20-2 to an ad hoc committee
 - b. Action
 - i. Staff to put HR20-2 into online platform for collective editing
 - f. PCRB legislation at the General Assembly
 - i. Vice Chair
 - 1. Notes that General Assembly is still considering two bills
 - a. One makes PCRBs mandatory and the other makes them voluntary
 - 2. Would like to explore how HRCs and PCRBs work together
 - 3. Notes that HRC has been working on police policy issues for several years
 - ii. Action
 - 1. Laura Keppley volunteers to offer to contact PCRB
 - 2. Shantell will share contact information
 - g. OHR STAFF REPORT
 - i. Report is included in agenda packet
 - 1. Notes that service data is entered through September
 - 2. Notes significant drop in contacts due to no in-person contact
 - 3. FEPA & FHAP inquiries
 - a. No response yet from EEOC - will continue to reach out
 - b. HUD reviewing Ordinance and will provide feedback.
 - c. Need to determine if FEPA actually expands jurisdiction
 - i. Values Act may have repealed previous jurisdiction limitations
 - ii. Staff will follow up with City Attorney's Office
 - ii. Commissioner asks if HRC can somehow support outreach given the

drop in contacts

1. Staff suggests sharing OHR contact information with people they come into contact that may need services
- iii. Commissioner notes that there are groups serving people who are facing evictions and wonders if HRC has a role
 1. Staff notes that Legal Aid Justice Center and Central Virginia Legal Aid Society
 2. Chair notes that OHR could also provide information to those other organizations so they can bundle that with the outreach they are doing
 - a. Action
 - i. Staff can reach out to those organizations to ensure that they share information about the OHR with the people they interact with

h. CHAIR UPDATE

- i. Met with Interim City Manager, John Blair
 1. Talked about regular updates to Council and City Manager's office
 2. Mr. Blair made a verbal commitment to review the case by the end of October
- ii. Met with people from HRC from Prince William County to review public hearing process
 1. They shared some procedural documents regarding public hearings
 2. Clarified the difference between appeals and public hearings
 - a. HRC has only held an appeal thus far
 - b. Prince William sees more appeals than public hearings
- iii. Procedures
 1. Prince William suggested forming a panel of Commissioners to handle public hearings
 2. HRC could pass a resolution to develop its own procedural document
 3. Action
 - a. Staff will share the documents from Prince William regarding their public hearing procedures

5. WORK SESSION

a. AD-HOC COMMITTEE UPDATES

- i. Human Rights Ordinance updates
 1. All revisions are included in the attached version of the Ordinance
 - a. ~~Red strike through~~ = text to be removed
 - b. Blue = newly adopted text
 2. Sec. 2-431 a, b, and d
 - a. Revisions to update protected activities and classes related to recent changes in state statutes
 - b. Motion to adopt revisions to Sec. 2-431 a, b, and d.
 - i. Motion by Jeanette Abi-Nader
 1. Seconded by Sue Lewis
 - ii. Discussion

1. None
- iii. Vote
 1. In favor: 9
 2. Opposed: 0
 3. Abstained: 1 (Chair)
3. Sec. 2-437 c, d, and f
 - a. Revisions to clarify the intake to closure process to better reflect the process in practice
 - b. Motion to adopt revisions to Sec. 2-437 c, d, and f
 - i. Motion by Ann Smith
 1. Seconded by Sue Lewis
 - ii. Discussion
 1. Commissioner asks if Ordinance can include staff's graphic chart of the investigation process
 - a. Staff notes that a companion procedural document could accompany the Ordinance to include explanations of this nature
 - b. Action
 - i. Staff will begin compilation of a procedural document that accompanies the Human Rights Ordinance, which explains the enabling legislation and provides other clarifications on procedural elements of the Ordinance.
 2. Chair asks if these revisions will impact the speed in which an investigation occurs
 - a. Staff notes that the investigative process determines the speed of the investigation (how quickly witnesses can be found and interviewed, documents acquired, etc.)
 - b. Intent is to resolve complaints as quickly as possible
 - c. At least two staff people are required to complete both an investigation and a determination of cause

- iii. Vote
 - 1. In favor: 9
 - 2. Opposed: 0
 - 3. Abstained: 1 (Chair)
- 4. Ad hoc committee members did not feel that the following suggestions merited amended Ordinance language but are open for HRC consideration
 - a. Conducting annual studies of systemic discrimination
 - i. Commissioners express interest in HRC producing focused reports
 - ii. Not necessary to include in Ordinance
 - iii. Current Ordinance allows for this as an option
 - b. Reporting to Council on a quarterly basis rather than an annual basis
 - i. Commissioners note that it is incumbent upon Council to request reports at the interval they see fit
 - ii. Culture of communication to Council and City Manager's Office can be established without changes to the Ordinance
 - c. Appointing a City Council liaison as a non-voting member to the HRC
 - i. HRC cannot mandate Council to appoint a liaison
 - ii. Having a Council liaison appointed is a worthy idea and can be recommended to Council without putting it in the Ordinance
 - iii. Action
 - 1. Chair will make a recommendation to City Council that the HRC would like an appointed Council liaison.

6. MATTERS BY THE PUBLIC

a. PUBLIC COMMENT

i. Councilor Lloyd Snook

- 1. Each Councilor is currently serving as a liaison to 7 or 8 different groups
- 2. Council is currently trying to winnow the list of boards and commission from 50+ to around 40+
- 3. Asking Council to designate a liaison would therefore be a hard sell
- 4. Noted an interest in HRC's work on policing
- 5. Notes that Council does not always know what all boards and commissions are doing
- 6. Appreciates that minutes are current on City website
- 7. If HRC is looking at broader policy issue, requests that someone contact Council by email

b. COMMISSION RESPONSE TO MATTERS BY THE PUBLIC

i. None.

7. COMMISSIONER UPDATES

- a. Virginia Association of Human Rights (VAHR)
 - i. Annual meeting On 10/27/2020 at 9:30am, via Zoom
 - ii. Agenda and invitation was sent to HRC by staff
 - iii. All Commissioners are considered paid members and can attend

8. NEXT STEPS

- a. Staff will put resolution HR20-2 in a Google doc or Box for collective editing.
- b. Laura Keppley will connect with PCRB to discuss commonalities.
- c. Staff can reach out to other organizations who are engaging in current outreach with people facing eviction to ensure that they share information about the OHR with the people they interact with.
- d. Staff will share Prince William County public hearing procedural documents with HRC.
- e. Staff will begin compilation of a procedural document that accompanies the Human Rights Ordinance, which explains the enabling legislation and provides other clarifications on procedural elements of the Ordinance.
- f. Chair will make a recommendation to City Council that the HRC would like an appointed Council liaison.
- g. Nominating Committee, or other HRC body, will let staff know on what date and for what purpose they may want to hold an additional meeting in October or November.

9. MEETING ADJOURNED at 9:01 pm

Pending HRC Approval

KEY TO EDITS

Red-strike-through: Text to be changed or removed.

Blue: New text.

(Note: some of the sub-heading labels may be red or blue, this may not reflect a change but rather the default formatting of Microsoft Word).

**AN ORDINANCE AMENDING AND REORDAINING CHAPTER 2
(ADMINISTRATION) OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990),
AS AMENDED, BY ADDING A NEW ARTICLE XV ENTITLED HUMAN RIGHTS.**

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia that Chapter 2 of the Code of the City of Charlottesville (1990), as amended, is hereby amended and reordained by adding a new Article XV entitled Human Rights, which Article shall read as follows:

Article XV. Human Rights

Sec. 2-430. Short title.

This Article shall be known and referred to as the Charlottesville Human Rights Ordinance.

Sec. 2-431. Unlawful discrimination prohibited.

