



TENNESSEE HUMAN RIGHTS COMMISSION
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July 23, 2021

Board of Commissioners Meeting in Person & Via WebEx
Minutes

Commissioners Present:

Chair Robin Derryberry
Commissioner Scott Arnwine
Commissioner Gary Behler-WebEx
Commissioner Mark Hayes
Commissioner Bill Martin
Commissioner Annazette Houston-WebEx
Commissioner Eric Crafton
Commissioner Julius Sloss
Commissioner Christopher Crider

Staff Present:

Beverly L. Watts, Executive Director
Muriel Nolen, Deputy Director
Carla Johnson, Compliance Officer
Veronica McGraw, Communications Director-WebEx
Lynn Cothren, Special Assistant to the Executive Director
Dawn Cummings, General Counsel
William Wade, Associate General Counsel
Tanya Webster, Title VI Compliance Director
Saadia Williams, Housing Coordinator
Allen Staley, Finance and Administration
Dazaly Reyes-Montalvo, Administrative Assistant
Latessa Johnson, Compliance Review Coordinator

Guests:

Gary Schneider, Court Reporter

Call to Order

Chair Robin Derryberry began the meeting at 9:00 a.m. CDT and welcomed everyone to the meeting and called for a moment of silence. She asked Lynn Cothren to call the roll. Seven commissioners were present. After the roll call Commissioner Behler join the meeting via WebEx and Commissioner Sloss joined in person. The Chair welcomed Mr. Gary Schneider, the court reporter as a guest and the new Title VI staff member Latessa Johnson.

Chair Derryberry said the first item on the agenda is the public deliberative session in the matter of the Tennessee Human Rights Commission v. Wild Gals Old Time Photo, case number 34.00-157663J. The Chair reminded everyone that we have a court reporter here with us today. So, as you're speaking project a little bit more. We want to make sure that he's able to hear everybody as we're moving through our deliberations. She noted that the Commission filed a notice of intent to review the initial order pursuant to T.C.A. 4-5-315 on February 8, 2021. The Commission will be considering Judge Waterhouse's initial order ruling in favor of the respondent, Wild Gals Old Time Photo.

The Chair then began the deliberation process by asking if any Commissioner has a conflict of interest that would require them to recuse themselves from deliberation in this matter and asked Lynn Cothren to call the roll. There were no conflicts disclosed. She then asked if any Commissioner discussed, emailed, or otherwise communicated with another Commissioner on this matter and asked Lynn Cothren to call the roll. There were no communications. She then asked if all Commissioners had an opportunity to review the technical record submitted by the Administrative Procedures Division and the briefs submitted by the parties and asked Lynn Cothren to call the roll. All present voted they were ready to proceed. Commissioner Sloss joined the meeting in person and apologized for being late. The Chair asked Commissioner Sloss the three previously asked questions. He indicated he had no conflicts, no communications and was ready to proceed. The Chair explained the legal standards and asked if any Commissioner wished to make a public deliberation regarding the petitioner's claim of unlawful denial of job assignment in this case. Lynn Cothren called the roll and no Commissioner indicated they wished to make a public deliberation on this case. Commissioner Sloss asked if Commissioners could affirm, reverse, or remand the ALJ's decision. The Executive Director indicated yes. Commissioner Sloss then made a motion to affirm Judge Waterhouse's order and Commissioner Crider seconded the motion. Lynn Cothren called the roll, and the Board of Commissioners affirmed the ALJ's decision unanimously. The matter of THRC v. Wild Gals Old Time Photo, docket number 34.00-157663J, is now concluded. (The full transcript is attached to these minutes.)

Chair Derryberry asked for the review and approval of the minutes of May 21, 2021 Board of Commissioners Meeting. Commissioner Arnwine made a motion to accept, and Commissioner Houston seconded the motion. All Commissioners voted to approve the minutes for the May 21, 2021 meeting.

Executive Committee Report

The meeting was held on June 30, 2021. Several reports were made to the Executive Committee by Deputy Director Nolen on the agency's return to work plan which is a hybrid given COVID-19 protocols and the agency's strategic plan. The strategic plan engaged the staff in identifying agency values which are integrity, accountability, transparency, fairness, compassion, efficiency, commitment, diversity education, empathy, and respect. Our vision is "Working Together for a Discrimination Free Tennessee. Executive Director Watts provided a report on agency staffing, challenges and the EEOC and HUD contracts. She thanked the Deputy Director for work on the return to work and strategic plan. Commissioner Behler made a motion to accept the report, and Commissioner Sloss seconded the motion. All Commissioners voted to accept the minutes of June 30, 2021 Executive Committee meeting.

