



**TENNESSEE HUMAN RIGHTS COMMISSION**  
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**July 17, 2020**  
**Board of Commissioners Meeting**  
**Via Web Ex**  
**Minutes**

**Commissioners Present:**

Commissioner Arnwine  
Commissioner Crafton  
Commissioner Crider  
Chair Derryberry  
Commissioner Hayes  
Commissioner Houston  
Commissioner Martin  
Commissioner Sloss

**Commissioners Absent:**

Commissioner Behler

**Staff Present:**

Beverly L. Watts, Executive Director  
Carla Brookins, Deputy Director  
Veronica McGraw, Communications Director  
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  
Lisa Lancaster, Executive Assistant

**Guests:**

Allen Staley, Fiscal Officer  
Heather Faulkner, MTSU  
Vanessa Bullock, WTLS  
Darren Foster, IT

**Call to Order**

Chair Robin Derryberry called the meeting to order at 9:06 a.m. CDT and requested a moment of silence given the situations in our daily lives. The roll call was taken with eight commissioners present. The minutes of the May 29, 2020 Commission meeting were reviewed, and Commissioner Arnwine made a motion to accept the minutes. Commissioner Sloss seconded the motion. Discussion was called for. Commissioner

Houston noted on page three second paragraph the answer should be “yes.” . With no other changes a vote was taken and passed.

Chair Derryberry reported that the Professional Responsibility Committee has done a lot of good work and thanked committee members for their diligence with this task. The committee met on Tuesday, July 14, 2020. A job description for candidates who serve on this board of Commissioners was developed. The job description will be sent to the Law and Legislation Committee for review. They will then make a proposal to the full board.

The committee reviewed the emerging trends and discussed a draft of a conflict of interest document (attached). The committee voted to send this over to the Law and Legislative Committee for review and action. The committee also discussed addition of communication between board members and staff. General Counsel Cummings was asked to provide Sunshine Law language (attached) which the committee edited by removing Facebook, Messenger, Twitter, Snap Chat, etcetera and replaced it with “social media platforms”. The committee agreed to refer this to the Law and Legislation Committee for review and action.

Commissioner Sloss made a motion to accept the Professional Responsibility Committee report. Commissioner Crafton seconded the motion. A vote was taken and passed.

### **Law and Legislation Committee Report**

Committee Chair Sloss reported that the committee discussed the questions that would be sent over to the Attorney General’s Office concerning the Commission Board’s involvement in the investigative process. General Counsel Cummings was directed to relay the new questions to them.

A packet was sent to all commission members by Committee Chair Sloss detailing the questions for review. Since there was no responses the July 14, 2020 meeting was cancelled.

Commissioner Martin made a motion to accept the Law and Legislation Committee report. Commissioner Crafton seconded the motion. Chair Derryberry added that even though an informal opinion was requested that once the opinion is received it will be read into the record. A vote was taken and passed.

### **Executive Director’s Report**

Executive Director Watts shared information regarding the death of C.T. Vivian this morning. Rev. Vivian, National Civil Rights Leader got his start in Nashville, TN. He and several others were responsible for the desegregation of lunch counters in Nashville. He served as a top Lieutenant to Dr. King and was active until three years ago. He was a student at American Baptist. He and Diane Nash, James Bevel and others met with Mayor Ben West. She requested a moment of silence for all of Rev. Vivian’s work for civil rights throughout the world. Her last encounter with him was in Birmingham, AL in 2015 where he gave a stirring speech.

Executive Director Watts reported that all positions have been filled except the Memphis Regional Coordinator position. Compliance Officer, Carla Johnson came on board on July 1, 2020. Ms. Johnson introduced herself to the Commission Board. She stated that she worked at the Pennsylvania Human Relations Commission where she started as an

investigator. She then moved to intake and was promoted to the Housing and Compliance Supervisor. She said she looks forward to working with everyone.

Staff are still working from home except for five staff members working in the Nashville office. Reopening may begin around the end of August. The Governor has closed government buildings to meetings which is why we are meeting via WebEx.

A reopening plan is being developed but most staff will continue to work from home and we will move forward with reopening according to the Governor's office and DOHR.

Executive Director Watts noted that we are working on the FY2021 budget. All state agencies have been asked to prepare a 12% budget reduction which is \$228K for this agency. We are reviewing our EEOC contract and will discuss with EEOC to determine our next steps including modification. The current contract number is 204 cases We have closed 95 cases through June. We have an additional 25 cases for review and approval by EEOC. We are currently doing an inventory to determine how many more we will be able to close before contract end which is September 30, 2020.

The Executive Director offered congratulations to the Housing unit for coming in above the number closed last year. They have done an exceptional job. Saadia Williams was thanked for her leadership, and Laura Bell was recognized for closing half of the cases. Three years ago, housing had a significant number of aged cases which have been closed over the last two years.