(a) It shall be unlawful and a violation of this article for any person, partnership, corporation or other entity to engage in discrimination in ~~housing,~~ employment, public accommodations, credit, and private education on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, sexual orientation, gender identity, ~~pregnancy, childbirth or related medical conditions, national origin, age, marital status,~~ status as a veteran, or disability.

(b) It shall be unlawful and a violation of this article for any person, partnership, corporation or other entity to engage in discrimination in housing on the basis of race, color, religion, national origin, sex, elderliness, familial status, source of funds, sexual orientation, gender identity, status as a veteran, or disability.

(c) ~~As used herein, the term “discrimination on the basis of sex” is defined to include, but not be limited to, discrimination on the basis of gender identity, transgender status or sexual orientation.~~ As used in herein, the term "gender identity" means the gender-related identity, appearance, or other gender-related characteristics of an individual, without regard to the individual's designated sex at birth.

(d) As used herein, the term “source of funds” means any source that lawfully provides funds to or on behalf of a renter or buyer of housing, including any assistance, benefit, or subsidy program, whether such program is administered by a governmental or nongovernmental entity.

(e) As used herein, the term “unlawful discriminatory practice” includes conduct in

violation of any comparable Virginia or federal statute or regulation governing unlawful discrimination.

Sec. 2-432. Human Rights Commission.

(a) There is hereby created in the City of Charlottesville a Human Rights Commission, consisting of no less than nine (9) and not more than fifteen (15) members appointed by the City Council. The Commission membership shall be broadly representative of the City's ~~population~~ **demographic composition**, with consideration of racial, gender (including gender identity, transgender status, and sexual orientation), religious, ethnic, disabled, socio-economic, geographic neighborhood and age groups ~~within the City~~; **with priority given to City residents, as well as to applicants with demonstrable ties to the City**. Of the members first appointed, at least three shall be appointed for terms of three years, at least three shall be appointed for terms of two years, and at least three shall be appointed for terms of one year. Thereafter members shall be appointed for terms of three years each. Any vacancy shall be filled by the City Council for the unexpired portion of a term. Following notice to the member, any member of the Commission may be removed for good cause by a majority vote of City Council.

(b) The Commission shall elect from its members a chair, a vice-chair, and such other officers as the Commission may deem appropriate. The Commission may also adopt rules and procedures to govern the conduct of its affairs.

(c) Members of the Commission shall serve without compensation, but funds may be appropriated in the City's annual budget for reasonable and necessary expenses to be incurred by Commission in the conduct of its prescribed functions.

(d) All meetings of the Commission shall be advertised in advance and in the manner required by law, and shall be open to the public except for meetings lawfully closed pursuant to the Virginia Freedom of Information Act. At the beginning and at the end of each of its public meetings the Commission will receive public comment in accordance with City Council's "Rules for Public Participation".

(e) The Commission may, in its discretion, delegate any of its duties or responsibilities hereunder to a panel of not less than three Commissioners.

(f) There shall be a full-time Director of the Commission, who shall be appointed by the City Manager with the advice and consent of the Commission and who shall serve full time in that capacity. The Director will be responsible for and report to the Commission in the day-to-day operational conduct of the Commission's activities. The Director shall report directly to the City Manager for administrative and fiscal matters. The City Manager shall delegate to the Director the authority to employ such additional staff as authorized and funded by the City Council, in order for the Commission to fulfill effectively its obligations under this Ordinance.

(g) All City departments, boards and commissions shall cooperate with and provide assistance to the Commission, including the provision of information in response to reasonable requests from the Commission.

(h) Legal counsel shall be provided to the Commission and its staff through the Office of the City Attorney. The City Council may authorize retention of outside counsel where deemed appropriate upon recommendation of the City Attorney.

Sec. 2-433. Role of the Human Rights Commission.

The role of the Human Rights Commission is to act as a strong advocate for justice and equal opportunity by providing citywide leadership and guidance in the area of civil rights. The Commission will:

(a) Assist individuals who believe they are the victim of an act of unlawful discrimination within the City; ~~Identify and review policies and practices of the City of Charlottesville and its boards and commissions and other public agencies within the City and advise those bodies on issues related to human rights issues;~~

(b) Collaborate with the public and private sectors for the purpose of providing awareness, education and guidance on methods to prevent and eliminate discrimination citywide;

(c) Identify and review policies and practices of the City of Charlottesville and its boards and commissions and other public agencies within the City and advise those bodies on issues related to human rights issues; ~~Assist individuals who believe they are the victim of an act of unlawful discrimination within the City;~~

(d) Make recommendations regarding the City's annual legislative program, with an emphasis on enabling legislation that may be needed to implement programs and policies that will address discrimination;

Sec. 2-434. Duties and responsibilities – Community dialogue and engagement.

(a) The Commission will serve as a forum for the discussion of human rights issues, and be responsible for conducting ongoing efforts to engage community members in an open, honest and creative dialogue regarding issues of equity and opportunity, including but not limited to issues considered by the City's Dialogue on Race initiative.

(b) The Commission may conduct or engage in educational and informational programs for the promotion of mutual understanding, reconciliation and respect between all classes of individuals protected by this ordinance and the larger Charlottesville community.

Sec. 2-435. Duties and responsibilities – Systemic issues.

(a) The Commission will be responsible for identifying and reviewing policies, practices and systems of an institutional nature that:

(1) May be unlawful discriminatory practices; or,

(2) May not constitute unlawful discriminatory practices but nevertheless which produce disparities that adversely impact affect individuals on the basis of a status such as their race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, age, marital status, criminal record, income or disability.

(b) Any review undertaken pursuant to this section may be initiated at the request of any other public or private entity, or by the Commission on its own initiative.

(c) The Commission may conduct its own research and review of existing studies and literature, collaborate with other research organizations, organize public focus groups and hold such hearings as may be necessary to identify policies, practices and systems as referenced in (a), above. For each such identified policy, practice or system, the goal of the Commission will be to formulate recommendations and to propose concrete, actionable reforms that will eliminate discriminatory practices or the adverse effects of lawful other practices.

Sec. 2-436. Reserved.

Sec. 2-437. Duties and responsibilities – Investigation of individual complaints and issuance of findings.

(a) The Director will develop and implement a central intake mechanism for receiving and processing individual complaints that allege an unlawful discriminatory practice in the City.

~~(b) In cases where investigation and remediation are already available in the City, such as employment discrimination complaints within the jurisdiction of the Equal Employment Opportunity Commission (“EEOC”) or fair housing complaints addressed by the Piedmont Housing Alliance, the complaint will be referred to that agency so that investigation and enforcement may be initiated by those bodies, which will offer services in the City and, to the extent allowed by law, report their findings to the Commission. For~~ complaints alleging an unlawful discriminatory practice within the enforcement jurisdiction of the City, defined herein as within the corporate limits of the City and as authorized by state and federal statutes, the Director or other designated professional staff are authorized to undertake further action as detailed in **Sec. 2-437 (c)**. For complaints alleging an unlawful discriminatory practice that falls outside the jurisdiction of the City, the Director or other designated professional staff will refer the complaint to the appropriate state or federal agency.

~~(c) For all other complaints alleging an~~ Upon determination that an alleged unlawful discriminatory practice falls within the enforcement jurisdiction of the City, ~~as defined herein within the corporate limits of the City,~~ the Director or other designated professional staff will conduct, as authorized by this ordinance, ~~an initial fact-finding inquiry to determine jurisdiction. fact finding, mediation, conciliation, and, if necessary, full investigation of the complaint as he or she deems appropriate to ascertain the facts underlying the charge of discrimination, provided that the~~ The complaint may be dismissed by the Director without further action ~~investigation~~ if it fails to adequately allege a violation of this ordinance or is otherwise deficient on its face. ~~If~~ Following the initial fact-finding inquiry, if the complaint is not dismissed, and the Complainant wishes to pursue further action, the Director will serve a copy on each respondent named therein. Said copy shall specify the allegation, citing the evidence that supports further action, and indicating the action to be taken. Further action, as authorized by this ordinance, may include mediation, conciliation, and formal investigation of the complaint, as deemed appropriate by the Director. Upon completion of a formal ~~the initial~~ investigation, the Director shall render a written determination of whether there is probable cause to believe a violation of this ordinance has occurred, and the facts supporting such determination. The written determination shall promptly be served on the parties.