Law and Legislation Committee Report

Commissioner Sloss stated the meeting was held via WebEx on June 23, 2021 and two items were on the agenda. The items were the Conflict-of-Interest Amendment and the Grievance Process Amendment to the Commission bylaws. The issue about conflict of interest was read. Commissioner Crider had comments about the thought process and Commissioner Sloss replied that this is about having a sound conflict of interest policy in place and clear to all Commissioners. Also, Commissioner Crider stated he is not prepared to make vote on the issues. Chair Derryberry reminded the Law and Legislative committee voted to bring both items to the full commission for vote during their meeting. Commissioner Crider stated he doesn't agree if we define the conflict of interest in a manner that is not the same for everyone.

Chair Derryberry made a motion to accept the Conflict-of-Interest Amendment and Commissioner Arnwine seconded the motion. Commissioner Arnwine commented that we have a potential for such a bad or unethical Commissioner and are taking extraordinary measures to keep that person from voting, but he is fine with this and hopes it will never happen. Lynn Cothren called the roll for the vote. All commissioners voted to accept the Conflict-of-Interest Amendment.

The second policy is about Grievance Process Amendment to the THRC's Bylaws, it was read and explained. Commissioner Arnwine commented that he didn't hear about having to present to the full Board for consideration, Commissioner Sloss showed him it was at the last sentence of the document. Commissioner Crafton made a motion to accept the policy, and Commissioner Arnwine seconded the motion. Commissioner Sloss stated a motion had been made and properly seconded to accept the Grievance Process Amendment. Chair Sloss asked Lynn Cothren to call the roll for the vote. All Commissioners voted to accept the policy of Grievance Process Amendment.

Chair Derryberry made a motion to accept the Law and Legislation minutes, and Commissioner Martin seconded the motion. Commissioner Crider indicated he wanted to amend the minutes to include the definition of conflict of interest that Commissioner Houston provided at the June 23, 2021 Law and Legislation Meeting. Commissioner Houston stated her comments/definition about Conflict of Interest where we want to avoid the appearance of impropriety and she did not have a definition per se, and she may need to go back to the audio to ensure we have a general understanding of conflict of interest. Lynn Cothren called the roll for the vote. Commissioner Crider made a motion to approve the policy with the amended language on the definition of conflict of interest, and Commissioner Crafton seconded the motion. All Commissioners voted to accept the Law and Legislation minutes.

Nominating Committee Meeting

Commissioner Martin noted the nominating committee met on June 29, 2021 to review nominations for recommendations for the Chair, Vice Chair and Secretary of the Board. The persons nominated were Robin Derryberry for Chair, Bill Marin for Vice Chair and Scott Arnwine for Secretary. Commissioner Martin submitted nominations for Commissioner Derryberry for Chair and Commissioner Arnwine for Secretary. The nominating committee approved presenting individual recommendations of the three. Commissioner Behler made an amendment to approve the minutes and the slides. Lynn Cothren called the roll call to vote, and all Commissioners voted to accept the Nominating Committee Meeting report and the minutes and slides. Commissioner Behler made a motion to approve the recommendation of the committee and Commissioner Sloss seconded the motion. Lynn Cothren called the roll to vote, and all Commissioners voted to elect the slate of officers recommended by the nominating committee.

Executive Director Report

Executive Director Watts noted her report covers the period from May 1, 2021 to June 30, 2021. She indicated the agency received a letter from Representative Hagans regarding the migrant children issue in Chattanooga asking us to make a report. In response to this request Executive Director Watts informed him via email that we do not have the authority unless there is a discrimination complaint. She reported that FY 2021 budget spending was at 80% through May, a full financial report was in the packet and indicated Allen Staley was present to answer specific budget questions. With respect to human resources, Executive Director said there were two new hires-Shirlyn Garrison as a Human Rights representative in Chattanooga and Latessa Johnson as the Title VI coordinator in Nashville. She noted that HUD provided performance, intake guidance and streamlined case summary training. Commissioner Hayes asked about the rental forbearance program and how we were getting ready for the expiration on July 31, 2021. She said we are anticipating some cases, but we have been doing a few things including providing information to help renters and landlords through WebEx training postings and posing on our website about the Cares Act Fund and local resources. We will have to review any cases that come to us and will keep you posted. She said employment production is low because vacancies and long-term absences are having an impact. Commissioner Sloss said the agency has the authority to bring on outside help and in the past, attorneys were brought in to act as independent contractors. These costs were paid through reimbursement from HUD and the EEOC. Executive Director noted that we may see impact on this fiscal year in January and she also said we may not have the funds, but she will make a report at the September meeting regarding this issue with details, timelines, and projections. Reports were heard from Deputy Director Nolen on Strategic planning. Allen Staley asked if there were any budget related questions. Commissioner Crider wanted to make clear what Commissioner Sloss was asking is not costing us money but is allowing us to hire temporary folks to get paid by the case and we pay for them with the reimbursement which will lighten the current case load.

