

# City and County of San Francisco



Gavin Newsom  
Mayor

# Human Rights Commission

Contract Compliance  
Dispute Resolution/Fair Housing  
Disadvantaged Business Enterprise  
Lesbian Gay Bisexual Transgender & HIV Discrimination

Virginia M. Harmon  
Director

## Lesbian Gay Bisexual Transgender Advisory Committee Minutes of the August 16, 2005 Meeting

**Committee Members Present:** Commissioner Cecilia Chung, Whitney Bagby, Dora Balcazar, Sally Buchmann, Cindy Dubuque, Aidan Dunn, Julie Frank, Becky Freund, Ted Guggenheim, Danny Kirchoff, Nancy Lawlor, Ren Phoenix, Rebecca Rolfe, Stephen Schwichow, Jason Stein, Morningstar Vancil, Meredith Wood.

**Committee Members Absent:** Commissioner Mark Dunlop (excused), Commissioner Pat Norman, David Cameron (excused), Ellise Nicholson (excused), Aleem Raja (excused), Jorge Romero-Lozano (excused).

**Staff Present:** Marcus Arana, Larry Brinkin, Domenic Viterbo.

**Guests Present:** REDACTED, Jimmer Cassiol, Celeste DeVaneaux, Tyler Fong, Stephanie Reif, Hayden Schubert, Greg Shaw.

### 1. **Call to Order and Roll Call:**

Commissioner Chung called the meeting to order at 5:36 p.m. Mr. Brinkin called the roll.

### 2. **Approval of Minutes of July 19, 2005 (Action Item):**

Commissioner Chung moved to approve the minutes as written. The motion passed unanimously.

### 3. **Public Comments for Items Not on the Agenda:**

No public comments were made.

### 4. **Panel Discussion BDSM and Discrimination:**

The panel was coordinated by Ms. Buchmann, Mr. Dunn, and Ms. Phoenix.

Celeste DeVaneaux gave the Committee an overview of the terminology commonly used in BDSM culture provided on a handout. The terms on the handout, as Ms. Phoenix explained, have been reclaimed by the BDSM community and retranslated in a positive way, within context, rather than to marginalize or disenfranchise individuals.



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REDACTED, who identifies as a queer lesbian femme dominant, has been involved in the BDSM community for about ten years. She said that she recently settled litigation mediation with a former psychotherapist, with whom she was sexually involved, who had exploited their relationship and that this is considered a felony and a breach in professional ethics in California. She took action and sought help from a liberal law firm in Oakland that told her that she has a strong case because they both were highly visible in the LGBT and BDSM communities and she had many witnesses to their relationship. As more details of her involvement with the BDSM community were revealed, the level of discrimination towards her as a leather person was also revealed, not only from the defense counsel, but also from her own attorneys. Insensitive and judgmental comments about her lifestyle choices were made against her then the focus of her case was to discredit her because of her involvement in the BDSM community. Because of her lifestyle, her lawyer told her that she wouldn't be compensated as much as someone outside of the leather community would receive. Also despite having many credible witnesses, their testimonies in court weren't going to mean much because of their involvement in the leather community. She feels that legal workers apply the law in order to win cases, yet at the same time, they don't respect an individual's chosen lifestyle nor respect them as human beings. The spirit of the law is used against people because it places a dollar value on one's worth.

Tyler Fong, who identifies as a transgender male, said that he'd felt discrimination early in his life. Being from a mostly Caucasian city, he was teased and ridiculed for being Chinese. Having been born female, he grew up as a tomboy and discovered the existence of transgender people after college. As an adult, he joined a men's social group; however, the group wasn't accepting of men who weren't "masculine" or who identify as bisexual. He also questioned his own bisexuality, but wasn't going to bring it up with the other men in the group in order to not create any conflict. As he grew within the BDSM community, he learned of the types of spaces he would feel safe in. Even though most gay men's groups won't exclude FTMs, there are groups who will only accept men who are "male-born". He feels that because of being transgender, there was potential for violence, sexual abuse, or other nonconsensual acts done against him. His three primary fundamentals for ensuring one's personal safety when engaging in BDSM play are: 1) play with consenting adults only, 2) communicate before and during play to set limits, and 3) use safety words. Medically, he's had to be careful and limit how much he plays since marks can be left on his body. Since the medical profession must report such findings on his medical record, it can be seen as potential abuse. He said that he feels uncomfortable and disappointed with the medical community's lack of understanding and sensitivity in treating people in the leather and transgender communities. He asked that the Committee act as allies and advocates for all in the LGBT community, including those in the leather and transgender communities, by gaining a better understanding of and educating the general public on BDSM.

Celeste DeVaneaux was employed by the Federal Government and was sexually harassed at work by a high-ranking manager. Shortly after winning a sexual harassment suit that she filed against the manager, she filed a retaliation suit against her employer that had settled after three years. Instead of a simple quid pro quo case, it became focused on her involvement in the leather community which had nothing to do with her situation. She said that the biggest point of contention throughout the process was 1) that she is a lesbian, and 2) that she was in the leather community. She was also threatened that her daughter could be taken from her custody because of her involvement in the leather community. Shortly after winning her three-year court battle, she found out that she has breast cancer and feels that the stress she experienced during her case was a contributing factor despite since she has a family medical history free of cancer. She said that many people in BDSM, whether they're straight or LGBT, are being discriminated against daily which impacts all aspects of life and that it's an important topic for the Committee look at in depth because of the high number of San Franciscans involved in the BDSM community. Even though it was easy for her attorneys to work through the "gay" aspect of her case since laws exist protecting homosexuals, she feels that there are no laws protecting people in the BDSM community.

