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September 15, 2017
Board of Commissioners'
Meeting Minutes

Commissioners Present:

Commissioner Behler
Commissioner Crafton (Phone)
Commissioner Crider
Commissioner Derryberry (Phone)
Chair Houston
Commissioner Martin
Commissioner Sloss
Commissioner White (Phone)

Commissioners Absent:

None

Staff Present:

Beverly Watts, Executive Director
Lynn Cothren, Special Assistant to the Executive Director
Sabrina Hooper, Deputy Director
Dawn Cummings, General Counsel
Erika Wynn, Communications Director
Saadia Williams, Housing Coordinator
Lisa Lancaster, Executive Assistant

Guests:

Allen Staley, Fiscal Officer
Katherine Kores, EEOC
Carlos Osegueda, HUD
Jesse Harbison, Associate General Counsel

Call to Order

Chair Houston called the meeting to order at 9:01 a.m. and asked for a moment of silence for those affected by the hurricanes followed by the roll call. Chair Houston welcomed new commissioner, Gary Behler from Chattanooga. Commissioner Behler noted that he was glad to be here and looks forward to getting to know each one. Chair Houston noted that there remains one vacancy on the board.

The minutes of the July 28, 2017 Board of Commissioners' meeting were reviewed. Commissioner Derryberry made a motion to approve the minutes and Commissioner Martin seconded the motion. A vote was taken and passed.

Education and Outreach Committee Report

Committee Chair Martin reported that the Education and Outreach Committee met on August 28, 2017 to review the Commission's 2016-17 Annual Report and the Title VI Annual Report and to discuss the Jocelyn D. Wurzburg Award and to make a recommendation to the board.

It was noted that the Jocelyn D. Wurzburg Award was established in 2013 as part of the Agency's 50th Anniversary Celebration and was named in honor of Jocelyn D. Wurzburg who served on the Board in the 1970's and helped to author the enforcement legislation for the Commission and was the first recipient of the award.

The second recipient was Carol Berz from Chattanooga where she is the owner of a mediation company and a former Chair of the City Council of Chattanooga. The award was meant to be an annual award but due to staff vacancies and other issues was not awarded. We would like to get it back on track.

Criteria for the award require that nominees be individuals who demonstrate history as long-term advocates of human rights in Tennessee. Their work should embody the ideals and principles of inclusion, equity, equality, access and diversity. Nominees are nominated by Commissioners of the board.

In the past nominations have been accepted up until November 15th and the Education and Outreach committee received and reviewed the nominations and made a recommendation to the Board at the January Commission meeting.

The Committee discussed the cost of the award when it was awarded last was approximately \$200. The Committee approved the criteria and the nominations forms which will be distributed to commissioners at this meeting. The committee recommends that we move forward with the Jocelyn D. Wurzburg award.

The 2016-17 Annual Reports for the Commission and Title VI were approved and with final edits completed can be reviewed in your packets. Thanks were offered for the hard work in putting the reports together.

The Jocelyn D. Wurzburg Award will be presented in March 2018.

Commissioner Derryberry made a motion to accept the Education and Outreach Committee report and Commissioner Crider seconded the motion. A vote was taken and passed.

Budget & Audit Committee Report

Chair of the Budget & Audit Committee Crider turned the meeting over to Allen Staley, Fiscal Officer who gave an overview of the 2.5% reductions of our 2019 budget which were identified as instructed by the budget office.

The areas identified include salaries and benefits and operational expenses. The breakout shows travel, printing and duplicating, supplies and materials, rentals and insurance, motor vehicle operations, training and professional services state agencies. The 2.5% of our budget equals \$46K to identify from our budgeted state dollars.

We also included in our budget cost increases for four (4) positions to include three (3) Human Rights Representatives and one Administrative Services Assistant III at a cost of \$195,500.

The second requested increase is for \$50K for the first year which will include software, desktops and programming plus yearly maintenance and \$6K each following year to cover the cost of Digitization of the agency records.

Commissioner Sloss asked about travel costs. Allen Staley noted that currently \$43,900 is allocated for travel and reducing it by \$10K will make it \$33,900. It was noted that in 2017 \$32,400 was spent on travel.

Commissioner Sloss asked about the Benefits reductions to salaries. Allen Staley explained that when you look at actual budgeted salaries and benefits and compare those to the actual costs of benefits and salaries there is a positive difference called equity. There is equity built up in the salaries and benefits and we feel we could reduce some here because the below the line operational items are so lean.

Commissioner Sloss asked about what the rentals and insurance expenditures are. Specifically if there is an intergovernmental charge for space in the state owned building we are located in. Allen Staley noted that building rental would be billed through Other Professional Services Third Party. To be specific the Department of General Services bills all rental costs for other departments.

This line item refers to space rented by the commission for meetings, copier rentals and other rentals. In the budget we have \$12,600 and have spent \$6,600 this year.

Commissioner Sloss noted that in the past the agency has been housed in non-state owned buildings. Upon analysis was it cheaper to be in state space?

Executive Director Watts answered that when she arrived in 2007 the agency was located at 6th and Church in the old Harvey's building and was given an edict by the Commissioners to get them out of that space due to it being 100 years old, dank and dark. Staff was complaining and Commissioners complained when they came to meetings.

Upon review the best place available space at the time was the Andrew Johnson Tower which became our office space. Because the Andrew Johnson Tower was being

renovated, we were told that we were moving to Tennessee Tower. We asked about moving to Metro Center and were told that is not state space. All of our offices have moved within a 12 to 18 month period. Knoxville is in state space; Nashville is in state space; Chattanooga just moved to private space as the state office building was closed; Memphis is in private space again because they closed the state office building. We have also been notified that our Knoxville office will move again within the next 12 months. Executive Director Watts noted that when she began looking for space to move to state space was the best overall when considering cost, location and parking.

Allen Staley added that printing and duplication reduction of \$3K is related to items printed outside and budgeted \$5,500 and only spent \$800. For supplies and materials includes office supplies and a reduction of \$2K. We budgeted \$13,900 and spent about \$12K. On motor vehicle operations we have turned in all state owned leased cars and a reduction of \$5K. Training budget is at \$20K and we will reduce it \$2K.

