



The United States Department of Justice

Community Relations Service

Mediation

Kirkwood, Missouri

January 22, 2010

The Community Mediation Team



WHERE COMMUNITY AND SPIRIT MEET®



MEDIATION AGREEMENT BETWEEN
THE CITY TEAM OF KIRKWOOD
AND
THE COMMUNITY TEAM OF KIRKWOOD

This Mediation Agreement (Agreement) is executed on this 21st day of January, 2010, by and between The City Team of Kirkwood, Missouri represented by Kirkwood City Administration and designated elected officials (hereinafter referred to as “City Team”), and The Community Team of Kirkwood, Missouri, on behalf of the Kirkwood community (hereinafter referred to as “Community Team”).

This Agreement is consistent with the United States Department of Justice, Community Relations Service (CRS) congressional mandate as detailed in the Civil Rights Act of 1964 (42 U.S.C. §2000g). CRS provides assistance to communities and persons therein in resolving disputes, disagreements or difficulties related to conflicts and tensions based on race, color and national origin.

CRS provided its assistance to the Kirkwood community in the aftermath of the shooting incident that occurred on February 7th, 2008. Due to the incident, a number of Kirkwood community meetings and dialogues were held and after CRS offered their services, the City Council and community members of Kirkwood invited CRS to meet with them for assistance. It was determined that CRS would assist in resolving perceived racial issues in the community, including but not limited to the Meacham Park resident complaints and grievances with the City of Kirkwood.

In a series of meetings with CRS, a formal resolution process of mediation was decided on and CRS, along with the City and community, requested the resources of Washington University School of Law to aid in the process.

Prior to any meetings between the City and Community Teams, a comprehensive process first took place to carefully choose team members to represent the City Administration and the community using specific criteria and qualifications. After a lengthy selection process, methods, guidelines and suggestions to help direct the mediation process were formed, and for approximately three months beginning December 11, 2008, the Community Team focused and identified the issues to be brought to the joint-committee. The first joint meeting of the City and Community Teams was held on April 21, 2009.

In the first several meetings the respective Teams extensively and comprehensively discussed and prioritized what issues would and should be addressed in this process; and after careful consideration, the Teams began discussing the issues carefully and thoroughly until agreements were reached.

Informational documents regarding this process and its formation may be found as attachments to this Agreement.

WHEREAS, this Agreement is the result of concerns expressed during discussions between representatives of the City and Community Teams including but not limited to the Meacham Park resident complaints and grievances with the City of Kirkwood and residual effects of desegregation and past discriminatory practices;

WHEREAS, this Agreement is the result of many meetings between representatives of the City Team and the Community Team, including the Mayor, Police Chief, clergy, City Council members, the City Chief Administrative Officer and community stakeholders of Meacham Park and Kirkwood;

WHEREAS, the Kirkwood City Council passed Resolution 70-2008 (found herein under Appendix A), formalizing and endorsing this mediation process to “improve community spirit, communication and involvement” and committing City officials and community members to a “team-oriented resolution process”;

WHEREAS, the City and Community Teams affirm that this mediation process enabled the parties to come together and express their concerns, share their thoughts and emotions, gain a greater level of trust, break down barriers that existed, and find common ground and reach agreement on issues;

WHEREAS, the parties to this Agreement determined that all decisions reached under this Agreement shall be made by consensus;

WHEREAS, this mediation process involved many joint-committee meetings with the City and Community Teams present and many sub-committee meetings with members of both City and Community Teams present;

WHEREAS, the express intent of the parties to this Agreement is to offer a means for improving and building positive relationships within the Kirkwood community, specifically between the Kirkwood City Administration and Kirkwood citizens with a special emphasis on the minority community. All parties have voluntarily agreed to participate in this Agreement in the spirit of community reconciliation, requesting the services of CRS and the help of Washington University School of Law and a law school intern;

NOW, therefore the parties agree as follows:

Issues of Agreement

The following summarizes the consensus and agreement by the parties to undertake specific actions in an effort to help resolve differing racial perceptions and to promote community relations.

