



Meeting Record

Human Rights Board (HRB)	Date: October 20, 2014 Call to Order: 1:12 PM
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Attendees

Judith Ann	Maria Barth	Jason Blank
Juana Cadi (via telephone)	Marta Estevez	Rob Gillette
S.F. Makalani-MaHee	Jose Morera	George Pedlar
Michael Rajner	Vicki Rosenthal	Phyllis Shaw
Ben Sorensen	Kenneth Stevenson	Sandra Welch
Barbara Ann McGovern, Board Coordinator	Adam Katzman, Asst. Cty. Atty.	Leisa Wintz

Members Absent

Gregory Milford		
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Key Decisions

- 10/20/14, Agenda adopted; 7/14/14 Meeting Minutes approved with amendment.
- 10/20/14, Agenda Items tabled to January 12, 2015, Board meeting -- Old Business: Human Rights Board policies and practices as enumerated in the Human Rights Act; Discussion on Board meeting scheduled start time of 1:00 pm.

Action Items

	Description	Resource	Status
1.	Transgender Awareness Month <i>News Release</i> , and Human Rights Board as a co-sponsor or, alternatively, County Commission as co-sponsor.	Director Edward Labrador	In progress
2.	Printed guide on County policies and procedures for Board reference, i.e., press releases, sponsorship of events, etc.	Director Edward Labrador	In progress
3.	Recommendation to the Board of County Commissioners to strike portions of Sec. 16½-153(a), Registration of a Domestic Partnership, relating to the requirement of residency in Broward County.	Director Edward Labrador	In progress
4.	Recommendations to the Board of County Commissioners, specifically Mr. Rajner's Recommendations B and C (in his handout), as additional benefits to the Domestic Partnership Act.	Director Edward Labrador	In progress
5.	Proposed amendment to Human Rights Act to eliminate religious exemptions in employment, real estate transactions and public accommodations.	Office of the County Attorney	In progress
6.	Recommendation to the Board of County Commissioners to initiate a dialogue with the Broward Sheriff on current policies relating to incarcerated individuals, including transgender individuals.	Director Edward Labrador	In progress

7.	Engage a County consultant to facilitate the Board’s strategic planning function.	Director Edward Labrador	In progress
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- **BOARD APPOINTMENTS:** Jason Blank; Maria Estevez; Vicki Rosenthal; Leisa Wintz.
- **PRESENTATION:** Transgender Awareness Training by Judith Reichman, Transgender Program Coordinator, Florida Department of Health in Broward County, and S.F. Makalani-MaHee. Mr. Rajner related a recent effort at Florida Atlantic University to promote gender-neutral restrooms which will help transgender people feel safer. Mr. Rajner questioned the Board’s purview over the County jail system to engage on the issue of incarcerated transgendered individuals, from a human rights standpoint, as it is under County control. Mr. Katzman advised that the County by ordinance designates the Sheriff to run the jails under their policies; the County maintains the operation/maintenance of the jails – the physical buildings.

MOTION by Mr. Rajner for the Human Rights Board to add the Transgender Awareness Presentation and post it to the Human Rights Board website (or Human Rights Section website) as a resource to the public and begin to use our website to help advertise this information; issue a press release announcing Transgender Awareness Month activities; and have a conversation to educate other individuals on other populations in Broward County. Seconded by Ms. Shaw. Discussion followed.

AMENDED MOTION by Mr. Rajner for the Human Rights Board, or if appropriate, Board of County Commissioners be added as a sponsor for the Transgender Awareness Month activities and encourage the public to attend and begin to engage and learn of those opportunities in terms of human rights; lending our logo and name; issuing a press release; and doing this for all communities when we see these issues -- the fact of individuals going unemployed and homeless because they are transgendered. Discussion followed.

Ms. Rosenthal: As part of our support, it would be important to say if any discrimination has occurred there should be a blurb as to why the Board is important so people who have been discriminated against will know there is a Human Rights Board in Broward County.

Mr. Blank: The press release brings awareness to community events, that the Human Rights Board exists, and our willingness to take on such events/presentations for the community.

Mr. Rajner requested Mr. Labrador provide a document to guide the Board on what it can do, for example, press releases and cosponsoring events, and what the County policies/processes require. Mr. Labrador will work with the Office of Public Communications on this matter.