In the professional services state agencies line which includes Department of General Services, Department of Human Resources we had budgeted \$344,100 and spent \$337K this year so we could reduce the amount by \$3K.

Commissioner Sloss asked if staff travels do they use the We Car system. Executive Director Watts noted that it was probably easier and more cost effective to use the We Car than to use the leased cars we had and noted that some staff use their private owned vehicle and are paid for their mileage.

Allen Staley noted that at the bottom of the page it says base appropriations for FY2019 is \$1,836,000 and noted that any reductions taken would come from this amount and any cost increases approved would be added to that amount.

A motion to accept the Budget & Audit committee report was made by Commissioner Sloss and seconded by Commissioner Martin. A vote was taken and passed.

Executive Director's Report

Executive Director Watts began her report by introducing Katherine Kores, District Director from the EEOC District office in Memphis and Carlos Osegueda, Regional Director of Fair Housing and Equal Opportunity from the HUD office in Atlanta who joined the meeting via telephone. These are our Federal counterparts and they are responsible for our grants and they are here to share what is going on with our contracts.

It was noted that Commissioner Crider would like to know the standards that they employ to evaluate how well we are doing. Carlos Osegueda stated that the US Department of Housing and Urban Development and the Tennessee Human Rights Commission continue to have a strong and fruitful partnership. It is clear by the productivity that we receive from the Tennessee Human Rights Commission this fiscal year they are on track to close 120 housing cases which will pay out. He indicated he was available to answer any questions about THRC performance assessment report or any other questions about the partnership that we have.

Kathy Kores stated that the Memphis District office of the EEOC and THRC have an important and critical working relationship. We have worked together effectively for years and that continues to be the case today. The agency is on track to complete 225 investigations of employment discrimination and they will intake 95 charges for EEOC. They will be reimbursed for all that work. At base we are partners in enforcing the state and federal laws which prohibit employment discrimination and we are very happy with our relationship. While we have worked together effectively in several ways, both THRC and EEOC have broad jurisdiction over allegations of employment discrimination, the statutes that we enforce are not identical. Through the operation of the workshare agreement we have served the public's interest by providing for dual filing with both agencies when a charge is filed either with THRC or EEOC and under this agreement we have also expanded our joint ability to investigate alleged discrimination by contracting with THRC to receive and investigate charges. Because THRC has offices across the state, access to the public is expanded by our working relationship. Finally both EEOC and THRC recognize the importance of outreach and public education to our joint goal of achieving equality in the workplace. We have worked together through formal engagement plans to produce seminars and webinars that are educational forums to inform a broad group of Tennesseans about their rights and responsibilities as provided by state and federal laws. Over the 50 plus years of existence of THRC and EEOC I believe that a lot of progress has been made towards the eradication of employment discrimination and look forward to continuing our relationship through the foreseeable future. I am happy to answer any questions you may have.

Chair Houston thanked both guests for sharing and asked if there were questions for Carlos Osegueda with HUD. Commissioner Sloss thanked him for agreeing to speak with the Commission. He directed his question to both Carlos Osegueda and Kathy Kores. His concern is with the number of cases being filed and asked if EEOC and HUD are also seeing a reduction in the number of cases that are being filed.

Carlos Osegueda answered that he did not have the specific data in front of him but over the course of the past seven years we have seen a steady decline in the filings. I can't give you a percentage amount by year but the interesting piece about it is that a lot of it has to do with our dwindling resources. We have had to scale back on our Outreach initiatives. We have not been able to do that over the years at HUD due to our resources and we have felt the same pinch from our partners whether it be grantees or FHAP partners such as THRC. It has been difficult to get out and do face to face outreach work and I suspect that is part of the reason for the decline. The other reason for the part of the decline is that we have done good work with our partners and what we have done at HUD to help get the message out. I think that is preventing some discrimination from occurring. If you have watched the news lately discrimination is very prevalent in the USA but we will continue to have a critical role in that. The other reason that we have seen a decline is that Housing and Urban Development has done a much more thoughtful job of reviewing cases at the intake assessment stage. We are doing a much more thoughtful review of the cases at filing to make sure that we are not just taking in any case which also contributes to the decrease. In short, yes, we have seen a slight decrease over the past seven years.

Kathy Kores noted that EEOC has seen an evening off of cases. For quite a while there was a steady decrease year by year by year. For the past several years it has been about 90K charges at intake per year nationwide. We are using as many tools as we can to identify and counsel individuals who come in with problems that they think involve employment discrimination and giving them good advice as to whether or not they have stated the bases for a charge of discrimination. Some people are counseled and take the advice that they don't file charges of discrimination and that is a good thing for whether or not our workload increases. People have a right to file a charge of discrimination and if they do then we apply an analysis to determine early on whether or not this is a charge of discrimination is likely to result in a finding of discrimination. We are at a point where we are experiencing a real overall decrease nationwide but we are at a steady level which is a new situation.

Commissioner Sloss added when he asked the question if a decrease is a good thing on one hand but on the other hand is it happening because of a good thing. Is it happening because there are fewer instances of discrimination cases happening out there or is it happening because we just don't have the resources to get the word out? Maybe it is a little bit of both.

Carlos Osegueda agreed that it is his opinion that it is a little bit of both adding that it is difficult to find the tipping point. We receive over 3,500 inquiries a year from the eight states that I have responsibility for. Our FHAP's like Tennessee and the other states investigate and close about 900 cases a year and they have a running backlog all of the time. We at HUD investigate about 400 cases a year with our partners that are substantially equivalent. So we don't have a shortage of complaints but I do think that if we were to do more aggressive investments in our education and outreach programs that we would find more complaints. There are a lot of groups and burgeoning populations throughout the eight states that I am responsible for that we just don't have opportunity to get out and represent. Our grantees do representational work and private enforcement work hasn't seen a drop off in the work there. They still don't have enough staff to represent the people that are knocking on the door that need assistance. I think we have done the best we can with the resources that we have to promote our cases of discrimination and promote with our press releases to make sure that lenders and other types of respondents are seeing the work that we are doing and the penalties associated with folks that discriminated in housing. This awareness and the training workshops does helps. We have done a lot on the prevention end and that helps when we haven't done the best job in declining resources with reaching out to the general public to let them know their rights. If we did that I think we would see a surge in complaints.