Commissioner Hayes made a motion to accept, and Commissioner Sloss seconded the motion. All Commissioners voted to accept the Executive Director's report.

Employment Report

Deputy Director Nolen reported that the employment intake for the two-month period from May 1 through June 30, 2021 was 112 inquiries of which 93(83%) were received through the online form. This is an increase of 14% for online complaint receipts compared to the same period last year. We accepted 89 inquiries, filed 75 dual filed and 14 THRC only complaints. As of June 30, 2021, there are 106 pending inquiries. Customer Service staff is still supporting the intake unit and inquiries are being processed quickly. Case Management: The agency closed 23 cases, 21 dual filed and 2 THRC only. There were 19 no cause determinations and 4 administrative closures. For the EEOC Contract periods which is from October 1, 2020-June 30, 2021, we have closed 79 dual-filed complaints. This are 57 cases needed for the FY contract number which is 155. As of June 30, 2021, there are 485 pending cases in our inventory, 391 dual-filed with the EEOC and 104 THRC only. As for the six-month plan goal the Legal staff and the Compliance Officer continue to meet with each assigned Investigator to discuss their caseload and give guidance to help identify cases that are ready for closure and any issues, they may have that is hindering the closure. As of June 30, 2021, there were 122 cases in Intake awaiting assignment. Beginning in September the new cases will be assigned to investigators. We continue to review SOPs and revise to enhance efficiency. We are in the process of developing appropriate training for all staff investigators to begin in September and October 2021. We have been meeting with STS on the Case Management

System. Additional testing and training with staff will be developed. The EEOC has announced an update on IMS (case tracking system) which will begin in November 2021. She noted our ongoing case review process has help to identify 8-10 cases for closure and we have 16 cases currently under review and investigators are in the process of completing 20 cases for submission for July and anticipate 11 cases for August.

There was a Workplace Staff Survey conducted THRC's AWS Revised Administrative Plan would be effective October 1, 2021 & staff will work in the office on flex schedule. THRC will continue to follow COVID-19 safeguarding measures recommended by CDC. THRC Strategic Plan has four objectives which are as follows: 1. Exceptional Customer Service 2. Value-Added Service 3. Employee Development 4. Honesty, Integrity and Fairness.

There was no discussion or questions. Commissioner Crafton made a motion to accept, and Commissioner Sloss seconded the motion. All Commissioners voted to accept the employment report.

Housing Report

Housing Coordinator Saadia Williams reported that this is the fifth consecutive month in which the unit met 50% HUD efficiency goal. For the year the unit met the goal six (6) out of twelve (12) months. With the pandemic, the unit closed 130 cases, including six (6) THRC only. Last year, the unit closed 39% of its cases within 100 days. This year, the unit closed 47% of its cases within 100 days. Investigator Laura Bell submitted a total of 40 cases. Special Projects Officer Frank Guzman is working with Housing Unit to reduce intake backlog. During the reporting period of May to June 2021, the housing unit received 95 inquiries of which 35 were accepted for investigation, and the number one basis was disability followed by race and gender. It has been a good year in terms of monetary conciliations, and it was around over \$9,000.

There was no discussion or questions. Commissioner Arnwine made the motion to accept, and Commissioner Houston seconded the motion. All Commissioners voted to accept the Housing report.