Mr. Morera requested Mr. Rajner to separate the information into two (2) separate motions.

MOTION by Mr. Rajner to adopt the Transgender Awareness PowerPoint Presentation and post it to the Human Rights Board website, and have the additional information provided by the Florida Department of Health in Broward County referring to statements of Broward “residents” be changed to “resident.” Seconded by Ms. Shaw. *Passed Unanimously.*

MOTION by Mr. Rajner for the Human Rights Board, or if the Board is not able, Broward County to join as a co-sponsor of the Transgender Awareness Month activities, issue a press release announcing the activities along with a statement tying it to the importance of the Human Rights Act and gender identity or expression as protected classes, and highlight the presentation on the website as an additional resource and the Board to bring issues to. Seconded by Mr. Makalani-MaHee. *Passed Unanimously.*

MOTION by Ms. Shaw that the Broward County Board of County Commissioners works alongside the Broward Sheriff’s Office through either discussion or some kind of work to be done to create accommodations for transgender individuals who are incarcerated. Seconded by Mr. Rajner. Discussion followed.

FRIENDLY AMENDMENT TO THE MOTION by Mr. Blank that the Human Rights Board recommend the County Commission institute a dialogue with the Sheriff to determine what, if any, policies are currently in place and whether or not there needs to be any policy amendments to ensure that best practices be put forth for Broward County and its citizens, including those that are incarcerated and presumed innocent until proven guilty. Accepted by Ms. Shaw. Seconded by Mr. Rajner. *Passed Unanimously.*

• **PRESENTATION TO ADRIANE REESEY, FORMER CHAIR, HUMAN RIGHTS BOARD.** Mr. Pedlar presented Ms. Reeseey with an engraved gift from the Board in appreciation of her dedication and commitment to the Human Rights Board.

• **LITIGATION REPORT:**

A. *McDonald v. Marigold Gardens Condominium Association* (Familial Status): A 65 and older community; attempted to evict Ms. McDonald. County filed a complaint in federal court.

B. *Glisson v. Publix Super Markets, Inc.* (Employment): Case on appeal to 17th Circuit; Court issued decision granting Respondent's Petition for Writ of Certiorari reversing the decision of Human Right Board. Currently, not known if Glisson will appeal to the 4th District Court of Appeal.

• **COUNTY COMMISSION AGENDA ITEM #12, October 14, 2014, Proposed Amendment to Domestic Partnership Act:**

12. **MOTION TO ADOPT** Resolution directing the County Administrator to publish Notice of Public Hearing to be held on Tuesday, October 28, 2014, at 2:00 p.m., in Room 422 of the Governmental Center to consider enactment of a proposed Ordinance, the title of which is as follows:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA, RELATING TO THE DOMESTIC PARTNERSHIP ACT; AMENDING SECTION 16½-153 OF THE BROWARD COUNTY CODE OF ORDINANCES ("CODE") TO PROVIDE THAT A DECLARATION TO A DOMESTIC PARTNERSHIP MUST INCLUDE THAT THE PARTNERS RESIDE IN THE SAME PRIMARY RESIDENCE; AND PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE.

(Sponsored by Board of County Commissioners)

(Commissioner Kiar and a member of the public pulled this item.)

ACTION: (T-10:35 AM) Following discussion, the Board deferred this item. The Board requested that the Civil Rights Board weigh in on this Ordinance. As to Open Enrollment and Domestic Partnership, the Board requested that the workforce be notified that this item is under consideration. (Refer to minutes for full discussion.)

VOTE: 9-0.

Background information provided by Kevin Kelleher, Director, Human Resources. Domestic partnerships are not covered under tax laws -- there is an "imputed income tax." Organizations that have domestic partnerships and offer benefits, are taxed on those benefits. This year, the County gave its employees a domestic partner income tax equity which is money to help make up for the income tax impact -- it doesn't do away with it, just helps. Our research on others who give out such equity (payment) revealed that a majority of the areas that were surveyed had some sort of residency requirement -- primary or mutual or shared. The County Commission, on September 23, 2014, in passing the equity for the County employees, wanted to make sure there was a residency requirement not only for County employees, but in our Ordinance, in general. At the October 14, 2014, Commission meeting, there was an issue with the requirement of a "primary" residence, as drafted by the Office of the County Attorney. Whether using primary, shared or mutual, it comes down to what documents are used to show what is primary, mutual or shared. The Commission asked that the Human Rights Board weigh in on this Ordinance and how to define the "residence" requirement.