Commissioner Sloss asked if there were aged cases that THRC could assist you with. Carlos Osegueda answered yes. We always have aged cases that we could use help with. Kathy Kores added that EEOC has cases that they intend to transfer to THRC during the month of September. They are not aged cases but are cases that fall within the jurisdiction of THRC and look forward to the assistance from THRC.

Commissioner Sloss noted that the interest lies in the revenue and the ability to make all that can be made. Carlos Osegueda noted that one of the challenges is that earlier THRC

had a backlog of cases which stopped the flow of new cases. The back log was not because they weren't producing cases and working hard but was caused by staff turnover. All of HUD partners have turnover and it is tied to salaries at least in part. You get good folks on and they leave. The flow was stopped for about 90 days in order to allow them to hire people and get them up to speed. Then the cases were knocked out and are now on track to exceed the number of closed cases from last year and receive more case processing funds this fiscal year. It continues to be a challenge and if properly staffed we could then send more cases than we did this fiscal year.

Commissioner Crider thanked the HUD and EEOC staff for speaking with the commission today. As a new commissioner who wants to do a good job and add value to the Commission. I want the Commission to do a good job for the state in providing value to the state but don't know what standards or metrics we should be using, don't know how to measure success or do my job. Don't know the basics like what are our goals. The mission is to safeguard individuals from discrimination through enforcement and education. How do we measure that and do the job well? We were advised to have you come and share with the Commission what specific goals we should set that are measurable. Carlos Osegueda explained that the HUD performance dashboard will show what performance metrics we have and ranges from the timeliness of our investigations to counting people across the country that received relief as a result of our conciliation agreements and our consent decrees with the Department of Justice and measures the productivity and how much money we award in relief. We also look at the FHAP's with similar metrics and could send this to Commissioners.

Kathy Kores noted that EEOC has very nearly the exact same system in their Performance Accountability report which is done annually and tracks the same types of metrics

Commissioner Crider hopes that as a THRC team member he can glean what goals and numbers THRC should be seeing going up and those that should be going down from this information.

Carlos Osegueda explained that when going through a goal setting process you have to establish a baseline. Once you establish your baseline or where your organization is then you set your goals from there. HUD's goals are based on our baseline and where we are at with our aged case inventory, with the new administration and where they want to go. It will need to be molded around the THRC vision and what metrics to consider.

Kathy Kores noted that EEOC does not have goals for numbers of cause cases but does establish goals for resolution of charges in a timely manner. It is not expected that cases will be cause or no cause cases. We are a fact finding law enforcement agency and do not expect a particular outcome but try to make an impact on the community and the eradication of discrimination by how we find the charges.

Commissioner Crider asked if they could please share a couple of metrics that THRC should be striving to hit. Kathy Kores with EEOC shared that based on workload and staffing at the end of the year to have specific inventory reduction from the beginning of the

year. Commission Crider asked if that inventory reduction should go down over time. Kathy Kores explained that inventory should go down taking into account agency staffing.

Commissioner Crider asked if going back to the mission of safeguarding individuals from discrimination through enforcement and education, how the mission has been met if I have caused inventory numbers to go down. Kathy Kores noted the best metric for that is to have a record of how many people you are reaching in outreach and education efforts. The assumption is that the more people you talk to and the more people that know about what their rights are and what is unlawful discrimination will impact that mission.

Most employers are in business to do business and not to discriminate and when they realize what is unlawful discrimination they will operate in a lawful way. Carlos Osegueda noted that he has a dashboard that he has to meet in performance metrics to increase the number of charges, do timely investigations within 100 days, and the most important goal is the persons receiving relief from our investigations.

Last year, HUD served 1,184 people and paid out consent decrees and conciliation agreements with approximately \$10M in remedies to those individuals. I will be sending the performance assessment report which will give the breakdown of all the requirements that THRC has to meet performance wise. The most important metric would be persons receiving relief. Commissioner Crider asked if that metric was iffy. Carlos Osegueda said no because when the check goes out we monitor that process and that is tracked by our system.

Executive Director noted that the employment and housing reports that are given to the Commissioners at meetings are monthly numbers of these metrics but if they need to be clearer we can revise the way they are reported to you. Commissioner Crider asked that they be pointed out when the reports are given.

Chair Houston noted that was good discussion on these issues and each commissioner is a volunteer member. Commissioner Behler noted that he is the newest commissioner and noted that it was alluded to that monies have gone down for education and asked if there was a metric that you utilize for measuring the saturation point of your education message? How do you know how many people you are reaching? Is there a measurement for that? How do you gage how many people you are reaching so that the population knows the services you provide?

Carlos Osegueda shared that HUD stopped doing it all together. The only education that we do is with our federally funded city, states, counties and principalities. That is all we have time to do and give them technical assistance. General outreach to the public has been stopped but we rely on our grantees to do that. We have several grantees that we pay to do education and outreach throughout my eight states and the metric that we use is complaints referred. If they are in a particular population area and are struggling with referring complaints based on their education and outreach then we look at their marketing strategies to make sure that they are not saturating an area too frequently. We also use our maps and data sets to find out what tracks may be better opportunity areas to reach those underserved.

Kathy Kores noted that EEOC has a vital outreach and education program partly because of fee based program which has a revolving fund and we put on seminars with a price to attend and the cost that people pay to attend totally funds the production of the seminars. We also have non fee based such as an hour presentation for companies or employment groups about our laws that we enforce and various discrimination issues. We track those that attend and the programs that we do with the revolving fund program we always ask attendees to submit an evaluation which talks to us about how helpful the information was to them and if it resulted in them making any changes in their policies and practices. We also keep an informal record of follow-up contacts that we get from various attendees of our programs. We can't know specifically how a particular outreach event helps employers but we assume that they are effective when people come back to future programs or when we have a reduction of charges against a particular segment of the economy. An important element of our strategic plan is outreach and education and so that is not going to be totally wiped out in the EEOC budget any time soon.