Allen Staley, Fiscal Officer, reported that we have identified 12% of state appropriated dollars that can be cut from our budget in anticipation of the reduced sales tax revenue related to the Virus. Line items affected will be above the line. Personnel costs cuts will be made to equity which is the difference between what is budgeted versus actual salary costs. There are also savings in longevity and benefits. The majority of the cuts will be those equity related costs, and this does not affect any positions. It means that future adjustments to salaries will be difficult to do. Any cuts affect the ability of the Commission to fulfill its mission in full. Other cuts have been identified in operations, travel, rentals and training, and professional services 3<sup>rd</sup> party. We do know if the 12% will be taken, but we have to proceed as if it will Executive Director Watts noted that commissioners did not have the document that Allen is referencing. It must be submitted today. We are happy to answer any questions.

Commissioner Sloss asked if the 12% is being cut from only state appropriated funds. Mr. Staley responded that is correct, and the state appropriated amount is \$1.9M. He asked if we had enough equity built up to cover that amount. Executive Director Watts added that it is equity and operations including travel and professional services 3<sup>rd</sup> party line items.

Executive Director Watts shared that originally our carry forward amount of \$200K was targeted based on the fact that we had not used any of those funds for two years and when we did it was never over \$100K. We were told that we could do use those funds for the proposed 12% cut. We can keep those funds but cannot use them for budget cuts because they are non-recurring. Mr. Staley noted that carry forwards and reserve funds are being looked at across all agencies.

Executive Director Watts reported that we have received a Fair Housing grant in the amount of \$25K in this fiscal year 2020 for use in next fiscal year 2021. Communications

will provide more details. The \$20K we received from HUD for the Peer Conference has been returned to HUD at their request. We are still negotiating with Marriott regarding fees incurred when that event was cancelled. Additional information will be shared with the Commission Board when it becomes available.

Commissioner Sloss asked if we could carry forward all savings or are there caps placed on the amount we can carry forward. Mr. Staley noted that carry forward funds are capped at \$200K and funds over that amount return to the general fund.

Commissioner Sloss made a motion to accept the Executive Director's report. Commissioner Houston seconded the motion. A vote was taken and passed.

### **Employment Case Report**

Deputy Director Brookins reported that the EEOC contract numbers have been significantly low and work continues to get to a number that can be submitted to EEOC.

From May 1, 2020 to June 30, 2020, -ninety-eight inquiries were received with 80 cases-- 82% being received via the online form. Of the inquiries received 59 were accepted as complaints that included 47 dual filed and 12 THRC only. The agency prepared 41 cases for assignment and has 127 cases in inventory. We have closed 28 cases which leaves 456 complaints with an average age of 358 days.

There were 2 cases closed through mediation with a total of \$2,558 in monetary benefits to the complainants. Due to COVID19, no mediations were conducted for the period. Of the 26 mediations conducted during the fiscal year, complainants were represented 3 times and respondents were represented 14 times.

Chair Derryberry asked how the mediations were conducted. Executive Director Watts explained that mediations are suspended currently but we are working to set mediations up via Web Ex and begin in the next 15 to 30 days.

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

### **Housing Case Report,**

Saadia Williams, housing coordinator reported that during the period July 1, 2019 to June 30, 2020 staff closed 141 complaints of which 132 were dual filed and 9 were THRC only. Regarding the HUD efficiency goal of closing 50% of all dual filed cases within 100 days, we closed 51 complaints or 39% within 100 days.

Our timing milestones of sending out acceptance/notification letters within 10 days for the period 23 of 23 instances were sent timely. During the period May 1, 2020 to June 30, 2020, we received 99 inquiries and 23 were accepted as complaints. Disability remains the top bases followed by race and gender. Appreciation was offered to the Legal Department for their assistance in closing cases.

Commissioner Sloss asked if one investigator closed half of the cases. Coordinator Williams responded that Laura Bell closed 52 dual filed cases and 2 THRC only cases. Commissioner Sloss stated that is excellent work. There are five housing investigators. He requested that Commissioner thanks be extended to Ms. Bell for her excellent work.

Commissioner Houston made a motion to accept the Housing Report and Commissioner Arnwine seconded the motion. A vote was taken and passed.

### **Title VI Compliance Report**

Tanya Webster, Title VI Compliance Director reported for the period May 1, 2020 to June 30, 2020. She stated that Implementation Plans Final Finding letters were sent out on May 7, 2020 via email to Department Heads with an acknowledgement of receipt or all. . We received a response to the TennCare Final Findings letter on May 22, 2020 and the Department of Education Final Findings letter on June 15, 2020

We received 40 inquiries during the period of which 9 were jurisdictional and assigned to state agencies for investigation and the remaining 31 were non-jurisdictional and were administratively closed. There are 46 cases in inventory.

Training was conducted via Web Ex for Tennessee Board of Regents' new Title VI coordinator and assisted Veterans Services with developing a Title VI SOP. During this period there were 134 requests for technical assistance. Commissioner Martin made the motion to accept the Title VI report. Commissioner Arnwine seconded the motion. A vote was taken and passed.

### **Legal Report**

General Counsel Cummings reported that there are three cases that need to be reviewed by the Commission Board at the next Commission meeting in September. Those cases are Free v. Berryman; Piatt v. H&Y Consulting and McNeil v. Galway. We are still waiting for a decision from the ALJ in Collins v. Billingsley and Short v. Wild Gals.