A. Empower the Human Rights Advisory and Awareness Commission with the tools necessary to establish itself as a more active and responsive servant and leader in the community and to increase transparency, efficiency and public confidence in the citizen complaint/request process.

The objective of the Human Rights Advisory and Awareness Commission of the City of Kirkwood (“the HRC”) is to inform, educate, advocate and provide assistance to resolve complaints, and report information and findings regarding discrimination in employment, housing and public accommodation in the Kirkwood community to the City Council. The HRC is dedicated to opening doors of access, to eliminating discrimination and promoting positive human relations within the community of Kirkwood.

In the past, there were systemic problems that did not enable the HRC to meet the community’s expectations that it would serve as an active and responsive public body addressing complaints of discrimination in Kirkwood and educating the community regarding discrimination. More generally, the community felt a need for the City Administration to be more responsive and to provide more information regarding the status and disposition of citizen complaints and requests.

In order to resolve these issues the City Team and Community Team agree to the following:

1. The City Council (hereafter, “The Council”) should review the existing ordinances relevant to the goals of this agreement and should make changes to the ordinance consistent with and in order to effectuate the terms of this Agreement as it relates to the HRC.
2. The Council should clearly define the attributes, experience and commitment required for appointment to the HRC. A new HRC citizen application form will be developed. This form will seek more information to help insure that the applicant meets appointment requirements and will make clear the commitment of time and effort required of an HRC member. Areas of ambiguity in the current ordinance should be clarified.
3. The Council should authorize staff to create a new process for placing matters of concern or service requests before the HRC and other areas of city government. This is expected to benefit the entire community on a range of resident issues. The design of the process will be an on-line, automated tracking system which will log and process written and oral communication from citizens; it will document and manage all aspects of the process from the initial entry to work request to final resolution or disposition of the matter; and it will be accessible via the internet 24 hours per day and 7 days per week. A key element in this design will include date and time stamped documentation of issues presented and prompt acknowledgement and follow-up. The system will have city-wide applicability for the handling of requests, suggestions, complaints, questions, or comments and will include a periodic evaluation of this process.

4. The Council should amend the HRC ordinance to provide stronger incentives and requirements for HRC member's attendance at HRC meetings. The purpose of such an amendment is to provide guidance regarding attendance requirements and consequences of non-attendance sufficient to eliminate the need for the Council to intervene, and to make clear the need for the HRC and its members to demonstrate and ensure its on-going availability to and interest in serving the community.
5. The Council should amend the HRC ordinance to require the HRC to establish a fixed day, time and location for the HRC public meeting to be held on a monthly basis. The City Clerk will be directed to post such notice as is posted for all other public meetings at City Hall and on the City's website.
6. The Council should allocate a reasonable amount of funds (+/- \$3,500 for the first year and \$2,000 each subsequent year) for training and support as deemed necessary by the HRC.
7. The Council should amend the HRC ordinance to require that a list of resources be developed and made available to assist citizens needing information regarding conflict resolution or cultural differences. It will be the responsibility of the City's administrative staff and the HRC to maintain and update such resources to keep them expansive and current.
8. The Council should amend the HRC ordinance to require the HRC to conduct an annual symposium to provide education and dialogue on HRC issues. Such symposium will be publicized through multiple means throughout the metropolitan area and guest speakers will be sought.
9. The Council should amend the HRC ordinance to require the HRC to develop a strategic and work plan, to be reevaluated every three (3) years.
10. The Council should amend the HRC ordinance to require the HRC to prepare and publish a written annual report describing the activities of the prior twelve months by December 31 of each year.
11. It is agreed and understood that the HRC will serve as a body to accept comments and concerns of citizens given at HRC meetings. At this point the HRC will not serve as an investigating or mediating body. Such a role would require advanced skills, education and training which volunteer citizens may not be reasonably expected to have and for which the City has no resources to provide. In addition, a well-established legal process at the state level exists to address discrimination complaints.
12. It is agreed and understood that the HRC will not serve as a body to address employee personnel matters. The Council does not have the authority to grant the HRC such powers, and it is unclear whether or not authority could be sought and granted by the State of Missouri; regardless, a well-established legal process already exists to address these issues.