Commissioner Behler asked if there was a correlation between the education program and filing complaints. Is that generally what you see? Kathy Kores added that might not be an increase in charges but they might see some response in response to press releases when a lawsuit is filed in a particular area and that may generate more charges regarding for instance pregnancy discrimination but that would not overall mean an increase in charges but perhaps an increase in charges on a particular issue.

A lot of the positive effect of the outreach is to get employers to realize what the right thing to do is. How to get best practices for their businesses because the effectiveness of the outreach is measured as much by charge filing as by non-charge filing. For employers the result of a charge is more likely to be no cause than to be cause which means that the employer was doing something right and perhaps they are doing something right because they learned something from our outreach efforts.

Carlos Osegueda added that when HUD used to do outreach or when grantees do it now, they are mostly targeting our potential complainants. They are going to the general public to inform them that their rights may have been violated and what HUD has been doing is prevention with particular respondents. We will meet with real estate groups, housing industry groups and builders so that they understand what their responsibilities are to prevent complaints. The key metric for grantees that are doing outreach with the public is generating complaints. I don't have the data in front of me that tells how many of those complaints result in conciliation charges.

Commissioner Martin thanked the guests for their attendance today and noted that in his company which deals with human resources and workforce solutions they gage or measure whether or not education and outreach with clients is working or not is by the increase of bona fide complaints that we get. If complaints are bona fide then people are understanding their rights and employers are usually doing the right thing and you can come up with a metric to see if it is effective or not. The whole purpose of education and outreach is to be effective and to help reduce the complaints that lead nowhere and to increase the bona fide complaints. Carlos Osegueda asked about what the metric was that

they use. Commissioner Martin noted that it is an increase in bona fide complaints and a decrease in complaints that lead nowhere.

Carlos Osegueda noted that it is the same metric used at HUD. When he refers to complaints he means they have been converted through our intake and jurisdiction. It is the most frustrating issue to find a good metric for gaging education and outreach. It is a balancing act where effective education and outreach ideally would prevent complaints from occurring and prevent people's rights from being violated. Essentially what we have with our grantees with our notice of funds availability and when we negotiate work results we cannot pay them on how many complaints they prevent because we have not way to know. We rely on the opposite which is how many converted complaints we get. Our HUD development and research team is looking at how to monitor that more effectively to provide a more perfect metric. We have been called on this in the past from the inspector general's office.

Commissioner Martin added that you educate the employer so you can prevent it and educate the population so that when it does happen they can recognize it and get justice. Carlos Osegueda agreed that is exactly right and encourages the board if they feel like they have come up with something that makes good sense for you to please share that with me.

Chair Houston added that as HUD develops its metrics that if you could share them with us as well it would be beneficial. Your presence is appreciated.

Commissioner Sloss added that the question he asked was revenue generated in asking for extra cases that could be sent to us and understanding from our finance officer how much of our budget comes from EEOC and HUD which is one third which explains why my question was more about the number of cases we investigate for each agency. He also shared that education and outreach and technical assistance is important to this commission as well. Often times we get caught up in how many cases were investigate this quarter and how much money did we make and that is important. It is also important for us to be focused on education and outreach and assisting because we don't want companies looking at our agency as someone who is bringing bad news every time. We would be more active in providing technical assistance to companies because that could reduce the number of frivolous complaints but complaints overall because companies are trying to do the right thing as opposed to building a better mousetrap to get around the things we need to do. They bring in slick attorneys to teach them how to get around EEOC and HUD and THRC they should bring in those attorneys to teach them how to do the right thing.

Chair Houston noted that Commissioner Derryberry has been a champion of education and outreach on this board and if she were here she would be chiming in on this discussion. She has been critical in reviewing our documents to make sure that we include education and outreach. Commissioner Derryberry shared that she was going to keep it brief and just say education over enforcement people. Chair Houston thanked the entire commission for their support in this area and invited our guest to stay in case additional questions come up later. Kathy Kores noted that she was unable to continue on the call.

Executive Director Watts continued with her report noting that a budget increase has been added to our proposed budget for digitization of our records. The state is using Encapture and the costs are outlined in the chart that was emailed to those attending this morning and hard copies are available.

We are also working rebuilding a digital complaint form for online use. We have determined that we are not prohibited from having a digital signature. Our rules say we have to have a wet signature but this is not accurate. We are working on the form and staff estimates it will take about two to three months which will include testing the form. THRC staff is doing the work so there is no cost. We also are getting training from F&A where we need it. Between now and January 1, 2018 we hope to have an online form that will allow people to fill it out and transmit online. We will continue to have hard copy forms because most of the forms we get are from folks that do not have email addresses. Our clients come to our office and hand write their complaints so we will have to continue to have a dual system. We sent out 2500 forms this past year and only received a third of those back. We have a person following up by phone to see why they are not coming back. We will monitor these issues and update the commission on the progress.

The question was asked if we could use post cause conciliation funds to fund the digitization project and upon review noted that we had received \$1750 last year and the project would require \$50K. It was noted that when we do post cause conciliation we generally request education and outreach funds. The question was also asked if we could use ELS reserve funds for the project. The reserve funds were set up for Employment Law Seminar and West Tennessee Fair Housing Celebration to pay for CLE credits, HRCI credits and the account is restricted for ELS and ELS related issues only. After a discussion with our fiscal officer Allen Staley we are going to ask to have that expanded to include other projects that would benefit the agency. There is currently about \$31K in that reserve account. There is usually not that much in that account but last year when paying the ELS bill the payment was taken out of our general fund and not the ELS account. We must determine if that money is still restricted or could it be used for a series of different activities such as education and outreach, ELS, digitization project or other projects. The projects would have to be defined and we cannot carryforward these funds unless it is restricted. These funds come from registration fees and there is a statement printed on the registration form that says "that these funds will be used for future Employment Law Seminars". These are the reasons that we have submitted a supplemental request for the \$50K to fund the digitization project.

We would like to have a case management system for employment that would be similar to the HUD HEMS system. We were going to bring in live computers today to show that to you but our attorneys said no because the cases are confidential cases, this is an open public meeting and commissioners adjudicate cases. General Counsel, Dawn Cummings is prepared to show you a limited demonstration of what that system looks like.