We have a mediation scheduled for next week at a private attorney's office. Woods v. KCDC was set for hearing in August but hearing space for depositions was closed and will most likely be continued.

A motion was made by Commissioner Houston to accept the Legal Report. It was seconded by Commissioner Sloss. A vote was taken and passed.

### **Communications Report**

Communications director Veronica McGraw reported that due to COVID19 the Employment Law Seminar was cancelled, and we are rescheduling as a virtual meeting. THRC partners with the Department of Human Resources to present this event which we are planning for September. Upon confirmation, the Seminar will be added to the Outreach calendar and we will notify Commissioners.

The HUD Partnership funds for Fair Housing activities were received in the past fiscal year and are to be used in the current fiscal year to conduct education and outreach for housing providers, real estate agents, landlords, etc. Partners identified are West Tennessee Legal

Services. Three to four meetings are being planned and the first events will be virtual due to COVID 19.

The Education and Outreach committee will meet at the end of July to review the Annual Report.

Commissioner Houston made a motion to accept the Communications Report. Commissioner Martin seconded the motion. A vote was taken and passed.

Chair Derryberry stated the initial Commission meeting agenda had concluded and the Commission Board proceeded to conduct Commission Board reviews of two Initial Orders under authority given in Tenn. Code Ann. § 4-21-305.

The first Initial Order reviewed by the Commission Board was the Initial Order in matter of THRC v. Samuel Snead, et. al, Docket No. 34.00-153114J. The Commission filed a Notice of Intent to Review of Initial Order pursuant to Tenn. Code Ann. § 4-5-315 on February 19, 2020. The THRC was the Petitioner in this matter. The Aggrieved Party in this matter was Martin Dixon. The Respondents were Samuel Snead, Rebecca Snead, and Scott Shafer. The Commission Board was represented by the THRC Associate Counsel.

Commissioners Arnwine, Crafton, Crider, Derryberry, Hayes, Houston, Martin and Sloss deliberated in this matter. These Commissioners agreed that they had no conflicts that may create an impression of possible bias or could reasonably be raising a question about impartiality. All Commission board members acknowledged that they had an opportunity to review the technical record.

Acting in accordance with Tenn. Code Ann. § 4-5-315, the Board of Commissioners did not request that oral arguments be made by the Petitioner and Respondents.

Deliberation occurred and the Board of Commissioners rendered the following decisions:

1. The Commission Board affirmed that the Petitioner had established by a preponderance of the evidence that the Respondents denied the Aggrieved Party's request for a reasonable accommodation in violation of Tenn. Code Ann. § 4-21-601(b)(2)(B) based on the evidence.
2. The Board of Commissioners affirmed the following damages to the Aggrieved Party as follows:
  - a) \$2,925.18 for out-of-pocket costs related to hotel costs incurred as a result of the discrimination pursuant to Tenn. Code Ann. § 4-21-306(a)(7).
  - b) \$1,500.00 for the aggravation of his disability and the embarrassment and humiliation as a result of the discrimination pursuant to Tenn. Code Ann. § 4-21-306(a)(7).
  - c) \$1,500.00 for the lost housing opportunity as a result of the discrimination pursuant to Tenn. Code Ann. § 4-21-306 (a)(7).
3. The Commission Board modified the THRC's award in the Initial Order from \$3,000.00 to \$1,000.00.

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The second Initial Order reviewed by the Commission Board was the Initial Order in the matter of THRC (Aggrieved Party: Melinda Echevarria) v. JKA, et. al, Docket No. 34.00-

143234J. The Commission filed a Notice of Intent to Review Initial Order pursuant to Tenn. Code Ann. § 4-5-315 on February 3, 2020. The THRC was the Petitioner in this matter. The Aggrieved Party in this matter was Melinda Echevarria who was represented by Vanessa Bullock from West Tennessee Legal Services. The Respondents were JKA Properties, Melinda Gerogianis, and Emmanuel Gerogianis. The Commission Board was represented by the THRC Associate Counsel.

Commissioners Arnwine, Crafton, Crider, Derryberry, Hayes, Houston, and Sloss deliberated in this matter. Commissioner Martin recused himself. The remaining Commissioners agreed that they had no conflicts that might create an impression of possible bias or could reasonably be seen as raising a question about impartiality. All Commission board members acknowledged that they had an opportunity to review the technical record.

Acting in accordance with Tenn. Code Ann. § 4-5-315, the Board of Commissioners did not request that oral arguments be made by the Petitioner and Respondents.

Deliberation occurred and the Board of Commissioners rendered the following decisions:

1. The Board of Commissioners reversed the Initial Order and determined that the Petitioner did not establish by a preponderance of the evidence that the Respondents denied the Aggrieved Party's request for a reasonable accommodation in violation of Tenn. Code Ann. § 4-21-601(b)(2)(B) based on the evidence or retaliated against the Aggrieved Party in violation of Tenn. Code Ann. § 4-21-601 (d).

That concluded the deliberations.

Chair Derryberry asked if there were any other items to address and hearing none, she asked for a motion to adjourn. A Motion to Adjourn was made by Commissioner Crafton and seconded by Commissioner Sloss which was accepted unanimously.