Title VI Compliance Report

Title VI Compliance Director Tanya Webster indicated her report covered the period beginning May 1, 2021 through June 30, 2021. The final finding letters were sent out to Agency and Department Heads. An acknowledgment of receipt is on file for all agencies. Five agencies received a find of non-compliance. Three of the five non-compliant agencies rectified their compliance while 2 agencies remain non-compliant. This will be reported in the FY 2021 Title VI Annual Report. The compliance rate is 96%. She noted that 59 inquiries were received and 16 were determined to be jurisdictional. These cases were assigned to State Agencies for investigation. The remaining 43 inquiries were determined to be non-jurisdictional and referred to agencies for their information and action. We closed 16 cases and we currently have 67 open Title VI complaints. Title VI staff received 99 technical assistance requests. Most of the topics of technical assistance requested were implementation plan findings resolution, training request, complaint processing, limited English proficiency (LEP) and investigation questions. The Annual Title VI Training is scheduled for August 19-20, 2021.

There was no discussion or questions. Commissioner Behler made motion to accept, and Commissioner Huston seconded the motion. All Commissioners voted to accept the Title VI report.

Legal Report

General Counsel Dawn Cummings went over a couple of highlights. We have two different complaints but the same respondent and, in this case, there was a file for an election, these two cases are now with the AG's Office. The AG will be filling the complaint. There has been no movement with Commission cases in judicial review. A hearing on a Motion to Intervene was held in the Lane Case on July 26, 2021. The Aggrieved Party was asking the court to allow her to intervene and be a party to the case. The Commission's attorneys were unable to attend this motion hearing because they were attending the Woods hearing in Knoxville. The Commission Board can expect to get the Woods case within 180 days. The Judge granted the Commission's Motion for Default Judgement in the Dye case. The Judge is considering damages based on the affidavit submitted by the Commission.

There was no discussion or questions. Commissioner Behler motion to accept. Commissioner Arnwine seconded the motion. All Commissioners voted to accept the legal report.

Communications Report

Communications Director Veronica McGraw stated during the reporting period from May 1, 2021-June 30, 2021, two fair housing webinars were completed through HUD funding. The fair housing webinar funded by the CARES ACT took place on Tuesday May 11, 2021 in partnership with Habitat for Humanity Greater Memphis and was titled "Fair Housing Hot Topics, What You Need to Know". The panelist included Tracy McCracken, Director of Fair Housing, National Community Reinvestment Coalition (NCRC), Emily O'Donnell Chattanooga City Attorney, and THRC Executive Director Beverly Watts. This webinar had 80 attendees. The fair housing webinar funded by the HUD partnership funds took place on Tuesday June 22, 2021 in partnership with Equality Coalition for Housing Opportunities (ECHO) in Knoxville and was entitled "What you Need to Know, Fair Housing, the ADA, and Reasonable Accommodations". The panelist included Christina Magrans-Tillery Staff Attorney with the City of Knoxville and Stephanie B. Cook ADA Coordinator, City of Knoxville. THRC Commissioner Houston who is an ECHO board member provided welcoming and opening remarks for attendees. This webinar had 85 attendees. We have had an additional 360 views on the THRC website. For the fiscal year, there are a total of 7 THRC fair housing webinars and 1 THRC employment webinar on our website available for public viewing.

As for media relations for the reporting period, THRC ran fair housing and COVID-19 radio ads on WJBE-99.7 FM in the Knoxville market as part of the HUD Cares Act Funding from May 10-31, 2021. There was a total of approximately 65,000 impressions in the Knoxville market. THRC ran fair housing and COVID-19 radio ads on WKNO-Memphis NPR 91.1 FM in the Memphis market as part of the HUD Care Act Funding from June 1- June 25, 2021 and there was a total of 672,100 impressions. THRC ran fair housing and COVID-19 radio ads on WUTC Chattanooga NPR 88.1 FM in the Chattanooga market as part of the HUD Cares Act Funding from June 7-July 11, 2021 reaching many people through the Fair Housing COVID-19 radio adds. THRC reached approximately 4.9M individuals through a combination of educational webinars for fair housing and employment, virtual events and training conducted/attended by THRC staff, radio advertising, newspaper advertising and social media interaction. The data content has been gathered for the annual report and the creation of the FY 2021 annual report is underway. She will gather, develop drafts, and present to the education and outreach committee. She requested a meeting with Mrs. White to discuss logistics for an in-person September 2021 Wurzburg Award presentation to honor Rev. Ralph White in Memphis.

There was no discussion or questions. Commissioner Behler motioned to accept the communication report. Commissioner Martin seconded the motion. All Commissioners voted to accept the communications report.

The next Commission meeting will be held on September 24, 2021 at 9:00 a.m. CDT. Commissioner Hayes made a motion to adjourn, and Commissioner Crider seconded the motion.