Commissioner Sloss asked if we could wait until all commissioners are present to view the presentation. Chair Houston noted a proposal that the Commission hold a retreat due to the amount of questions being asked and having new commissioners on board.

Commissioner Derryberry noted that was a great idea and thanked Chair Houston for making that suggestion.

Commissioner Crider noted that at a previous meeting he asked the question how can commissioners can do a good job and was told to ask our guests that question. I asked the question of them today and was told that the numbers are in the reports given at each meeting. I wish I had been given that answer last month without asking people from out of town to call in to answer questions and tell me what staff tells me at each meeting.

Chair Houston noted that is why an executive retreat will assist with questions commissioner have and education on what the commissioner's role is and can have discussions as a team to be able to move forward together to advance the work of the Tennessee Human Rights Commission. It was felt that there was possibly some information that could have been shared without asking an outside agency to come in and hopefully the commissioners can get together as a team and ask those questions of the commission staff.

The floor was turned over to Deputy Director Sabrina Hooper to discuss case processing and a chart that is attached to the memo and covers 2000 to 2016 and shows beginning inventory, cases accepted, closures, case age and staff available. Inventory has been low and cases accepted range from 300 to 400 per year. For the last three years our inventory totals have been around 600. Aged cases are usually THRC only cases because they do not count towards the EEOC contract numbers.

Some cases are closed through mediation which is offered to all complainants. Both parties must agree to participate. Some of those settlements will have financial terms attached to them. Commissioner Crider noted for explanation that mediation comes first and nothing is proven regarding fault or cause. Mediation is about resolution between the parties. If both parties agree on the terms then a settlement agreement will be written and reviewed by legal. If signed by both parties then the case is closed and no investigation takes place. If no agreement is reached the case will then be assigned to an investigator, who did not conduct the mediation, for a full investigation of the charges. All mediation materials will be destroyed before the case is assigned.

Commissioner Sloss noted if you look at 2000 to 2003 on the chart the numbers of inventory were so high when he came on board. To reduce the number of cases in inventory was critical and the case age was nearly two years to investigate a case. Contracted attorneys were brought in as investigators to work cases and were paid upon closure. This was done on performance based contracts and worked more expeditiously than THRC staff.

Commissioner Crider noted that there are fewer cases now than in the past and wondered if anyone had an answer as to why. Commissioner Sloss answered that it was probably a combination of being able to do more outreach. When there is publicity in a certain area of discrimination there will be an uptick in complaints being filed. If you do enough education and outreach with the public then more people become aware of their rights and if you do

more with companies than they are educated on the proper way to do things and reduce the number of complaints being filed.

Chair Houston noted that we are seeing that across the state at our institution as we are doing more training with Title VII where the numbers are up but we are doing more education and outreach.

Chair Houston asked Commissioner Sloss when they used contracted attorneys what was the payment for the investigations. He noted that EEOC payment at the time was \$500 and they were paid a flat fee of \$350 for both housing and employment. Chair Houston noted that in going back seven years on the chart that the decline in cases also began for us about the same time as EEOC.

Executive Director Watts noted that in 2008 THRC restarted the mediation program that had been suspended since 2005. Former Commissioner Wurzburg who is a full time mediator helped THRC put together a pro bono mediation event and offered mediation to every case in our inventory regardless of where it was in the process. This caused a reduction in cases for those that were successful. We also trained and had ten mediators on staff moving forward.

Additionally we instituted case triage sessions. In 2008 we also had a lot of publicity concerning falsification of records by a former investigator. This caused us to review our processes and policies regarding monitoring our investigators, helping to triage complex cases and assessing cases that were aging. We have increased the amount of training that we do with investigators. It was noted that audits always open our eyes to what we have or have not done and how well we have or have not done it. All of our standard operating procedures were reviewed and updated during this time. We got a lot tighter on what investigators need to do and what supervisors need to do regarding day to day processing issues. When we deal with that and less is coming through the door a lot of it does result in reducing the numbers. We also recognize that some of cases never should have been filed in the first place so our enhanced our intake procedures.

The SOP's were centered on an audit issue that said your people don't know what to do when and this was also true when I initially came to Kentucky. Over a process of ten years we did the same things there where we had the same size staff but fewer inventory. The Commissioners in Kentucky were more involved as they met monthly and they adjudicated cases and had to approve any case before it was closed. Those commissioners were also administrative law judges who heard cause cases.

The roles of THRC Commissioners are different since this body reviews administrative law judge's decision after a hearing. We can adjust the reports we provide so that you can see the metrics. The information won't change but we can restructure it so that you can see the metrics.

It is taking four to six months to train our investigators to work cases so when we look at contracting out investigations as an option moving forward we must look training. HUD is holding us to more stringent standards and there are nine benchmarks we must meet

which did not exist when I began with doing this work. EEOC's issues are saying we have got to do things in a certain time period and we do run parallel systems for case processing in employment and housing so all investigators must meet the same standards. Our SOP's parallel that and parallel our law and these are ongoing factors. Our SOP's were revised in January after our last audit and we are constantly reviewing them. To look at contracting out it is important to have inventory and if we have that then we have to train investigators when they come on board. In looking at law students there is currently no curriculum on the investigative process in law school. As the Director of the Fair Housing Training Academy at HUD we assumed that everybody was doing case processing the same across the board but found that was not the case which is why the academy was established.

When we were contracting out investigators the inventory was exceedingly high and in 2008 was the mediation program was restarted and triage of cases was also done to help reduce the number of cases in inventory.

Commissioner Sloss added that because the inventory is extremely low now and if you look back to 2003-04 the inventory is about what the inventory is now and the concern is that the case age should be coming down and instead has gone up. Executive Director Watts agreed and noted that case age is still high due to staff vacancies over the last year.

When an investigator has an approved extended absent their cases do not immediately get reassigned to someone else to work and decisions must be made to determine what will be done. The vacancy rate and case age are parallel to each other for the last three years. Deputy Director Hooper noted that in review of the numbers from the resolution report in IMS and as the questions were asked a second review took place and indicated that there were some cases that had been caused which were still aging as an open case. When those cases were removed the case age dropped.