~~(d) If the Director determines that further action is appropriate that there is probable cause to believe a violation has occurred,~~ the Director will propose an initial meeting between the parties for the purpose of exploring a resolution of the complaint through voluntary mediation or other informal means. Nothing herein shall be interpreted as requiring any party to participate in mediation or any other conciliatory efforts. Materials used and communications made during a mediation or informal conciliation shall be confidential, and shall not be disclosed to the public by the Director, the Commission or its staff unless disclosure is authorized in writing by all parties to the dispute.

(e) If the mediation or conciliation is concluded to the satisfaction of both parties, the complaint will be considered resolved upon the parties’ execution of a written conciliation or settlement agreement. Unless all parties agree otherwise, the execution of a written agreement is solely for the purpose of settling a disputed claim, and does not constitute an admission by any party that the law has been violated. No further action on the initial complaint will be taken by the Commission or its staff once the agreement is executed.

~~(f) If mediation or conciliation is not successful, and the Complainant wishes to pursue further action,~~ the Director or designee may conduct further a formal investigation for the purpose of rendering a written determination as to whether there is probable cause to believe a violation of

this ordinance occurred, and the facts supporting such determination. ~~or~~, If further investigation is not warranted, the Director may ~~either~~ dismiss the complaint as not constituting a violation. ~~or~~ After a written determination has been served on both parties, the Director may either close the case or proceed with the preparation of materials for consideration by the Commission, as provided in section 2-439.1 (b).

(g) In order to fulfill the requirements of this section, the City Manager is authorized to contract on behalf of the City with any objective, neutral third party qualified to assess allegations of discriminatory conduct as prohibited in section 2-431, for the purpose of receiving complaints, conducting investigations, rendering written determinations of whether there is probable cause to believe a violation of this ordinance has occurred, conducting mediations or conciliations of complaints and advising the Director of the Commission of the results of any investigation, mediation or conciliation of complaints.

Sec. 2-438. Reserved.

Sec. 2-439.1. Enforcement authority – The role of the Commission.

(a) If the Director determines that there is insufficient probable cause to believe a violation of this ordinance has occurred, the Director shall dismiss the complaint and advise the complainant in writing that such dismissal shall become final unless, within ten (10) business days of receipt of notice of the dismissal, the complainant files with the Commission a request for a review of the determination of the Director. On written petition of the complainant the Commission may review the Director's conclusion, and may either overrule or affirm the finding of no probable cause. The parties may submit such additional information as they desire for the Commission's consideration. If the Commission determines that probable cause exists, it shall direct the Director to continue the investigation or proceed with conciliation efforts.

(b) If the Director determines that probable cause to believe a violation did occur and either party declines to participate in mediation or other informal means of resolving the complaint, or if such efforts are attempted but unsuccessful, the Director shall prepare a written summary of the evidence on which the determination of probable cause is based, and shall recommend appropriate remedies for the discriminatory actions in a report to the Commission. The Commission shall determine by majority vote whether to hold a public hearing on the complaint. The Commission shall base its determination on its judgment as to how enforcement of this ordinance would be best served. If the Commission determines not to hold a public hearing, it shall either dismiss the complaint or take such action as it deems appropriate and consistent with the purposes of this ordinance and the powers of the Commission hereunder.

(c) If a hearing is to be held, the Commission shall promptly notify the parties of the time, date and location of the hearing and serve upon them a statement of the charges against the respondent, the Director's summary of the evidence and recommended remedies, and the issues to be considered at the hearing. The Commission will have the option to consider all of the allegations and issues set forth in the complaint or, in its discretion, may limit the scope of the hearing to one or more of the allegations or issues. The notice and statement shall be served no later than 14 days prior to the date of the hearing. Hearings of the Commission may be held before the entire Commission or before designated hearing panels, consisting of three or more members of the Commission, as the Commission in its discretion may determine. The Chair or a Commissioner designated by the Chair shall preside over the public hearing, which shall be open to the public.

(d) Whenever the Commission has reasonable cause to believe that any person has engaged in or is engaging in any unlawful discriminatory practice, and the Commission, after a good faith effort to obtain the data and information necessary to determine whether a violation has occurred, has been unable to obtain such information, it may request the City Attorney to apply to the judge of the circuit court of the jurisdiction in which the respondent resides or is doing business for a subpoena *duces tecum* against any person refusing to produce such data and information. The judge of the court, upon good cause shown, may cause the subpoena to be issued. Any person failing to comply with such subpoena shall be subject to punishment for contempt by the court issuing the subpoena. For purposes of this section, "person" includes any individual, partnership, corporation, association, legal representative, mutual company, joint stock company, trust, unincorporated organization, employee, employer, employment agency, labor organization, joint labor-management committee, or an agent thereof.

(e) In cases to be heard by the Commission the complainant and the responding parties shall be entitled:

- (1) To file written statements or arguments with the Commission prior to the hearing;
- (2) To be represented by privately retained counsel of his or her choice;
- (3) To present his or her case or defense by oral or documentary evidence, to be given under oath or by affirmation;
- (4) To submit rebuttal evidence; and
- (5) To conduct such cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence may be received, but the Commission as a matter of policy shall provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. The Commission shall not be bound by the strict rules of evidence prevailing in the courts of law or equity.

(f) The Director shall be responsible for assuring the development of the evidentiary record before the Commission and may introduce evidence, examine or cross-examine witnesses, or make argument if ~~he or she~~ **they** deems it advisable in order to fully apprise the Commission of the facts or the applicable law. The Commission shall keep a full record of the hearing, which record shall be public and open to inspection by any person unless otherwise provided by any applicable law or regulations. Any party may request that the Commission furnish such party a copy of the hearing record and shall reimburse the Commission for the cost of producing the copy. In matters where any party is represented by counsel, the office of the City Attorney shall provide an attorney as counsel to the Commission who will also assist the Director in preparing the case.

(g) If, after the hearing, the Commission determines by a preponderance of the evidence that the respondent has committed or is committing the alleged violation(s) of this ordinance, the Commission shall state its findings and may issue recommendations, to be served promptly on the parties, which recommendations may include notice to the respondent to cease and desist from such violation(s) and to take such action as may be authorized by law to effectuate the purpose of this ordinance, including but not limited to the payment by respondent of compensatory damages to any person or persons found by the Commission to be so entitled by reason of the violation(s) of this ordinance, or the placement or restoration of any person in or to

such status in which the Commission finds ~~he or she~~ they would be but for respondent's violation(s) of this ordinance.

(h) If, after receiving the evidence presented at the hearing, the Commission finds that the respondent has not engaged in the alleged violation(s) of this ordinance, the Commission shall state its findings and shall dismiss the complaint. Prompt notice of such action shall be given to the parties.

(i) Nothing herein shall be construed as authorizing the Commission to issue subpoenas, award damages or grant injunctive relief.

Sec. 2-439.2. Enforcement authority – Court enforcement.

(a) If the Commission finds that a respondent has committed a violation of this ordinance and determines that appropriate remedial measures have not been taken, the Commission, through the City Attorney, and subject to approval by the City Council, may file an appropriate action in any court of competent jurisdiction to prove, *de novo*, that the respondent violated this chapter; secure compliance with this chapter; and/or obtain appropriate relief available under any applicable federal or state statute or regulation including, but not limited to an award of injunctive relief, compensatory and / or punitive damages and a recovery of costs and attorney's fees for any person, including the City, injured as a result of a violation of this chapter.