13. It is agreed and understood that the HRC will not serve as a review or investigatory body regarding Kirkwood R-7 issues or matters of private businesses. The Council does not have the authority to grant the HRC such powers and it is important to preserve, support and refer to the already-established dispute and grievance processes within the School District and available to the Kirkwood business and consumer community through the Better Business Bureau and community mediation organizations. The HRC is encouraged to support staff, students and parents of Kirkwood School District R-7 in their efforts to increase understanding among racially and culturally diverse groups. Information regarding community dispute resolution resources will be provided to concerned citizens.

14. It is agreed and understood that the HRC shall serve for the purpose of assuring that the parties to this process have made every attempt in carrying out this Agreement. The HRC shall continue to review the progress and implementation of the terms of this Agreement every year for a period of three (3) years from the date of execution. The HRC shall also prepare and publish a written annual report from the date of execution describing the activities and progress of this Agreement and shall refer to a four-person advisory committee as needed, as referenced below.

15. The timeline projections for implementation of these specified actions relating to the HRC are:

HRC Sub-Committee Timeframe Projections from the Date of Execution

Priority Issue	Who	Estimated Time *
1. Commission Member Profile	I.Yuan	3 weeks
2. Create application form	M. Brown	1 week
3. Funding for resolution software	City Council	4 weeks
4. Install software and train	IT Dept.	8-12 weeks
5. Draft new ordinance including the following**	M. Brown	8 weeks
a.) attendance		
b.) meeting frequency		
c.) training funds		
d.) resident resources		
e.) symposium		
f.) strategic plan		
g.) annual reports		
h.) reviewing the progress of this Agreement		
6. Legal and Council review	City Attorney/City Council	6 weeks
7. Pass ordinance	City Council	4 weeks

* - Estimate time based on Community/City committee formalizing recommendation.

* - Time assignment is a best case scenario for each issue.

* - Some implementation steps can/will run concurrently.

** - Ordinance draft will include the following provisions.

B. Create, expand and/or focus on specific Kirkwood Police programs and joint programs administered by the Kirkwood Police and specified community members.

The City and Community Teams, pursuant to this Mediation Agreement, provided analysis and recommendations concerning the relationship between the Kirkwood Police Department and its citizens with a special emphasis on the minority community.

The City and Community Teams believe that the community has felt a need to promote a more positive relationship between the Kirkwood Police Department and Kirkwood residents, and that the community has perceived such relationship as necessary in order to minimize conflict and encourage communication.

In an effort to build this relationship and to further the positive practices and policies of the Kirkwood Police Department in providing quality services in a non-discriminatory fashion, the Police Department has agreed to the following creation, expansion and/or focus on specific programs to be administered by the Police Department and specified community members under the supervision of the Chief of Police:

CURRENT PROGRAM

1. Increase efforts to recruit minorities for the Police Explorer Program, a program that will receive greater emphasis. This effort will begin January 2010.

EXPANDED PROGRAM

2. Continue the Friday Hot Dog Lunches in the Park in the summer in Meacham for children up to 18 years. This will be expanded to other neighborhoods and other youths in the Kirkwood area beginning 2010. This has been a very popular program started in the summer of 2009 and is an annual program that begins at the end of the regular school year.

EXPANDED PROGRAM (MIDDLE SCHOOLS)

3. Work with the Kirkwood School Resource Officers and school principals to help those youths that are in trouble with the police. The Kirkwood Police Department along with the Kirkwood School District have developed this program starting with an officer at the High School and this year an officer is assigned to the Middle Schools. The School District and the Police Department have found this positive contact with the students has reduced the youth crime situation at the schools and in the community. The Resource Officer in the Middle Schools is new as of 2009.