Commissioner Sloss added that attorneys use the strategy that when THRC requests information they will not respond to the request or will send junk. If the average resolution age could be reduced it holds their feet to the fire to go ahead and get the case resolved. Complainant's loose interest in their cases and witnesses forget details after it has been filed for over a year. Commissioner Sloss indicated that you are cross training staff to help with investigations and with inventory as low as it is contracted investigators is not an option either. If all staff were cross trained on employment and housing then when staff leaves the hit is not as great as it would be if the staff only does employment or housing.

Executive Director Watts agreed and has spoken with staff about this very idea. Additional mediators will be trained in the near future so that when we offer mediation to the parties within the first 45 days that will reduce case age. Over the last year mediations were moved because we only had five mediators and one of them is our housing coordinator who has not mediated a case in over a year. Our intake supervisor is also a mediator and these issues highlight our limitations.

Commissioner Crider asked to be provided with an organizational chart of staff and positions. Deputy Director Hooper will provide the updated chart to commissioners.

Commissioner Behler asked if this report was a special report or a regular report for Commission meetings. Executive Director Watts noted that this was a special report to address commissioner's questions. Chair Houston shared that if this report was helpful that staff could update it and share annually.

Executive Director continued her report announcing that the Title VI Compliance Director position is being advertised and the two open housing investigator positions in the Knoxville office have been filled and will come on board on October 2, 2017.

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

Release of Annual Reports

Erika Wynn provided an overview of the THRC Annual Report and the Title VI Compliance Annual Report for Fiscal Year 2016-2017 noting that each has the same design layout. The Education and Outreach Committee reviewed both reports made some edits and we are asking full the commission about further edits.

The Education and Outreach Committee noted that both reports will need to accessible before they are released to the public on Monday on the THRC website. There will also be a press release announcing those reports release.

Executive Director Watts noted that page 8 shows some of the metrics talked about earlier in this meeting. One of them was relief from settlements and mediations and there were 17 mediations which is a 63% success rate. We are also looking at advertising mediation as an option but would need to have more mediators in place.

The executive summary provides an overview of all the employment, housing and Title VI programs. Through a variety of communications and information sources we reached more than 700,000 individuals. Chair Houston noted that if commissioners have edits for either report they need to communicate that to Erika Wynn by close of business today so that it can be posted to the website by Monday. If errors or corrections are needed please notify staff so they can be corrected.

Executive Director Watts also noted that no hard copies of our annual reports have been printed in the past 8 years. We supply hard copies upon request.

Commissioner Sloss made a motion to accept the release of the THRC and Title VI Annual reports. The motion was seconded by Commissioner Martin. A vote was taken and passed.

Employment Case Report

Deputy Director, Sabrina Hooper reporting on the period from July 1, 2017 to August 31, 2017 noted that 88 inquiries were received resulting in 52 charges, 43 dual filed and 9 THRC only. During the period 90 charges were closed with an average charge age of 293 days. Thanks were offered to new legal staff for their assistance with these closures.

Our open inventory at the end of August 2017 was 239 cases. Six (6) mediations closed within this timeframe, resulting in \$23,474 in monetary benefits to the Complainant and two (2) complaints closed as settlements with \$17,500 in monetary benefits to the complainants. The difference of the two is that mediation occurs on the front end and settlements occur during the investigation.

Previous Commissioner Wurzburg while on the board asked for a report of how many complainants and respondents were represented at mediations. Since July 1, 2016 six (6) mediations closed and no complainants were represented and three (3) respondents were represented. The information is being gathered to analyze if representation makes any difference in the amount of the settlements and we need additional data before an analysis can be rendered.

In comparing last year at this time there was a 31% decrease in charges received and charges accepted was relatively the same. Complaints closed increased by 27% and the top category bases for investigation was Title VII based cases.

For the witness customer service surveys were sent out for Employment, Public Accommodation and Housing, staff placed 12 calls and interviewed 5 witnesses with the answers being strongly agree and agree. One witnesses said the investigator was a good listener.

On the 10 question survey for Employment, Public Accommodation, and Housing surveys 28 were sent out via mail and 3 returned and Survey Monkey sent out 37 via email and 2 responses received. The comments were more timely updates on case status and more details about the investigation process.

According to the August audit intake is on track to meet the standard of an average of 40 days to assignment; 20 complaints were processed where the average was 39 days. Nine cases were above the 40 days due to mediations and respondents asking for extensions. For the letters there were 58 cases closed and all letters were included as required. On the IP's 24 cases were assigned and all had the IP completed within ten days.

Commissioner Sloss shared that the magic number for days of investigation should be 180. Executive Director Watts noted that the standard is 270 days for employment cases.

Commissioner Martin made a motion to accept the Employment report and Commissioner Sloss seconded the motion. A vote was taken and passed.

Housing Case Report

Housing Coordinator, Saadia Williams reported that this report covers the July 1, 2017 to August 31, 2017 time frame noting that there were 111 inquiries resulting in 13 complaints accepted for investigation. Disability was the number one basis for complaints.

Staff closed 14 dual filed complaints of which 8 or 57% were conciliations; three or 21% were no probable cause; 1 or 7% were failure to cooperate and 1 or 7% was withdrawal without resolution and 1 or 7% was withdrawal with resolution.

On page two of the report shows benefits received in 2018 of \$6,461 and in 2017 \$3550. Another metric is meeting the HUD efficiency goal of 50% of cases closed in 100 days and we are currently at 50%. The timing milestones that insure that we send out the acceptance and notification letters to the parties within ten days shows that all but one was sent timely.

In December of 2016 a plan was developed to address 50 substantially aged cases and at the end of August we have closed 40 of them. Staff closed five of them this month and we project to close 10 more before the end of the fiscal year.

The two housing investigator vacancies have been filled and the new staff will come on board on October 2, 2017.

Executive Director Watts noted that the standard for closing housing cases is tighter than for employment. The standard is that 95% of closed cases cannot be aged and 50% of closed cases must be closed within 100 days or less. It was noted that the housing staff did an outstanding job as in September we had two housing investigators and brought in three new people and they closed 120 cases for the year. Additional support was given by Deputy Director Hooper and previous attorneys and new legal staff to make this possible.