Mr. Rajner distributed written recommendations to the Board (copy attached).

- Originally designed to provide benefits for County employees; the registry is now open to everyone.
- As presented to the Commission, it was problematic, as it added an extra burden and would create an extra hardship on those who are not County employees or engaged in a domestic partnership.

Recommendation B: Amend the existing Domestic Partnership Act to include additional provisions for funeral/burial decisions, participation in education of a dependent of the registered domestic partnership, and reciprocity.

Recommendation C: Marriage equality is coming to Florida, very soon. Domestic partnership registries play a critical role for families. (Majority of domestic partnership registrants in Broward County are heterosexual couples.)

Recommendation A (which the County wants to restrict):

- County does want accountability measures to avoid abuse.
- Google "fraudulent domestic partnerships and abuse." There is no information supporting fraud.
- No documentation from the County Auditor.
- No residency requirement for married couples.

Mr. Kelleher advised that a public hearing would be held on the changed language of this agenda item. There is a delay on the implementation of the income tax equity to the domestic partner. He stated it is a singular issue for him -- looking out for County employees impacted by this. The Human Rights Board just needs to resolve the issue of "residence," right now.

MOTION by Mr. Rajner to schedule a meeting on the second Monday in November to further analyze this issue and request County Auditor to provide information regarding fraud. Discussion followed.

Mr. Blank: What is the legislative intent of the item – the item language is primary residency requirement, or are we dealing with a home in which both people reside? The intent of the Commission must be reflected properly in the language for this Board to make a proper recommendation going forward.

Mr. Kelleher: Another paragraph in the Act talks about residency in Broward County. As it was drafted, we are looking for whether the individuals are living in the same home. Research revealed the use of “shared,” “mutual,” “primary,” and some documentation verifying same.

Mr. Gillette: This is a cost issue for Broward County --- possible fraud when registering to capture healthcare benefits. From a Purchasing standpoint, the County provides benefits to a domestic partner of its employees on the same basis as employee spouses. Why should Broward County take a different position with its domestic partnership employees than it does with the vendors that it contracts with? Mr. Gillette stated there should be no residency statement; in fact, drop the Procurement language into the proposed ordinance – same benefits to both groups.

Ms. Wintz: The Board needs more information and time to reach a decision. Are we talking about residency or a residence? Do the partners have to live together permanently or for a certain period of time -- or a certain number of days per week?

Mr. Labrador: If you are NOT a County employee, you *must* be domiciled in Broward County.

If you ARE a Broward County employee, you *may* be domiciled in ANY county.

The issue: do the partners have to live in the same “residence” – primary, mutual or shared?

The reason the County Commission is doing this is to gross up the benefit for domestic partners, because tax laws do not treat domestic partners as they do married couples. The County is trying to equalize that.

In the future, when you register for a domestic partnership, you will have to show you live in a primary residence; that is not the case now.

Maria Barth: The sooner we do this, the better for County domestic partners.

Mr. Rajner: The tax equity is to be retroactive.

PUBLIC COMMENT:

Equality Florida: No fraud exists. Adding tax equity will not open the floodgates. This is an easy issue to just say domestic partners do not need to be required to share a primary residence.

MOTION by Mr. Sorensen to hold another meeting to consider this matter. Mr. Rajner stipulated November 10, 2014, the second Monday in November, 1:00 pm. Mr. Rajner comments, “Let the County Auditor prove fraud.” *Motion Withdrawn.*

MOTION by Mr. Blank for the Board’s recommendation to strike the language in the proposed ordinance, Sec. 16½-153(b)(6), in its entirety. Seconded by Ms. Barth. *Passed Unanimously.*

MOTION by Mr. Rajner to strike portions of the language in Sec. 16½-153(a), Registration of a Domestic Partnership Relationship, that requires individuals to be domiciled in Broward County: “A valid domestic partnership relationship may be registered by two persons who are domiciled in Broward County.” Seconded by Ms. Shaw. Discussion followed.