(b) If the City Council approves the institution of any proceeding in court, the proceeding shall be brought in the name of the City Council and the Human Rights Commission of the City of Charlottesville.

Sec. 2-440. Confidentiality.

It shall be unlawful for any Commissioner, officer, employee, contractor or staff member of the Commission to disclose or make public any complaints, investigative notes, or other correspondence and information furnished to the Commission or its staff in confidence with respect to a complaint, an investigation or conciliation process involving an alleged unlawful discriminatory practice. A violation of this section shall be a Class 3 misdemeanor.

Sec. 2-441. Annual Report.

The Commission shall make an annual comprehensive report to City Council that outlines its efforts during the preceding year in the areas of identifying and addressing systemic or institutional discrimination; processing individual complaints of unlawful discrimination; and facilitating a community dialogue regarding issues of human rights. The report shall also outline the Commission's work plan for the ensuing year, which shall be subject to approval or modification by City Council.

Sec. 2-442. Severability.

The provisions of the Article are severable; and if any provision, sentence, clause, section or part thereof is held illegal, invalid, unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity, unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Article, or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Article would have been adopted if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included therein, and if the person or

circumstances to which the chapter or any part thereof is inapplicable had been specifically exempted therefrom.

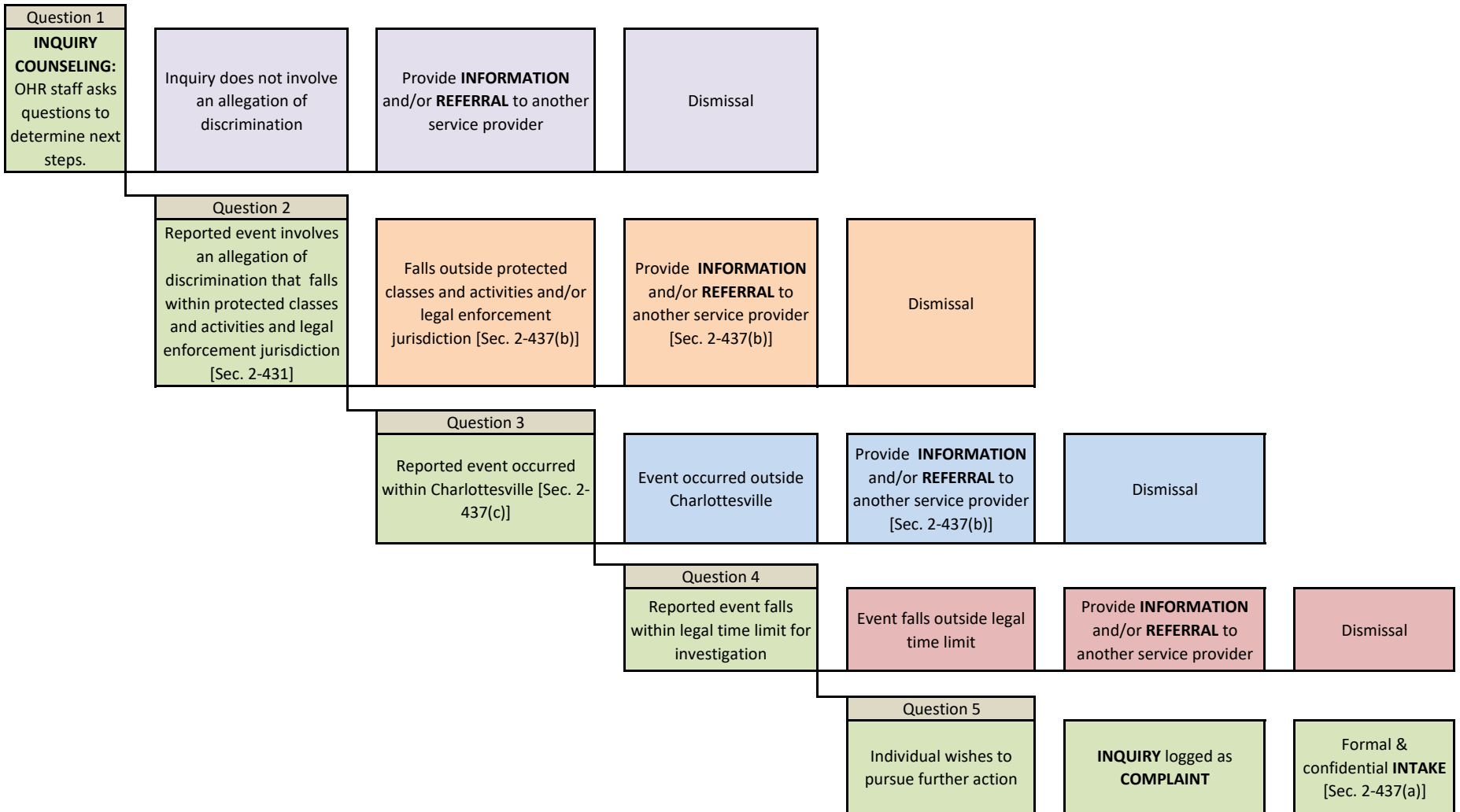
Sec. 2-443. Reserved.

~~Approved by Council
May 20, 2013~~

Clerk of Council

Working DRAFT

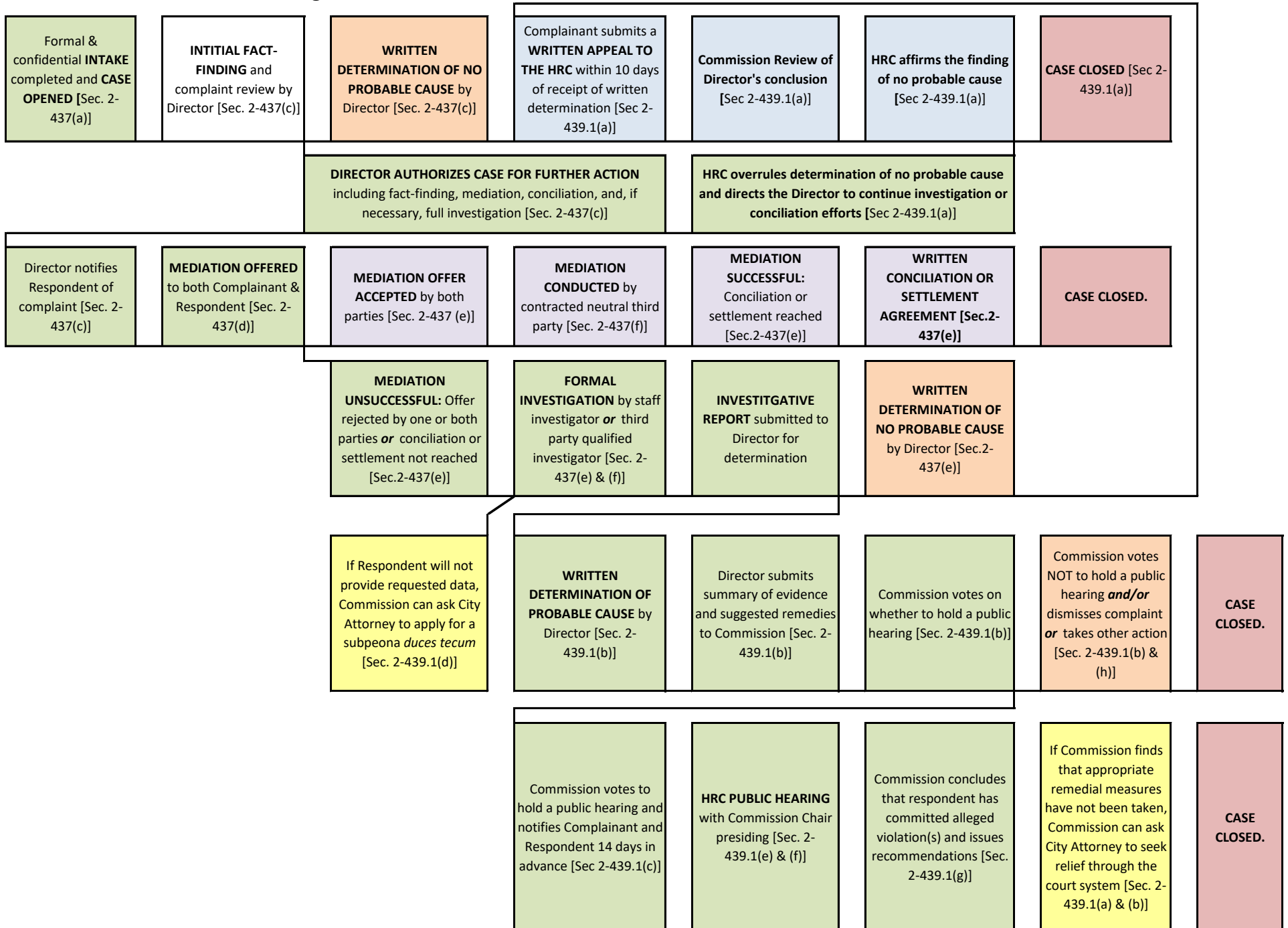
Office of Human Rights Inquiry to Intake Process



