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**July 16, 2010**  
**Telephonic Board of Commissioner's Meeting**  
**Minutes**

**Commissioner's Present:**

Commissioner Cocke  
Commissioner Davis  
Commissioner Garrett  
Commissioner Hewitt  
Commissioner Jones  
Commissioner Miller  
Commissioner Osborne  
Chair Pierce  
Commissioner Starling  
Commissioner Walker  
Commissioner Wiggins  
Commissioner Wurzburg

**Commissioner's Absent:**

Commissioner Blalock  
Commissioner McDaniel  
Commissioner Pride

**Staff Present:**

Beverly Watts, Executive Director  
Tiffany Baker Cox, Deputy Director  
Shalini Rose, General Counsel  
Marcus Thomas, Title VI Compliance Director  
Lisa Lancaster, Executive Assistant

**Guests:**

None

**Call to Order**

Chair Pierce called the meeting to order at 9:00 a.m. Chair Pierce asked that we take a moment of silence to remember family and friends, the 4<sup>th</sup> of July and the good times had during the summer. Roll call was taken. Minutes of the May meeting were reviewed. Commissioner Wiggins made a motion to accept the minutes. Commissioner Davis seconded the motion. A vote was taken and passed.

**Executive Director's Report**

Executive Director, Beverly Watts began her report by noting that we are beginning a new fiscal year. She also noted that Rep. Hardaway's request for two additional positions for

the Title VI office was not granted. The cuts outlined in the 2010 budget were taken and the agency staffing stands at 27 positions. The Nashville office has two vacant positions that are being reclassified, the Knoxville Housing office has three vacancies. Rebecca Ramsey is transferring to another state agency, which is a promotion for her, the Executive Service position of Housing Director that was filled by James Davis we have not renewed and the secretary, Saadia Montaner has left state government for a promotion in the private sector. Tiffany Baker Cox, Deputy Director will be taking on the housing director responsibilities on an interim basis.

The Legislative session has ended and the English Only driver license bill did not come out of committee which means it did not pass. We petitioned the Governor to veto the English in the workplace bill because it came out of committee with language that we opposed originally. We worked with the sponsor in the House and got the language changed but the bill that came out of the Senate had the language that we did not like. The Conference committee occurred at the same time that the Arizona immigration bill passed and the sponsor that told us not to worry that he was not going to change the language capitulated and agreed to the language that the Senate version used and the Governor signed the bill and it is now part of the Tennessee Human Rights Act. We are reviewing the bill to determine what that means and will have a discussion with EEOC within the next month.

The other bill was the jailer's bill where jailers can check the immigration status of prisoners and is similar to the 287G program where the Justice Department pays jailers to house undocumented persons who have been arrested for other crimes. The Governor signed this bill and it is now law.

The Auditors arrived at the THRC office the Monday after we returned following the flood. Next week myself, Tiffany Baker Cox, Shay Rose and Seth Yu will be attending the mandatory HUD Policy Conference in New Orleans for the entire week.

Bobbie Porter, Communications and Outreach Special Assistant to the Executive Director has gone to the hospital and we are awaiting the birth of her latest child.

Commissioner Wiggins asked if the staff turnover can be linked to a more money trend or is there another trigger that can be attributed to the turnover rate. Executive Director Watts noted that the last five staff vacancies have been attributed to promotions.

Commissioner Wurzburg asked for more detail concerning the legislation that was discussed. Executive Director Watts noted that she would be happy to include more details in the materials for the September Board meeting but noted that the bill states that an employer may require employees to speak English in the workplace for safety and business necessity. The language we requested was safety and customer service issues and that business necessity language could be broad depending on how an employer might interpret it.

Commissioner Cocke made a motion to accept the Executive Directors report and Commissioner Miller seconded the motion. A vote was taken and passed.

### **Outreach and Education Committee Report**

Commissioner Wurzburg reported on the Outreach and Education committee meeting was held on June 16, 2010 and thanked committee members for their attendance. Social networking was discussed and it was noted that if we don't participate in facebook and twitter that we will be missing an opportunity to reach out to the public. THRC has contracted with Paula Casey to assist with radio, television and newspaper outreach. It was agreed that the listening sessions and roundtable discussions were successful and should be continued in the future.

The Employment Law Seminar was excellent and the development of Title VI rules and regulations is progressing through the process with hearings around the state. Mediation Month will be held again and the notices have been sent out to parties and mediators.

Chair Pierce made a motion to accept the report and it was seconded by Commissioner Starling. A vote was taken and passed.

### **Budget And Audit Committee Report**

Chair Osborne reported that on June 22, 2010 the Budget & Audit Committee met to receive an update on the status of the performance audit that is underway. It was clarified that the purpose of the audit was routine and is used to provide the legislature information on an agency prior to a sunset hearing.

Auditors will be contacting commissioner's and interviewing them for the audit in regard to the quality of the work being done by THRC and requested that commissioners be timely and forthcoming with information provided to auditors. The committee noted that Executive Director Watts would keep them informed concerning any developments that arise on an as needed basis.