Mr. Labrador: This item is not before this Board, as the County Commission is not proposing a change to section (a).

Mr. Rajner: This additional conflict within the act is a recommendation and I know it is not before us. This item came before this Board, in its entirety with my voiced concerns; I am fine with what I am proposing as a motion, and we are within our authority in the powers of our Board to do so. This is a valid motion.

Mr. Labrador: I spoke to Mr. Katzman and my comments were incorrect. The Board can make recommendations to the Board of County Commissioners and so my comments were not correct.

Ms. Barth: There are other things in the Act that can be updated. I suggest we look into them -- a group of the Board members. Create an *Ad Hoc* committee.

Mr. Rajner **Calls the Question**. Vote: Yes - 8. Voting ceases to allow Mr. Rajner to restate his motion.

MOTION by Mr. Rajner in reference to Sec. 16½-153, Registration of a Domestic Partnership Relationship, consistent with Mr. Gillette’s comments, reference to persons required to be domiciled in Broward County be struck from section (a) within

that provision. That's the recommendation to the County Commission. This was seconded by Ms. Shaw.

Vote: YES – 9; NO -1. *Motion Passes.*

Mr. Rajner: To finalize the items, a **MOTION** to move recommendations to the County Commission, Recommendations B and C, in the handout I provided, as additional benefits to the Domestic Partnership Act. Seconded by Ms. Barth.

Vote: YES - 9; NO – 1. *Motion Passes.*

At 3:10 pm, a **MOTION** by Mr. Rajner to extend the Human Rights Board meeting for an additional thirty (30) minutes. Seconded by Mr. Makalani-MaHee. Vote: YES -9 ; NO - 1. *Motion Passes.*

• **CHAIR'S REPORT:** 17th Circuit Order in Glisson v. Publix – we leave it to Glisson if there will be an appeal to the 4th District Court of Appeal. Invitation to Dade County Prison Department for the "Reentry Fair." Mr. Pedlar noted he worked for the Department of Prisons for 4½ years, as Director of Education.

MOTION by Mr. Rajner to table the second and third agenda items under Old Business for the next Board meeting. Old Business: Human Rights Board policies and practices as enumerated in the Human Rights Act; Discussion on Board meeting scheduled start time of 1:00 pm. Seconded by Mr. Morera. *Passed Unanimously.*

• **COMMITTEE REPORTS:**

Outreach Committee: **MOTION** by Mr. Rajner to approve the recommendations of the Outreach Committee, Meeting Minutes of September 11, 2014, on proposed Board activities. Seconded by Mr. Makalani-MaHee. *Passed Unanimously.*

MOTION by Mr. Rajner to remove the Reinstatement of the EEOC Worksharing Agreement from Board consideration. Seconded by Mr. Blank. *Passed Unanimously.*

Strategic Planning Committee: **MOTION** by Mr. Rajner to dissolve the Strategic Planning Committee and request staff to look into engaging a County consultant to facilitate the strategic planning function. Seconded by Mr. Blank. *Passed Unanimously.*

• **OLD BUSINESS:**

Human Rights Act Religious Exemptions: The provisions in employment, real estate transactions, and public accommodations concerning discriminatory practices that relate to sexual orientation, or gender identity or expression, shall not apply to any religious school, religious institution, religious association, or religious organization.

Mr. David Barkey, Anti-Defamation League: In current form, the Broward County Human Rights Ordinance between preserving the autonomy of religious institutions through religious exemptions and protecting the civil rights of others, particularly the LGBT community, there is an inappropriate balance in favoring religious institutions and not the civil rights of others. In context of housing and employment, the ordinance exempts discrimination on the basis of religion with respect to religious employers and religious institutions. Twenty years ago, a blanket exemption was put in for religious institutions and religious employers with regard to discrimination on the basis of sexual orientation, gender identity and expression. So, whether or not the religious institution has a religious doctrine or religious objection to certain conduct -- same-sex marriage, same-sex couple cohabitation, or a person living an openly gay life -- they can discriminate against an employee, can deny public accommodations and housing. The New York City Human Rights Act and the Hallandale Human Rights Ordinance have prohibitions on discrimination based on sexual orientation and gender identity, but they don't contain this overly broad LGBT exemption. The LGBT exemption must be significantly narrowed.