We again have two vacancies in September and we have filled those and will do training and hopefully will be as successful as we were last year. The remaining staff are doing a great job of looking at and closing cases with the added support. With the appropriate training and support with triage we can move the timeline down.

Saadia Williams added that legal staff will be assisting again with triage of the aged cases. Executive Director Watts noted that triage is to be continued because it works to keep work flowing. Carlos Osegueda noted that HUD was concerned about the turnover ratio because it has been a challenge every year and the moratorium on not sending more cases helped and allowed staff to catch up. He also added that the cross training of investigators is an excellent idea.

Commissioner Behler made a motion to accept the housing report and Commissioner Sloss seconded the motion. A vote was taken and passed.

Title VI Compliance Report

Executive Director Watts interim Director of the Title VI Compliance division reported on the July 1, 2017 to August 31, 2017 time period noting that the annual Title VI Coordinators training was held on August 2, 2017 which included a presentation on the requirements of the law, how to conduct investigations the implantation process and requirements. During this time period we became aware that agencies were not responding to the THRC within the 90 day time frame to investigate and provide findings on complaints. Based on the questions and requests we are developing a Title VI Complaint Investigation Manual to as resources and to respond to the issues.

Implementation Plans Guidance has been sent to agencies and the due date is October 2, 2017 at noon. We have 49 entities that must submit a plan to us by this date. The Council

on Intellectual & Developmental Disability, APSU, MTSU, TSU, TN Tech, University of Memphis, and ETSU are now required to submit an Implementation Plan to us for review. We have received one plan and will issue a finding for any agency that does not meet the deadline. Staff will send a reminder notice out in the next couple of days.

It will take staff between 30 and 45 days to complete the review of the plans and we will provide a full report to the Commission at the November meeting. Commissioner Derryberry made a motion to accept the Title VI report and Commissioner Behler seconded the motion. A vote was taken and passed.

Legal Report

General Counsel, Dawn Cummings, reported on the July 1, 2017, to August 31, 2017, period when legal closed 54 employment cases, of which 39 were no cause; 11 were administrative closures where 2 were failure to cooperate, 2 were no jurisdiction and 3 were independent settlements. Legal also reviewed four employment conciliations. Also five (5) Investigative Plans were reviewed and completed three (3) reconsiderations.

In housing, fifteen (15) cases were closed, which included 3 no cause, 3 administrative closures where 1 was filed in court, 1 was an independent settlement and 1 was failure to cooperate. Staff reviewed 9 conciliations and no Investigative Plans were reviewed and two (2) reconsiderations were completed. Two cases were caused and one case was pre-caused. Also two reconsiderations were completed.

Staff also completed eight (8) copy requests and have one in inventory.

Legal department updates include the cases appealed to state court where we are being represented by the Attorney General's Office. The Holsey v. Coffee County Sheriff's Department case hearing will be held on November 6, 2017.

On the EC Holdings case there was a hearing held last Friday and the respondent was asking for a temporary restraining order to stop the investigation because of a legal issue. They claim that THRC does not have jurisdiction because they do not have the required number of employees, however under the retaliation statute they are only required to have two or more.

The Attorney General's office represented THRC during the hearing and the order was denied and we continue with our investigation as they did not meet the burden to get a temporary injunction and the request was denied.

On the first Employment cause case a hearing is scheduled for October 24 & 25, 2017 in Knoxville. On the second cause case the mediation had to be rescheduled and on the third case there is a hearing set for December 12, 2017.

In Housing cause cases the first has a hearing set for February 2018; the second has a hearing set for January 2018; the fourth is with the Attorney General's office who is attempting to settle the case; the fifth is being conciliated; the sixth was filed on August 7, 2017 and has not yet been set for hearing; the seventh has been tentatively set for March

2018 and parties have agreed to judicial mediation but it has not been scheduled; the eighth case was under reconsideration and a portion of it was caused and the notice of charges have been sent out and the case will move forward.

Commissioner Sloss asked for more details about the EC Holdings case that went to hearing. General Counsel Dawn Cummings noted that we have a separate retaliation statute which is 4-21-301 which states that two or more persons for any retaliation under this statute just not employment.

Commissioner Sloss made a motion to approve the Legal report and Commissioner Martin seconded the motion. A vote was taken and passed.

Communications Report

Communications Director Erika Wynn noted that she has been on staff since November of 2016 and there was no one in the position that was specifically focused on education and outreach social media arena a snapshot of the two years comparison shows that in 2017 we connected with 765K people through educational presentations exhibitions, distributing materials, and events attended and advertising and the number from 2016 was approximately 35K which is significantly higher for the current year.

We participated were twenty more events this year than last year and in social media where last year only 5K people viewed our Face Book page and this year that number is 30K. On our Twitter account there was no activity last year and this year we have 15K followers. On You Tube about 3K feeds where our webinars are linked to our website.

Last year we did a lot of print media and after doing an analysis of how many people we were reaching and receiving responses from different arenas so this year we focused on our partners and people who could be complainants. A lot of them are on social media and we have received a lot of positive exposure from educating people and letting them know that we exist and are trying to prevent people from needing to file discrimination complaints. Please contact the office if you would like further information.

For the period July 1, 2017 to August 31, 2017 there were nineteen events and have reached 4873. We reached 200 via an ad placed in event programs that gives our agency information so that people can find us.

Highlighting period events: Executive Director gave a "Diversity & Inclusion" presentation to the Department of Education at their staff retreat on July 12, 2017 and 40 people attended; The Title VI Training reached 76 on August 2, 2017; On August 8, 2017 Executive Director Watts, Chair Houston and Housing Coordinator, Saadia Williams attended the Beck Cultural Exchange Center Red Carpet Jubilee and 250 people attended this event; August 30 & 31, 2017 we sponsored the TALS Equal Justice University Conference attended by 400 individuals and Executive Director Watts gave a presentation on Reasonable Accommodations.