Chair Pierce noted that she has been interviewed by the Auditors as well as Commissioner Osborne. Commissioner Wiggins noted that he has spoken with the auditors as well and noted that the agency is doing the best it could considering the shortage of staff and noted that staff have stepped up to keep the work flowing and that the flood displaced the staff for almost a month and the staff continued to work from home and temporary locations until they could return to the office and that they should be commended for their commitment to the agency. He also discussed the turnover in staff and noted that vacancies are occurring due to compensation issues such as salary and opportunities for promotion and noted that maybe an assessment of compensation for staff should be done.

Chair Pierce noted that she discussed the fact that our jobs are not as competitive as noted by the turnover of staff and that this will continue to be a problem unless our jobs are reviewed and updated. She also noted the importance of the work being done by the agency and how important it is that staff is qualified to complete the work.

A motion was made to accept the Budget and Audit Committee report by Commissioner Garrett. The motion was seconded by Commissioner Davis. A vote was taken and passed.

### **Employment Case Report**

Tiffany Baker Cox, Deputy Director and Interim Housing Director was thanked by Chair Pierce for stepping up and filling in whenever asked. The employment statistics for the

period of May and June were reported. For employment 151 inquiries were received and 89 of those were accepted as complaints and 76 cases were closed. She reminded commissioners that numbers may not be accurate due to the staff being displaced by the flood during the month of May. Inquiries are up from the previous year with charges accepted about the same. Fewer mediations were conducted which resulted in a decrease in benefits and settlements due to the flood.

The top three counties from which complaints are received are Davidson, Knox and Hamilton/Shelby. Yearly comparisons are down from 2009 as reflected in the chart. Benefits and mediations are up due to a very successful mediation program. Billie Jean Haddock, Seth Yu and Kaleda Bentley were trained in March of this year and all three will have completed their observation periods and will be conducting mediations by the end of August. It was noted that 135 cases that were 270 days old were targeted for Mediation Month. Of those responding, five agreed to mediation, eighteen declined and 15 cases have not responded. It was noted that every complainant is offered mediation now and the expected response would be lower than last year and the mediations would be conducted in house.

In regard to our EEOC contract which is for 426 cases and we have been credited for 367 which leaves only 59 cases to be completed by the end of September. We are hoping for an upward modification of our contract and should know by the end of the month. All housing and employment investigators were trained on July 14<sup>th</sup> with presenters from the Legal and Intake divisions and updates given.

The Vision, Mission and Values work will continue and work on case processing will continue.

A motion to accept the Employment report was made by Commissioner Hewitt and seconded by Commissioner Wiggins. A vote was taken and passed.

### **Housing Case Report**

Executive Director Watts reported the housing statistics. The number of inquiries received was 31 and 20 of those were accepted as complaints. Three previous complaints which had failed to be counted from the November 2009 period have been added to the numbers. The year end comparison information indicates that more inquiries have been received, closed the same number of cases and average case age is down with benefits up slightly.

As reflected in the year to date chart for the fiscal year show that 172 inquiries were received, 98 accepted as complaints and 147 cases closed with the average case age was 245 days which shows the aged case issue that was being addressed during October and November of last year. HUD standards indicate that we need to reduce aged cases and we need to close 53% of our cases within 100 days or less. HUD will do a performance assessment on August 18-20, 2010 and provide feedback to us. Thirty conciliations were completed during the timeframe and benefits are up significantly from the prior year.

Housing cases are submitted to HUD for payment review and they currently have not made a determination on 93 cases submitted for closure dating back to December 2009. Executive Director Watts will attempt to meet with the HUD monitor from South Carolina to

determine where we stand and what that means. Some are administrative closures which we do not expect to be paid for but 70 cases we should receive payment for. In January HUD paid us for twenty cases after being contacted. The funding on this contract is down and it may result in less money received for cases completed.

Commissioner Cocke asked if our lack of payment is caused by subpar performance or an accident of the way the case is handled. Executive Director Watts noted that HUD has standards that she will share with Commissioners at the next board meeting. Payment of closed cases is based on the number of days in which the case is closed and that information is shared with investigators so that they understand the process. Questions such as was the charge valid, was the charge jurisdictional, did we accept it, did we follow up in a timely manner, did we cause a case, was it closed in 100 days or less, and if not, was it complex and unique. Payment is rendered for a complex and unique case no matter the age.

Chair Pierce noted the assistance of Executive Director Watts in receiving payment through negotiations with HUD and thanked her for her work.

Deputy Cox noted that because there is a hiring freeze in effect there is a process of requesting an exception to the freeze before any hiring can be done for either the Executive Service Housing Director position or the career service housing investigator positions. Current housing investigators with the assistance of Frank Guzman are carrying a caseload of not more than eight cases and the services of Linda Reed and Barbara Gardner who are part-time housing investigators is not needed.

A motion to accept the housing report was made by Commissioner Osborne and seconded by Commissioner Jones. A vote was taken and passed.