NEW PROGRAM

4. Work with the Block Grant Funds, Hope Unlimited, Sprog, and the Police Chaplains to find jobs for youth of school age. The effort will be for the Police Department through the Chaplains to coordinate these efforts. The Police Department along with Chaplains in the Summer of 2009 provided five (5) paid internships for high school students. This program is new as of 2009. Efforts will be made to aid the First Baptist of Meacham Church's program to help youths over 18 years attend college or secure jobs. The

program will be fully developed and functioning on June 1, 2010 in order to maximize the number of internships in place prior to the end of the school year.

NEW PROGRAM

5. Work with volunteers to develop jobs for minority youth and other youth expelled from school. In partnership with the School Resource Officers and the Kirkwood School District, these students will be given community service projects to help prevent these students from being unproductive during their period of expulsion. The planning and development of this particular program will be labor-intensive. Although the program will be a work in progress, it will be implemented by September 1, 2010.

NEW PROGRAM

6. The creation of a local court which will attempt to provide a partnership with area youth in the administration of justice by their peers. It will be a voluntary program and it is anticipated that it will be sanctioned by the Family Court but administered by the Kirkwood Police Department under the Chief of Police. This program will be available for High School youths. This program will be the most ambitious of the programs noted and will require considerable coordination with other agencies in the area. The program is expected to be in place by January 1, 2011.

CURRENT PROGRAM

7. Emphasize the "Ride Along Program" to improve relationships with police. This program would be available to youth as well as adults and would be advertised on the web site and through the Block Captain Program, the Kirkwood School Resource Officers and the Police Chaplains. Although this program already exists, a new initiative will be developed to attract more participation. This new initiative will begin January 2010.

The Kirkwood Police also agree to increase communications with citizens in order to eliminate negative perceptions and encourage trust, respect, cooperation, partnership and collaboration between the Police and the community. In order to work toward these goals the Police agree to:

EXPANDED PROGRAM

1. Place more emphasis on the Police Chaplain Program as an important element in reaching citizens. The Chaplain Program is a relatively new initiative begun by the Police Chief in order to partner with local churches and their leaders in the work of the Police Department and to cooperate with them in addressing local needs. The Police Chaplain Program has new goals and intends to bring together churches throughout the community in an effort to create partnerships touching virtually every segment of the community. Although the program has been in place for a number of months, the Chaplains will be a valuable resource in many of the programs noted.

CURRENT PROGRAM

2. More walking patrols when possible. Over 1000 of these walking patrols were performed in the Meacham neighborhood last year.

NEW PROGRAM

3. Participate in the City's automated citizen complaint program. It is estimated that the system will be available in 2010.

NEW PROGRAM

4. Make pamphlets available to instruct citizens how to file a complaint against the police. The pamphlet will be available after April 1, 2010.

CURRENT PROGRAM

5. Continue efforts with Block Captains and the Night Out Events. In these efforts, the Police will work to increase the number of Block Captains throughout the City and provide Block Captains with more training. The Night Out Program increased to 65 participating neighborhoods in 2009, an increase of 30%. Over 1000 people were involved.

CURRENT PROGRAM

6. Continue the Police Pancake Supper in February. Over 400 people attend each year.

CURRENT PROGRAM

7. Provide speakers for schools and organizations that want to learn more about the Police Department and its work. Continue school tours of the Department. This will be coordinated by the Community Service Officer.

The Police Department will also continue its efforts to be non-discriminatory by:

EXPANDED PROGRAM

1. Increasing the weight of a category on Department evaluations regarding discriminatory behavior, reviewed twice a year. Along with the Department's continued effort to emphasize discriminatory issues, the Department commits to increase the weight on evaluations regarding discriminatory behavior as of January 2010 (the next round of Department evaluations).

NEW PROGRAM

2. Requiring supervisors to review Department policies with every employee and require each employee to sign off on the Department policy regarding accepted practices to be used in their relationship with community citizens. This program will begin immediately with new employees and will take effect January 2010 for existing employees.

CURRENT PROGRAM

3. Participating and working with citizens on diversity issues when asked.

CURRENT PROGRAM

4. Upholding the Department's commitment to hire qualified personnel without regard to race or gender as required by law.