Counseling Questions

1. What can we help you with?
2. Do you feel like you were discriminated against? If so, what did it involve and why do you think it occurred?
3. Did the event occur within the City of Charlottesville?
4. When did the event take place?
5. What would you like to see happen?

Charlottesville Office of Human Rights Intake to Conciliation Process



VI Conciliation/Public Hearing Polices

Conciliation.

10.1-9(b) Investigations and probable cause determinations.

(1) Upon the filing of a complaint as set forth in subsection (a) of this section, the executive director shall conduct such investigation as he or she deems appropriate to ascertain the facts provided that the complaint may be dismissed by the executive director without investigation if it fails to adequately allege a violation of this chapter or is otherwise deficient on its face. Except as set forth in Section 10. 1-9(b)(4) below, upon completion of the investigation, the executive director shall render a determination in writing as to whether or not there is probable cause to believe a violation of this chapter has occurred, and the facts supporting such determination. This determination shall promptly be served on the parties.

(2) If the executive director determines that there is probable cause to believe a violation has occurred, he or she shall then determine: (a) whether conciliation should be attempted; or (b) whether the matter should be referred directly to the commission for a determination as to whether or not to hold a public hearing. If the executive director attempts conciliation, and conciliation is successful and results in the executive director's opinion, in substantial relief to the charging party, the complaint will be considered resolved upon the parties' execution of a written conciliation or settlement agreement, and the executive director's agreement that the public interest in addressing and preventing discrimination is not disserved by dismissing the matter from the commission's docket. If conciliation is not successful, either because the parties are unable to reach agreement or because the agreement does not, in the opinion of the executive director, afford the charging party substantial relief on the allegations of the charge, the matter shall be forwarded to the commission for a determination as to what additional action may be appropriate.

(3) If the executive director determines that the complaint lacks probable cause to believe a violation of this chapter has occurred, he or she shall dismiss the complaint and advise the complainant in writing that such dismissal shall become final unless, within ten (10) business days of receipt of notice of the dismissal, the complainant files with the commission a request for a review of the determination of the executive director. Upon request for such a review, the commission shall afford the complainant an opportunity to appear before the commission, or a panel of any three (3) or more commissioners, in person or by representative, or by letter, as the complainant may desire. After such review, the commission, or the panel of commissioners which conducted the review, may in its discretion dismiss such complaint. If the commission determines that the complaint should not be dismissed, it shall direct

the executive director to continue the investigation or proceed with conciliation efforts; or the commission may determine to take other appropriate action in accordance with this chapter.

(4) If the executive director determines, after investigation, that the available evidence does not permit a determination as to whether or not there are reasonable grounds to believe a violation of this chapter has occurred, he or she shall:

a. Render a written notice to this effect to be served on the parties and include in such notice a statement of the reasons for such determination; and

b. Refer the matter to the commission for a determination as to whether to hold a public hearing or to take other action consistent with the purposes of this chapter.

(c) Conciliation. Conciliation conferences shall be informal, and nothing said or done during such conferences shall be made public by the commission or its members or any of its staff unless the parties agree thereto in writing. Conciliation shall not be attempted if the executive director determines that it would be futile or if enforcement of this chapter would best be served by referring the matter directly to the commission for a determination as to whether or not to hold a public hearing or take other appropriate action in accordance with this chapter. If conciliation is attempted and the executive director determines that it is successful, the terms of the conciliation agreed to by the parties shall be reduced to writing and incorporated into a conciliation agreement to be signed by the parties, which agreement is for conciliation purposes only and does not constitute an admission by any party that the law has been violated. Conciliation agreements shall be signed on behalf of the commission by the chairperson or the acting chairperson. It shall be a violation of this chapter to fail to adhere to any provision contained in any conciliation agreement, and the commission shall have the right to pursue, through the county attorney, with approval of board of county supervisors, appropriate legal remedies to enforce specifically any such agreement, including, but not limited to, the right to institute an action for injunction or breach of contract in a court of competent jurisdiction.

(d) Determination by the commission whether to hold a public hearing.

(1) The commission shall determine by majority vote whether to hold a public hearing in matters referred to it by the executive director in the following circumstances:

a. When there is a determination by the executive director that there are reasonable grounds to believe that a violation of this chapter has occurred, and:

- i. A determination by him or her that conciliation should not be attempted, or
 - ii. A determination by him or her that conciliation has been attempted and has been unsuccessful;
- b. When there is a determination by the executive director that there is no probable cause to believe that the violation of this chapter alleged in the charge has occurred, but:
- i. The complainant has filed a proper request for review of such determination, and
 - ii. The commission has concluded upon reviewing such determination, that the complaint should not be dismissed and that the complaint should not be referred to the executive director for further investigation because the investigation has revealed material facts which are not genuinely in dispute, and the executive director has made the determination of no probable cause based on what the commission believes may be an erroneous interpretation of law.
- c. When there is a determination by the executive director that the available evidence does not permit a determination as to whether or not there are reasonable grounds to believe that a violation of this chapter has occurred.
- (2) The commission shall base its determination as to whether or not to hold a public hearing in any of the matters described in subsection (1) on its judgment as to how enforcement of this chapter would be best served.
- (3) If the commission determines not to hold a public hearing, it shall either dismiss the complaint or take such action as it deems appropriate and consistent with the purposes of this chapter and the powers of the commission hereunder. (Ord. No. 92-79, 9-1-92; No. 99-30, 5-4-99)

Prince William County Code

Human Rights Commission

Conduct of Public Hearings Held by the Commission

Sec. 10.1-10. Hearing held by the commission.

(a) The chairperson or any commissioner designated by the chairperson shall preside over the public hearing.

(b) If the commission determines to hold a public hearing, it may consider all of the allegations and issues set forth in the complaint or, in its discretion, may limit the scope of the hearing to one (1) or more of the allegations or issues set forth in the complaint. If a hearing is to be held, the commission shall promptly notify the parties of the time, date and location of the hearing and serve upon them a statement of the charges against the respondent and the issues to be considered at the hearing. Such notice and statement shall be served no later than fourteen (14) days prior to the date of the hearing. The parties shall have the right to file written statements or arguments with the commission prior to the hearing. The hearing shall be open to the public.