### **Legal Report**

General Counsel, Shay Rose was also thanked for her work on additional tasks during this period. For the past two months 56 employment cases have been closed and 77 investigative plans have been reviewed, 5 reconsiderations have been completed and 15 cases closed administratively. In housing 28 cases have been closed, 9 investigative plans reviewed, 1 reconsideration was completed and 6 administrative closures completed. Also 8 conciliations were completed.

Legal updates included the June 17<sup>th</sup> Employment Law Seminar. Commissioner Garrett was thanked for speaking and also Commissioner's Pierce, Osborne, Hewitt, Davis and Wurzburg for attending and introducing guest speakers.

The See verses Fortner case which was taken to the ALJ has been appealed and Seth Yu and the Law and Legislation committee chaired by Commissioner Hewitt are working on the appeal. Commissioner Hewitt will provide updates as needed.

In June legal staffed the THRC booth at the TAJ convention in Murfreesboro and thanks were noted to Commissioner Hewitt for assisting with getting the booth. Seth Yu attended the Design and Construction housing event in Clarksville that was cosponsored by THRC.

Cause case updates included two housing cases being investigated by the same investigator for failure to make a reasonable accommodation for an emotional support animal. Both cases are being conciliated to include education of the landlord.

At the next board meeting a legal update will be given concerning national cases.

Commissioner Miller made a motion to accept the legal report. Commissioner Hewitt seconded the motion. A vote was taken and passed.

### **Outreach & Education**

Executive Director Watts reported on the period May and June noting that she attended the AFLCIO Leadership conference held in late June and a presentation was made. She reported that ELS seminar comments showed that 95% of the attendees reported that overall satisfaction was 4 with 5 being excellent. More information will be given at the next board meeting.

There were three media inquiries during the period and they concerned English in the workplace bills. Three listening sessions were held with a total of 70 people in attendance that represented 15 different organizations. The Clinton meeting was the best attended followed by Clarksville and then Memphis.

In the future listening sessions will be preceded by roundtable events attended by invited guests and outreach partners. Commissioners will be asked to provide contact information to Bobbie Porter by August to assist with this. Paula Casey will continue work in Bobbie's maternity absence. The Annual Report Release is scheduled for September.

A former respondent has contacted the Lt. Governor's office noting that she is not happy with THRC and has some concerns about the process. We contacted Lt. Gov. Ron Ramsey's office staff to explain the situation and they are still not happy with us. We think we have cleared up the matter but are not sure and wanted to keep the board in the loop. A letter was sent to the respondent noting that we were not going to sue them and they did not need an attorney.

The Retreat Report is in the materials that were emailed in the board packets. Please read this report. A strategic plan will be presented to the board at the September meeting.

Chair Pierce asked that commissioners who attend meetings should take THRC brochures and business cards to have available for participants that might be able to share our information with the public.

Commissioner Wurzburg spoke about the definition of discrimination at Lemoyne Owen College to a kids camp sponsored by the April 4<sup>th</sup> Foundation.

Commissioner Wurzburg made a motion to accept the Communications report. Commissioner Osborne seconded the motion. A vote was taken and passed.

### **Title VI Compliance Report**

Marcus Thomas, Title VI Compliance Program Director reported that the final rules have been sent to the Attorney Generals office for review which should be completed in 30

days. Then the final version will go to the Secretary of States Office and then to the Government Operations Committee at the Legislature. The Title VI statewide training meeting was held with 36 attendees on June 15<sup>th</sup> which addressed the Title VI plan guidelines. Only 5 agencies were not present and positive feedback has been received from State Title VI Coordinators. Title VI Plans are due October 1<sup>st</sup>.

Internal processes are being finalized for the submission of the Title VI Plans by state agencies.

Since November of 2009 over 200 written complaints or inquiries have been received that are being tracked. A training session will be held in August for Title VI coordinators not able to attend the June session. Additional meetings may be held if needed.

A motion to accept the Title VI report was made by Commissioner Cocke and seconded by Commissioner Jones. A vote was taken and passed.

### **Announcements**

Commissioner Wurzburg noted that she was interviewed by the auditors and they questioned her about the number of no cause findings that were made. She noted that not every work place dispute falls under the discrimination definition. Auditor was impressed with the Outreach and Education component of the commission. The commission transformation was noted and attributed to the change in Executive Directors.

Chair Pierce noted that the fact that we don't have cause cases because they may be mediated or resolved in some other manner.

Commissioner Wurzburg also noted that the auditor asked what we needed to do a better job and she identified more funding as a need.

Chair Pierce thanked the staff for their hard work on the excellent Employment Law Seminar. She also congratulated Commissioner Walker on his reappointment to the commission for another 6 years. It was noted that the Commissioners were asked to provide the contact information to Bobbie Porter within 3 weeks.

Commissioner Osborne reported that the Green McAdoo Cultural Center in Clinton won the 2010 NEA Rosa Parks Memorial Award.

Commissioner Cocke made a motion to adjourn. It was seconded by Commissioner Hewitt. A vote was taken and passed.

The meeting was closed at 10:10 a.m.