Further, the Police Department has worked to eliminate crime and drugs from the Kirkwood community and agrees to continue its efforts to provide Kirkwood with safer neighborhoods. In this effort and in order to provide better police presence specifically in the Meacham Park neighborhood, the Police Department agrees to:

CURRENT PROGRAM

1. Utilize two person car patrols whenever possible.

NEW PROGRAM

2. Establish a satellite police office on a trial basis in the Meacham Park Neighborhood. The creation of the office will provide higher visibility of law enforcement in the area. While the office will not be staffed, it will provide a safe location to meet with officers regarding neighborhood concerns. It is anticipated that the satellite office will be established by March 31, 2010.

EXPANDED PROGRAM

3. Work to establish more Block Captains for better street awareness and provide additional training on a number of issues, including diversity. This is a program led by the Community Service Officer and is a voluntary program funded through the Police Department. It does not require a fee from the participants. The additional emphasis on this program will begin February 1, 2010.

The implementation of the above-stated Kirkwood Police programs and joint programs administered by the Kirkwood Police and specified community members are currently in progress.

C. Address the perceptions and misconceptions of the TIF process.

In the past, a Meacham Park Tax Increment Financing Program ("TIF") was established to help with community development in Meacham Park, and TIF is no longer in operation and cannot serve as an avenue for neighborhood improvement.

What is TIF and how was it created?

TIF is an economic tool created by the State of Missouri for the purpose of generating funds to make a development possible. The funds generated by the TIF are used by the developer to make the project economically viable. In this case, the developer was DESCO. The TIF funds can be used for private or public development within the TIF area. In the case of Meacham Park, the funds were used for home improvements, parks

and street improvements. The area where the money was generated (Kirkwood Commons) became the engine that helped make such improvements possible.

The process of creating the TIF is the development of a plan. A nine-member TIF Commission was created and selected by the City Council and charged with making a recommendation on whether a TIF district was needed. The Commission was required to hold a number of public hearings and meetings before making a recommendation to the City Council. To create the TIF, the Commission and the City Council must find that “but for”, the TIF development, neighborhood improvements could not take place.

Why was TIF proposed in the first place?

The City proposed the TIF concept as a way to reestablish a neighborhood that needed help by improving housing, streets and parks. The hope was for TIF to help with neighborhood stability and quality of life. TIF funds available for private purposes could only be used for certain projects to benefit residents, such as home improvements.

Why was TIF addressed in the mediation process and what agreement was reached?

The City and Community Teams engaged in a series of discussions to review the outstanding TIF issues concerning the limited funds used for home improvements in Meacham Park. Specifically, it was brought to the attention of the Teams that some homeowners who participated in TIF had issues with the quality of the workmanship and the number of times they had to request that work be re-done.

The concerns of twelve homeowners who had previously submitted complaints were reviewed as well as all related documents. To insure that due diligence was given to the process, the Teams also met with Beyond Housing at which time the concerns were again reviewed and discussed.

After many meetings and discussions, the City and Community Teams determined that TIF is not an avenue to continue to develop the community. All funds for the TIF Program have been expended with the Program ending in 2005 and the City cannot legally expend non-TIF funds (governmental funds) on private property for any reason. Participants in the TIF Program were also advised at the outset that on completion of the Program, homeowners would be responsible for repairs, upkeep and general maintenance of their property. Further, the extensive record showed that Beyond Housing had met its legal contractual obligations and, in doing so, had or at least tried to address the concerns of these residents.

The Teams agree that there is no viable way to go backwards and that the time has come for a new future-directed approach to work toward insuring the preservation and viability of the community’s neighborhoods. Such an approach should take place outside the mediation process and be shaped in a partnership with the affected residents.

In an effort to now move toward a new future and strengthen specifically the Meacham Park neighborhood, the City and Community Teams agree to a process to envision a new sense of identity, growth and involvement for the residents.

Members of the City and Community Team commit to engage in a series of focus groups with Meacham Park residents in order to identify the current cultural composition of Meacham Park, what issues are important to the community and what issues must be addressed to effect change for the future.