(c) Hearings of the commission may be held before the entire commission or before designated hearing panels, consisting of three (3) or more members of the commission, as the commission in its discretion may determine.

(d) The commission may, upon proper motion, order the exclusion of witnesses while testimony is being given at any such hearings.

(e) At any public hearing held by the commission, each party shall be entitled:

(1) To be represented by privately retained counsel of his or her choice;

(2) To present his or her case or defense by oral or documentary evidence, to be given under oath or by affirmation;

(3) To submit rebuttal evidence; and

(4) To conduct such cross-examination as may be required for a full and true disclosure of the facts. Any

oral or documentary evidence may be received, but the commission as a matter of policy shall provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence. The commission shall not be bound by the strict rules of evidence prevailing in the courts of law or equity.

(f) The executive director shall be responsible for assuring the development of the evidentiary record before the commission and may introduce evidence, examine or cross-examine witnesses, or make argument if he or she deems it advisable in order to fully apprise the commission of the facts or the applicable law.

(g) The commission shall keep a full record of the hearing, which record shall be public and open to inspection by any person unless otherwise provided by any applicable law or regulations. Any party may request that the commission furnish such party a copy of the hearing record and shall reimburse the commission for the cost of producing the copy.

(h) In matters where any party is represented by counsel, the office of the county attorney shall provide an attorney as counsel to the commission who will also assist the executive director in preparing the case. (Ord. No. 92-79, 9-1-92)

Sec. 10.1-11. Decisions by the commission.

(a) If, after the hearing, the commission determines, by a preponderance of the evidence, that the respondent has committed or is committing the alleged violation(s) of this chapter, the commission shall state its findings and may issue recommendations, to be served promptly on the parties, providing notice to the respondent to cease and desist from such violation(s) and to take such action as may be authorized by law to effectuate the purpose of this chapter, including but not limited to the payment by respondent of compensatory damages to any person or persons found by the commission to be so entitled by reason of respondent(s) violation(s) of this chapter, or the placement or restoration of any person in or to such status in which the commission finds he or she would be but for respondent's violation(s) of this chapter.

(b) If, after a finding by the commission that a violation occurred, the respondent fails to adequately take such action as provided in section 10.1-11(a), the commission may, through the county attorney, with approval of board of county supervisors, seek through appropriate enforcement authorities, prevention of or relief from a violation of this chapter.

(c) If, after receiving the evidence presented at the hearing, the commission finds that the respondent

has not engaged in the alleged violation(s) of this chapter, the commission shall state its findings and shall dismiss the complaint. Prompt notice of such action shall be given to the parties. (Ord. No. 92-79, 9-1-92)

Adopted June 26, 1996

GUIDELINES TO CONDUCT PUBLIC HEARINGS

I. NOTICE OF HEARING

Whenever the Commission decides, by majority vote, to hold a public hearing of a specific case, the Commission will schedule a date for the hearing to allow the parties to receive at least 30 days prior notice of the hearing. The Commission will also decide whether all issues presented in the specific case will be addressed in the public hearing, or which issues will be addressed, if only a portion of the issues is to be addressed by the public hearing.

The Executive Director will promptly serve written notice of the time, place, and nature of the hearing (e.g. public hearing) to the charging party and respondent in the case, and will provide a statement in that notice of the factual and legal issues the Commission will address in the public hearing and the basic law the Commission will apply in deciding the case.

II. PREHEARING CONFERENCE:

A. Before a public hearing, the Commission may, at its discretion or upon the motion of any party, direct all parties and any representatives to meet with representatives of the Commission and its staff to consider any or all of the following at a pre-hearing conference:

1. Simplification or clarification of the issues;
2. Stipulations, admissions of fact and of the contents and authenticity of documents;
3. Ways to speed the discovery and presentation of evidence;
4. Such other matters as may aid in the orderly and expeditious disposition of the proceeding, including disclosure of the names of witnesses and of documents or other exhibits which will be introduced in the course of the proceeding.

B. The pre-hearing conference shall be closed. Either party, at that party's expense, may arrange to have the pre-hearing conference recorded by a stenographer. Conciliation discussions, however, will not be a part of the record and will be closed to the public.

C. All agreements of the staff and parties at the pre-hearing conference will be set forth in a pre-hearing order, signed by the Executive Director and the parties. This order shall control the subsequent course of the proceedings, unless the panel or the full Commission determines otherwise by majority vote..

D. The pre-hearing conference shall be held no less than 14 days prior to the date established for the public hearing.

III. REQUESTS BY THE COMMISSION FOR WITNESSES TO ATTEND THE PUBLIC HEARING

A. If either party makes a request to the Commission for the attendance of witnesses, the Executive Director shall send a written request, signed by the Chairperson on behalf of the Commission, to those witnesses, requesting their attendance at the hearing to provide sworn testimony. The parties will also be responsible for contacting their witnesses. The parties will be responsible for making arrangements for the attendance of the witnesses they request.

B. The Chairperson of the Commission may, in consultation with the Executive Director, determine in advance of the public hearing whether the Commission wishes to request the attendance of any witnesses.

IV. PUBLIC HEARING:

A. The parties have the right to present their own testimony, witnesses, and evidence under oath or affirmation and to cross-examine witnesses. They may direct the presentation of their cases themselves or may be represented by counsel of their own choice.

B. Prior to the hearing, the parties may file with the Commission such written statements as they feel necessary. Such written statements will be made a part of the public record.

C. Public hearing procedures:

1. The Chairperson or any Commissioner designated by the Chairperson shall preside over the public hearing.
2. The presiding officer may, upon proper motion of either of the parties or a member of the Commission, order the exclusion of witnesses from the hearing while testimony is being taken.
3. The Commission shall not be bound by the formal rules of evidence applicable in a court of law in its conduct of public hearings.
4. Evidence including, but not limited to, the following will be considered by the Commission;
 - a. stipulations - questions of fact relating to the matter in controversy which are agreed to by the parties.
 - b. testimony that is given under oath or affirmation administered by a notary public. This notary public may be either the Chairman of the Commission, the presiding officer, or a court reporter transcribing the proceedings.
 - c. exhibits - relevant physical exhibits including, but not limited to, photographs, photocopies, moving pictures, slides, and other audio visual aids.
 - d. depositions - verbatim, sworn or affirmed statements taken with opportunity for cross-examination by the opposing party.
 - e. all other relevant and competent evidence, witnesses and documentary evidence that is made available during the hearing.
5. The hearings shall be guided by, but not necessarily limited to, the following procedures.
 - a. the hearing will be conducted by a quorum of the Commission or by a designated panel, and the case will be decided by a majority vote of the commissioners present and voting.

- b. the complainant will give a brief opening statement.
- c. the respondent will give a brief opening statement.
- d. the Commissioners shall receive and be available and critical evidence prepared and selected by the Executive Director and submitted to the commissioners, the complainant and the respondent.
- e. the complainant shall present evidence and introduce exhibits and examine witnesses. The respondent shall be afforded the opportunity to cross-examine said witnesses.
- f. the respondent shall present evidence and introduce exhibits and examine witnesses. The complainant shall be afforded the opportunity to cross-examine said witnesses.
- g. at the option of the Chairperson, the Commission shall redirect by either of the parties.
- h. the Chairperson may declare a recess during which time the Commissioners may decide what further information they require in order to reach a decision, consider a legal issue or any other matter considered appropriate by the Chairperson.
- i. the hearing will be reconvened and the Commissioners and the Executive Director may ask further questions as necessary of the complainant, respondent, witnesses and staff.
- j. the complainant will make a brief closing statement.
- k. the respondent will make a brief closing statement.
- l. the Chairperson shall conclude the hearing and the Commission will deliberate and decide the case.