The panelists entertained questions by Committee members. Commissioner Chung thanked the panel for taking a risk in presenting their stories and said that this subject would be agendized at the next retreat as a possible task force.

### **5. Report of the Work Groups:**

Commissioner Chung said that Yong Lee, of staff, sent an email to the Communication and Racism workgroup members requesting the Commissioners to get together with the workgroup.

Mr. Schwichow reported on the activities of the Recruitment workgroup. He said they addressed what was missing demographically from the current Committee which led to a discussion on whether or not the Committee can or should reflect the demographic of the City or of the LGBT community in that they may not be the same. Suggestions included: 1) putting together a matrix using a blind survey of the makeup of the Committee describing how each member identifies within the community to have a better understanding of what isn't there and to use it for recruiting purposes; 2) making presentations to relevant City organizations to sell the Committee and the HRC; 3) having year-round recruitment rather than recruiting for a one or two month period; 4) allowing online applications; 5) inviting prospective members to come to a meeting(s) to see the Committee in action; 6) placing public service announcements on community access cable channels; 7) having Committee meetings in other areas in the City to promote itself and the HRC; 8) keeping track of where applicants heard of us; 9) conducting exit interviews when Committee members decide to resign; and 10) making the reapplication process competitive. Their next meeting is scheduled for Monday, August 22 at 6:00 p.m. at the HRC offices.

Mr. Brinkin asked that the Committee keep in mind that since there isn't a meeting in December and that applications for new members are due in January, time is short in order to accomplish any of the above activities. Mr. Schewichow said that they talked about the workgroup remaining ongoing so that, over time, it can address these different ideas.

### **5. Commissioner Report:**

Commissioner Chung reported that Nazly Mohajer has been sworn in as a Commissioner of the HRC and she'll be joining the Commission at the next meeting on August 25. She also reported that Commissioner Khaldoun Baghdadi has been elected as the Vice-Chair of the Commission.

### **6. Staff Report:**

Mr. Brinkin reported that he and the Director met with Ed Lee and the 49ers' general counsel on developing a comprehensive diversity plan for the SF 49ers. The plan would involve training, outreach for employment, the layout of their offices, etc., and that HRC staff would have a strong monitoring role. He hopes their proposal will be adopted no later than mid September. He reported that the SF 49ers are also developing a diversity council made up of employees, managers, consultants, and community members who will review the above initiatives. He added that there is an effort by community groups to have dialog with the SF 49ers on developing initiatives for more community involvement.

Mr. Brinkin reported that the owner of SF Badlands appealed to the Director to reconsider the finding against him. Staff has been working on a response with the City Attorney and hopes to have it released by next week. He added that there is an attempt to mediate between the two parties and there is still debate as to who will attend the mediation.

Mr. Brinkin reported that many people would like to see the Disadvantaged Business Enterprise (DBE) program taken from the HRC and to have individual City departments monitor their own contract

compliance; however, staff and many community groups feel that the DBE program should remain at the HRC. Supervisor Fiona Ma has introduced legislation to the Rules Committee where many minority- and women-owned contractors and representatives from various community groups spoke in favor of keeping the DBE program at the HRC. The legislation needs to pass the Rules Committee before it can go to the full board to be voted on. He said that Supervisor Ross Mirkarimi, a Rules Committee member, is strongly in favor to keep the DBE program at the HRC, but is uncertain of the positions of the other Committee members, Supervisor Aaron Peskin and Supervisor Michela Alioto-Pier. The next hearing of the Rules Committee is Wednesday, September 21, at 10:00 a.m. at City Hall.

Mr. Brinkin announced that Susan Gonzalez, a law student at New College, will begin as a legal intern with the LGBTH staff next month. Because Ms. Gonzalez is deaf, all staff will receive a training by Laura Clark from the Hearing Center on working with deaf colleagues. He hopes to introduce her to the Committee at next month's meeting.

Mr. Brinkin reported that Toni Delgado, the Commission Secretary, had resigned and that staff is losing two more members due to layoffs.

#### **7. Old/New Business:**

Ms. Balcazar announced that the 9<sup>th</sup> Circuit Court had granted Jose Boer, a presenter from the LGBT and Immigration panel, safe haven in San Francisco and will not be deported back to Mexico where he would face persecution due to his homosexuality and HIV status. He is very happy about this landmark decision and thanked the Committee for its support.

#### **8. Announcements:**

Ms. Dubuque announced that she will be resigning from the Committee because she is moving to the east coast and needs to step down from the Youth in Schools panel. She wishes to continue to receive email and that a farewell party will take place on August 27.

Mr. Stein asked that organizers of the Sex Workers panel meet for a short meeting at the end of tonight's meeting.

Commissioner Chung announced that there is a \$125.00 early bird registration fee to Creating Change if they register before August 23. Registering can also be done online.

Mr. Kirchoff announced that no one would have to pay to attend Creating Change if they're part of the Host Committee. Their next meeting will be held on Tuesday, August 23, at 7:30 p.m. at the Oakland Marriott.

Commissioner Chung announced that the last defendant of the Gwen Araujo trial is testifying and may go into cross-examinations tomorrow. She asked that Committee members support Gwen's family by attending the hearing at the Hayward Hall of Justice on Amador Drive, Department 510, from 9:00 a.m. to 4:00 p.m.

#### **9. Adjournment:**

The meeting was adjourned at 7:30 p.m.