We want to continue increasing how many people we partner with and make sure that we not only reach those who know what we do but also those who do not know what we do. In

the Communications packet there is a one page information sheet about the partnership event in January and February of 2018. We will be in partnership with Nashville Ballet with a production called "Light" which highlights the Holocaust and will demonstrate the similarities between events of the Holocaust and what is happening today. We will assist with panel discussions around the event which will have leaders from the community and THRC staff. We will spread our message there in an avenue we have not used before.

When Commissioner Martin reported on the Education and Outreach committee meeting and talked about the Wurzburg Award criteria which is not in the packet of materials I will be sending the Nomination form and the Criteria for the award out to Commissioners following this meeting. The deadline for nominations will be November 15th and the nominees will be shared at the January Commission meeting and the award will be presented to the winner at the March Commission meeting.

A calendar of upcoming events was included in the commission materials and will be a new addition to my report. This calendar will be updated as necessary and commissioners in the area of an event will be contacted about participation.

The Governors Housing Conference is coming up on September 20 & 21st of September and the agency exhibition booth will be staffed by Erika Wynn and the expected attendance is approximately 1000 people.

Also the NAACP State Conference will be from September 21st through the 24th and the Freedom Awards Dinner will be held on Saturday September 23rd and THRC has a table for the event and if you would like to attend please notify Erika Wynn by close of business today.

International Human Rights Day will be December 7, 2017 in Nashville and staff are partnering with organizations in Chattanooga to plan a similar event at the Family Justice Center on December 11, 2017.

Executive Director Watts shared that the LaPaz Awards in Chattanooga from 11 to 1 at the convention center and asked Commissioner Derryberry if she would like to attend. She noted she would like to attend and the agency will purchase her a ticket. Executive Director Watts and Frank Guzman will be driving in for the meeting and Commissioner Behler will also be in attendance.

The Wimberly Lawson Annual Employment Law Seminar will be held in Knoxville and it is attended by approximately 600 people. THRC partners with them and the EEOC and will make presentations and their goal is to educate clients to avoid cost and litigation and to help them understand our law. There is a fee involved but notify us if you would like to attend and we can get a discount if Commissioners are interested in attending. The event will be held at the Downtown Marriott.

Also in October the Civil Rights Annual Freedom Awards will be held and involves a ticket price. Executive Director will be attending the Student Forum which is no cost and there is a pastor's event in the morning also. The Civil Rights museum is our partner for the National Fair Housing month which will be held on April 13, 2018. More details will follow.

Commissioner Sloss asked if there are employment law seminars in all areas of the state. Executive Director Watts noted that THRC done mini employment law seminars in Chattanooga and Memphis in the past that were half day events and it is a tentative item on our agenda. We are looking to see if they are feasible now and if we can find local partners to assist. It was noted that the West Tennessee Housing event is a CLE event but only involves housing. We also do webinars with EEOC and will partner with them on at least two events across the state of Tennessee.

Commissioner Sloss asked if the events are annual events. Executive Director Watts noted the Wimberly Lawson event is an annual piece and THRC and EEOC were asked to come in with presentations and as the D & I Chair of Society of Human Resource Management she is familiar with professionals in the arena who handle mostly respondents but some plaintiffs' counsel also. Commissioner Sloss noted he would like to see the agency do seminars in Chattanooga, Knoxville and Tri-Cities areas and West and Middle West Tennessee.

Executive Director Watts noted that we partner with Tennessee Alliance for Legal Services who are public service lawyers and we have participated for the last four years with making presentations. We get more cases from TALS than from any other group that will come to us and say our client would like to file charges.

Commissioner Behler asked what time the International Human Rights Day is in Chattanooga. Erika Wynn noted that the time has not been set but there is a planning meeting next week via teleconference and will send an invitation to you for that meeting.

He also asked if the social media numbers you quoted were in the printed report. Erika Wynn noted they are included in the snapshot of the reach that we have this year and last year and a snapshot of events and the last page includes the social media numbers. He followed up with the numbers went from 35K to 765K? Erika Wynn explained that a large part of the increase is due to advertisements this year and in the past most advertising was done via print media such as programs for events attended.

This year we did more radio and a couple of interviews for a series called "Tennessee Matters" that were done by Executive Director Watts for Martin Luther King Day and Fair Housing Month. We also used Facebook ads for our Employment Law Seminar and Fair Housing Celebration in Memphis which reached approximately 50K.

Executive Director Watts added that we purchased ads with grant money from HUD partnership grant that we will not have this year. Social media numbers are going up thanks in part to Erika Wynn being on staff.

Commissioner Behler made a motion to accept the Communication Report and Commissioner Sloss seconded the motion. A vote was taken and passed.

There were no public comments or announced. Chair Houston opened discussion about having a Board Retreat and noted that the next Commission meeting is November 17, 2017 and is scheduled to be telephonic. She would like to find a time that Commissioners

can get together and do some planning and look at the things that Commissioners would like to see such as Commissioner Sloss noted the Employment Law Seminar's across the state.

Please look at your calendars and see if we could meet the evening before the November Commission meeting or we could do the retreat in the morning and the Commission meeting that afternoon. Chair Houston will send information to poll Commissioners and noted the importance for Commissioners to gather and discuss what they need and to answer Commissioner Crider that we all want to do a good job and applaud you for posing the question and hanging in there. The thought is that we will all be better Commissioners and thank you for asking the question.

Commissioner Martin asked how much time is needed for a retreat. Chair Houston said realistically a half day as we would still have to have our commission meeting which is usually an hour and a half. Longer than that for the retreat is ideal but check your schedules and if we take some time to plan as a team it will serve us all well.

Commissioner Martin noted that he feels that it would be more effective if a real retreat was planned where strategy could be discussed and was not sure it would work to do it on the same day as our Commission meeting on November 17th. Maybe we could come up with a date and give everyone some leeway to arrange schedules. The location of the retreat could be Nashville or another location.

Chair Houston will send out an email to commissioners and get their feedback and determine what is appropriate. Executive Director Watts noted that any State Park could be used or a hotel with meeting space could be used.

Commissioner Sloss made a motion to adjourn and it was seconded by Commissioner Martin. A vote was taken and passed. The meeting was adjourned at 11:30 a.m.