6. If the hearing lasts beyond a reasonable hour, the Chairperson will recess the hearing and the Commission will agree upon a date and time to reconvene the hearing.

7. Throughout the process, the County Attorney shall function as counsel to the Commission.

8. Certified verbatim recording: All public hearings of complaint shall be recorded by a Virginia certified verbatim reporter and one transcript shall be paid for by the Commission. The Commission's copy of the transcript shall be available for review at the Commission's Office during regular hours. If parties to the hearing want additional transcripts, they must purchase them from the certified verbatim reporter.

9. Decision and Enforcement: The Commission must render a decision, following a public hearing as soon as possible, and within 90 days of the hearing, unless the named parties agree to a longer time period. If the decision is not made within this period, the named parties may notify the Commission that a decision is due. If the decision is not made within 30 days of notice from the named parties, then the decision is deemed in favor of the named parties. The Commission must provide notice of its decision within 5 days of the decision to the named parties. The Commission's decision shall either dismiss the complaint in whole or in part or find that a violation of the ordinance has occurred. If the Commission finds that there has been a violation, it shall issue a recommendation which may require the respondent to cease and desist from the unlawful practices or to take remedial action the Commission sees as necessary to overcome the effects of past discrimination. The Commission will notify the complainant and respondent of its decision and recommendations. The complainant and respondent must comply with the terms of the Commission's recommendation within 60 days of service of such notice, or the Commission may request the County Attorney to seek enforcement of the ordinance in the appropriate court.

10. If a member of the Commission who conducted a public hearing is unable to attend to official duties due to sickness, disability, or termination of their official capacity with the agency, then the timeframe provisions for decisions shall be reset and

commence from the date that either new board members or agency personnel are assigned to the matter or a new proceeding is conducted if needed, whichever is later. The Commission must provide 5 days notice to the named party of any incapacity of the Commission members or agency personnel that necessitates a replacement or new proceeding.

aml:hrcpolicy

PRE-HEARING CONFERENCE

- A. Before a public hearing, the Commission may, at its discretion or upon the motion of any party, direct all parties and any representative to meet with representatives of the Commission and its staff to consider any or all of the following at a pre-hearing conference:
1. Simplification or clarification of the issues;
 2. Necessity or desirability of amendments to the complaint;
 3. Stipulations, admissions of fact and of the contents and authenticity of documents;
 4. Ways to speed the discovery and presentation of evidence;
 5. Such other matters as may aid in the orderly and expeditious disposition of the proceeding, including disclosure of the names of witnesses and of documents or other exhibits which will be introduced in the course of the proceeding.
- B. The pre-hearing conference shall be closed unless the Commission, at its discretion, determines that the public interest would be served best if the conference or any part thereof is open to the public. Either party, at the party's expense, may arrange to have the pre-hearing conference recorded by a stenographer. Conciliation discussions, however, will not be a part of the record and will be closed to the public.
- C. All agreements of the staff and parties at the pre-hearing conference will be set forth in a pre-hearing order, signed by the Executive Director and the parties. This order shall control the subsequent course of the proceedings subject to the approval of the Commission.

**RESOLUTION TO REMOVE A COMMISSIONER FOR GOOD CAUSE
CHARLOTTESVILLE HUMAN RIGHTS COMMISSION
RESOLUTION #: HR20-2**

WHEREAS, the role of the Charlottesville Human Rights Commission, hereinafter “the Commission,” is to act as a strong advocate for justice and equal opportunity by providing citywide leadership and guidance in the area of civil rights (City code Article XV. Sec. 2-433.); and

WHEREAS, the Charlottesville Human Rights Ordinance, hereinafter “the Ordinance,” prohibits discrimination in housing, employment, public accommodations, credit, and education on the basis of race, color, religion, sex, pregnancy, childbirth or related medical conditions, national origin, age, marital status or disability (City code Article XV. Sec. 2-431. (a)); and

WHEREAS, the term “discrimination on the basis of sex,” as used within the Ordinance, is defined to include, but not be limited to discrimination on the basis of gender identity, transgender status or sexual orientation (City Code Article XV. Sec. 2-431. (b)); and

WHEREAS, it is the duty and responsibility of the Human Rights Commission to promote mutual understanding, reconciliation and respect between all classes of individuals protected by this ordinance and the larger Charlottesville community (City Code Article XV. Sec. 2-434. (b)); and

WHEREAS, it is harmful to and undermines public trust in the Commission, and is considered good cause for Commissioner removal, when an individual Commissioner engages in activities that promote intolerance of and/or unlawful discrimination against people who self-identify as members, or are perceived to be members, of the protected classes named in Sec. 2-431 of the Ordinance.

BE IT RESOLVED that the Commission will develop a procedural amendment to the Human Rights Commission Rules and Procedures that outlines actions to be taken when the Commission receives information that a Commissioner may be engaged in activities that are harmful to the Commission and undermine public trust in the Commission and its duties and responsibilities. Said procedural amendment shall include:

- (a) A list of guidelines outlining general activities that may be considered harmful to the Commission; and
- (b) Step-by-step procedures for communication of concerns to any Commissioner allegedly engaged in such activities, as well as any investigative and causal determination processes that the Commission may choose to initiate

Dated this _____ of _____, 2020.

Shantell Bingham, Chair, Human Rights Commission

Deleted: hereby recommends that City Council pursue the following actions when a member of the Commission is believed to be

Deleted: :

Deleted: Enable the Commission to conduct an immediate investigation into the alleged activities to determine the facts of the matter; and

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Deleted: Upon the order of an investigation, suspend the Commissioner’s participation in any further official actions of the Commission while the investigation is ongoing; and

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Deleted: (c) Upon conclusion of the investigation, issue a written determination to forward to City Council as to good cause for removal of the Commissioner, as per Sec. 2-432. (a) of the Ordinance.¶

DRAFT Memo to City of Charlottesville Human Resources Department

Dear _____,

The Human Rights Commission has become aware of a City of Charlottesville employment practice that is concerning. The October 19 City Council meeting (6:38:18, <https://www.facebook.com/watch/?v=1574350462726209> or 06:05:00 <https://boxcast.tv/channel/aleu4lbzxfhtewxk3e7d>) included a discussion about Temporary City Employees, including the termination of 217 “temporary” employees.

Our concerns are multiple, and include questions about the practice of using ‘temporary’ vs. ‘part-time’ employment statuses, and the potential for discriminatory policies and practices related to seasonal and temporary employment in City positions.

We are writing to request the following information about seasonal and temporary employment, over the past 5 years:

- Number of people employed in a temporary/seasonal position, including:
 - the number of years that each person has been employed in a temp/seasonal position by the City
 - Demographic information about each employee (race, gender, age)

FOR HRC Commissioners:

Key data presented:

Re: Parks and Rec Seasonal and Temporary Employees

Parks & Recreation Temp/Seasonal Staff

- **March 16, 2020 - P&R's Temporary and Seasonal Staff equaled to:**
 - Employees: 379
 - Positions: 492
- Non-essential personnel were instructed to stay home beginning March 17th due to COVID-19 pandemic. This action was taken in the middle of a pay period. Administration determined the fairest way to pay temporary/seasonal staff was a 12-month average to determine weekly pay. This was not intended to be a long-term plan of action.

2

Parks & Recreation Temp/Seasonal Staff

- **Average Weekly Pay:**
 - In a memo from the City Manager to employees dated March 16, 2020: *“Temporary or hourly employees who are not scheduled to work because your duties are nonessential will also be compensated for a maximum of two weeks. The rate of pay will be based on a 12-month look-back period to determine your average weekly earnings. Again, the City will reassess this arrangement on an ongoing basis, no less than every two weeks.”*
 - This applied to 152 Parks & Recreation temporary and seasonal staff on payroll and scheduled to work during the pay period of 3/14/20 to 3/27/20.
 - CSA's, Lifeguards, Instructors, Officials, etc...