Mr. Rajner reads a statement from Shannon Minter, National Center for Lesbian Rights: There is no valid reason to include these discriminatory practices. The Ordinance already permits religious employers to prefer members of their own religion which is the same approach taken by the federal Civil Rights Act. Permitting employers to expressly discriminate on another protected bias defeats the purpose of having the Ordinance and should be corrected.

Mr. Labrador: Nineteen years ago, the Human Rights Ordinance only pertained to sexual orientation. To actually pass the ordinance, this exemption language came forward and resolved a lot of issues with the religious community who spoke against the Ordinance. Mr. Labrador advised the Board to consider this issue seriously, as it has broader implications in the

community. Mr. Labrador stated the Board should consider bringing in some representatives from the religious community before making this recommendation to the County Commission. If you don't, there will be a reaction from the community.

Mr. Morera: Concurred with Mr. Labrador's recommendations.

Ms. Barth: This is not the role of the Human Rights Board. The Board is to protect the residents of Broward County.

Mr. Blank: Requested the representative of the Anti-Defamation League provide their recommendation for the Board to make to the County Commission.

Mr. Barkey Response: You need to narrow the exemption. There may be pushback if you totally knock out the exemption. I have written draft language. Amend language so it is coextensive with the existing religious exemptions (Sec. 16½-33.1.- Employment; exemptions.), not the broad LGBT one.

Mr. Rajner: Stated he found these exemptions absolutely offensive to LGBT people, that he could walk in the door and be told, we don't want gays in here, and that is exactly what this language says outright by its merits. It has nothing to do with religious tenets.

MOTION by Mr. Rajner that under Article III, Division 1, *Sec. 16½-33.1.- Employment; exemptions*, that provision (b) be eliminated: The provisions concerning employment discriminatory practices that relate to sexual orientation, or gender identity or expression, shall not apply to any religious school, religious institution, religious association, or religious organization; Division 2, *Sec. 16½-34. - Discriminatory practices in public accommodations.*, that provision (b) be eliminated: The provisions of this section concerning discrimination in public accommodations that relate to sexual orientation or gender identity or expression shall not apply to any religious school, religious institution, religious association, or religious organization; and Division 3, *Sec. 16½-35.4.- Exemptions; real estate transactions.*, that provision (c) be eliminated: The provisions of this Act concerning residential real estate transactions shall not apply to any religious school, religious institution, religious association, or religious organization when an allegation(s) of a discriminatory housing practice(s) is based upon sexual orientation or gender identity or expression. If the Office of the County Attorney redrafts this language, we would support, as long as it encompasses the concerns we have discussed today. Seconded by Ms. Shaw. Vote: YES - 7; NO - 6. *Motion Passes.*

At 3:42 pm, **MOTION** by Mr. Rajner to extend the HR Board meeting for an additional fifteen (15) minutes. Seconded by Mr. Blank. *Passed Unanimously.*

3:43 p.m., five (5) Board members leave the meeting; quorum no longer established.

MEMBERS OF THE PUBLIC: Judith Reichman, Transgender Program Coordinator, Florida Department of Health in Broward County; Christopher Bates, Director, Health and Wellness Program, Florida Department of Health in Broward County; Emery Grant, Director of Community Engagement, Stonewall National Museum and Archives; Stratton Pollitzer, Deputy Director, Equality Florida; Jeanette Bloschinsky, TransKids Purple Rainbow Foundation; Norman Ostrau, Citizen.

BROWARD COUNTY STAFF: Edward Labrador, Director, Office of Intergovernmental Affairs and Professional Standards; Kevin Kelleher, Director, Human Resources.

Having lost quorum at 3:43 p.m., the meeting was adjourned.

The next scheduled Board meeting will convene:

Monday, January 12, 2015, 1:00 P.M., Governmental Center, Room 301.

These minutes are summarized from the recorded compact disk of the Human Rights Board Meeting. If any Board Member or other party would like more detailed information about the contents of these summarized minutes, the compact disk will be available by contacting the Human Rights Board Coordinator at 954-357-6516 or the Human Rights Section at 954-357-7800.