With this information, additional steps will be taken by interested Meacham Park residents and others to bring about the change desired by the Meacham Park community.

Participating City and Community members commit to engage in this effort outside and beyond this mediation process.

The implementation of this process is currently in progress.

Voluntary Agreement and Ethics Disclaimer

This Agreement is the result of voluntary mediation between the parties and is not a result of duress, coercion, or undue influence. Nothing in this Agreement should be taken as an admission of wrongdoing by any party and the terms and conditions contained herein are non-contractual and create no independent contractual obligation and/or duties upon any of the parties hereto. It being distinctly understood and agreed that no party to this Agreement shall institute or prosecute any judicial or administrative proceedings of any kind or nature to enforce any of the terms and conditions herein.

Terms of Agreement

All of the aforementioned tenets of this Agreement shall be reviewed for progress after six (6) months from the date of execution. The HRC shall serve for the purpose of assuring that the parties to this process have made every attempt in carrying out this Agreement. The HRC shall continue to review the progress and implementation of the terms of this Agreement every year for a period of three (3) years from the date of execution. The HRC shall prepare and publish a written annual report from the date of execution describing the activities and progress of this Agreement and shall refer to a four-person advisory committee as needed.

Advisory Committee and Dispute Resolution Process

A four-person Advisory Committee consisting of Arthur McDonnell and Michael Brown from the City Team and David Bennett and Cynthia Isaac from the Community Team is established. If the designated representative is unwilling or unable to serve as the City Team representative, then the City Team shall select a new City Team Advisory Committee member. If the designated representative is unwilling or unable to serve as the Community Team representative, then the Community Team shall select a new Community Team Advisory

Committee member. The Advisory Committee shall serve as a resource as needed to review the goals and outcomes of this Agreement, and may review the HRC Annual Reports and other related projects to this Agreement. The Advisory Committee and signing members of this Agreement may convene at any time and choose to modify, amend or dissolve the Agreement. The Agreement, however, shall not be modified, amended or dissolved in any respect except by a written instrument executed by all signing members to this Agreement. The Advisory Committee shall remain in existence for three (3) years unless otherwise dissolved or extended by the respective Teams.

It is understood that the parties of this Agreement agree to work in earnest and convene themselves, if necessary, in order to uphold the tenets of the Agreement as described herein.

The U.S. Department of Justice CRS will also serve as a resource, as needed, during the implementation of this Agreement.

If at any point the Advisory Committee or the signing members determine by consensus that the tenets of this Agreement are not being achieved, the non-complying entity shall be requested to prepare and publish a written report describing how it has made every attempt to implement the goals of this Agreement and why the entity is unable to satisfactorily implement the recommendation and goals articulated in this Agreement.

Confidentiality

Although the terms of this Agreement and the Agreement itself are anticipated to become public record, the parties (including all signing members and mediators) are reminded and agree that any oral or written statements (including minutes, draft proposals and commentary) made by such parties and/or any third parties who served as resources during this process, in the course of any discussions or preparation of such discussions relating to this process and this Agreement shall remain confidential.

Party and Third Party Rights

Nothing in this Agreement is intended to create, nor shall anything in it be construed as creating any rights by any third party entity or person that would not exist independently of this Agreement.

Consummation and Ratification

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of this 21st day of January, 2010 and the signatories hereto personally represent that this Agreement is executed pursuant to legal authorization by the parties on behalf of which they are signing:

CITY TEAM OF KIRKWOOD

COMMUNITY TEAM OF KIRKWOOD

By:

Arthur J. McDonnell

David Bennett

Iggy Yuan

Lois Bliss

Michael G. Brown

Vernon Gundermann

Georgia Ragland

Ronald Hodges

Jack Plummer

Charles Howard

Cynthia Isaac

January 21, 2010
Date

January 21, 2010
Date

Witnessed By:

William Whitcomb
U.S. Department of Justice,
Community Relations Service

January 21, 2010
Date