3

Parks & Recreation Temp/Seasonal Staff

- **Approximate costs for maintaining Average Weekly Pay for 152 P&R's temporary/seasonal staff from 3/14/20 through 8/22/20:**
 - \$26,339 per week
 - \$605,817 for 23 weeks

5

Parks & Recreation Temp/Seasonal Staff

- **Termination of Temp/Seasonal Staff (continued):**
 - The decision to keep the CSA's was based on the versatility of their job classification. They have considerable flexibility and a broader scope of job duties to assist in other areas of service within the department and across the City.
 - As for the Lifeguards, Instructors and Officials, their job classification is specifically defined which prohibits the City from working them out of their assigned class.
 - As of October 7, 2020, 217 temporary/seasonal employees have been terminated and 238 positions have been removed from SAP.

9

Office of Human Rights
Todd Niemeier Monthly Staff Report
November 2020

Service Provision Data:

The chart below includes all service data entered as of 11/17/2020

- Data currently entered through 10/31/2020
- Values may change in future reports following reviews for accuracy and/or categorization updates
- Key to abbreviations and terms
 - Total Contacts = Includes incoming contacts and staff contacts going out
 - Total External Contacts = Includes only incoming contacts
 - I = New Inquiries
 - Service provision involving any of the protected activities
 - Complaints of discrimination that fall outside the OHR's jurisdiction
 - C = New Complaints
 - Complaints of discrimination that fall within the OHR's jurisdiction for which the Complainant chose to take action
 - P.A. = Protected Activity
 - P.C. = Protected Class
 - Counseling = Contacts involving referrals to services or direct non-investigative assistance
 - Referral = Contact resulting in a referral to another agency for assistance
 - CSRAP = Charlottesville Supplemental Rental Assistance Program
 - LAJC = Legal Aid Justice Center
 - CVLAS = Central Virginia Legal Aid Society
 - PHA = Piedmont Housing Alliance
 - EEOC = Equal Employment Opportunity Commission
 - DPOR = Department of Professional and Occupational Regulation (VA Fair Housing Office)

Measures	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTALS
<i>Open office days in the month</i>	22	20	21	22	23	20	22	22	20	23	19	18	252
<i>Total Incoming & Outgoing Contacts</i>	288	318	276	253	160	104	47	79	88	129	0	0	1742
<i>Total Incoming Contacts</i>	207	230	158	69	81	61	26	45	43	75	0	0	995
<i>Average Incoming Contacts/Day</i>	9	12	8	3	4	3	1	2	2	3	0	0	4
<i>Referrals from Sin Barreras</i>	0	0	0	0	0	0	0	0	0	0	0	0	0
<i>Contacts in Spanish</i>	0	3	9	106	58	29	10	0	0	2	0	0	217
<i>Total Staff Follow-ups (Outgoing)</i>	56	36	80	180	72	36	18	24	31	32	0	0	565
<i>Total Third Party Contacts (Outgoing)</i>	25	52	38	4	7	7	3	10	14	22	0	0	182
<i>Total Client Follow-ups (Incoming)</i>	143	137	99	53	69	41	19	23	24	42	0	0	650
<i>Total Third Party Contacts (Incoming)</i>	25	42	32	2	5	11	2	4	14	20	0	0	157

Measures	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTALS
Total Employment Complaints: P.C. - Gender Identity	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Employment Complaints: P.C. - Sexual Orientation	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Employment Complaints: P.C. - Not specified	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Employment Complaints: P.C. - Other (Unprotected)	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Age	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Disability	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Marital Status	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - National Origin	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Pregnancy	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Childbirth or R.M.C.	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Race	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Color	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Religion	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Sex	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Gender Identity	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Sexual Orientation	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Not specified	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Housing Complaints: P.C. - Other (Unprotected)	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Age	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Disability	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Marital Status	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - National Origin	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Pregnancy	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Childbirth or R.M.C.	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Race	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Color	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Religion	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Sex	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Gender Identity	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Sexual Orientation	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Not specified	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Pub. Accom. Comp.: P.C. - Other (Unprotected)	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Open Inquiries													9
Total Closed Inquiries													42

Measures	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTALS
Total Dismissed Inquiries													0
Total Open Complaints													0
Total Closed Complaints													0
Total Dismissed Complaints													0
Primary Service: Appointment Set-up	51	23	13	1	1	1	0	5	4	0	0	0	99
Primary Service: Clerical Assistance	0	8	0	0	2	0	1	0	1	0	0	0	12
Primary Service: Counseling	51	39	25	7	5	5	5	7	12	18	0	0	174
Primary Service: Event Information	1	1	1	0	0	0	0	0	0	0	0	0	3
Primary Service: Investigation Activity	11	11	5	3	1	0	1	9	10	19	0	0	70
Primary Service: Information	166	234	180	24	62	51	26	56	60	91	0	0	950
Primary Service: Mediation Related Services	0	0	0	0	0	0	0	0	0	0	0	0	0
Primary Service: Outreach Coordination	8	2	4	0	0	1	0	2	1	1	0	0	19
Primary Service: Public Hearing	0	0	0	0	0	0	0	0	0	0	0	0	0
Primary Service: Volunteer Coordination	0	0	0	0	0	0	0	0	0	0	0	0	0
Primary Service: Helpline - COVID Response	0	0	48	218	89	46	14	0	0	0	0	0	415
Total Formal Investigations: - Employment													0
Total Formal Investigations: - Housing													0
Total Formal Investigations: - Public Accommodation													1
Total Formal Investigations: - Credit													0
Total Formal Investigations: - Private Education													0

Active Investigations:

- Case 2019-1
 - Public Accommodation Discrimination on the basis of race
 - Determination of probable cause served on 11/12/2020 by Acting City Manager John Blair
 - Next steps
 - Attempt conciliation with Complainant and Respondent based on Complainants desired remedy
 - If conciliation fails, potential for public hearing by HRC
- Case 2020-1
 - Public Accommodation Discrimination on the basis of disability
 - Conciliation reached through informal dialogue
 - Case closed 10/30/2020

Outreach:

- Service Provision
 - Fair Employment Practices Agency (FEPA) Inquiry
 - Awaiting reply from James Yao at EEOC
 - Fair Housing Assistance Program (FHAP) Inquiry
 - Received response from HUD attorney that included feedback on current Ordinance revisions necessary to show substantial equivalence to federal fair housing law – a prerequisite to FHAP application
 - After current proposed Ordinance amendments are reviewed by Council, ad hoc Ordinance committee could consider HUD's feedback
 - Workshare MOU with Virginia Attorney General's Office
 - Draft MOU under review by Tom Payne and Mona Siddiqui in AG's Office
 - Mona will be moving on from AG's Office and Tom Payne will serve as contact
- Education & Awareness
 - None to report
- Facilitation & Leadership
 - Public Housing Association of Residents Community-Based Research Review Board (CRRB)
 - MOUs with UVA in final steps
 - PHAR hiring an Executive Director prior to hiring a CRRB Coordinator
 - Planning underway to develop more accessible CITI training modules for resident reviewers
 - Affordable Housing
 - Code for Charlottesville has nearly completed the affordable housing navigation software
 - TJPDC regional housing directory is now online – potential for data sharing between TJPDC and Code systems
 - Most recent multi-organizational discussion took place on October 20, 2pm to 3pm via Zoom
 - PACEM has expressed interest in hosting and managing the completed housing navigation software
 - Welcoming Greater Charlottesville (WGC)
 - OHR staff is engaging WGC task force members in thinking about ways to address ongoing concerns about conflicts between new immigrants and long-time residents, especially in public and subsidized housing
 - Idea proposed for dialogue on race and ethnicity
 - No additional progress to report at this time