



TENNESSEE HUMAN RIGHTS COMMISSION
WILLIAM R. SNODGRASS TENNESSEE TOWER
312 ROSA L. PARKS AVENUE, 23RD FLOOR
NASHVILLE, TN 37243-1102
615.741.5825 FAX 615.253.1886
www.tn.gov/humanrights

December 2, 2016
Telephonic Board of Commissioners'
Meeting Minutes

Commissioners Present:

Commissioner Crider (Phone)
Commissioner Derryberry (Phone)
Chair Houston (Phone)
Commissioner Martin (Phone)
Commissioner White (Phone)

Commissioners Absent:

Commissioner Crafton
Commissioner Horne
Commissioner Sloss

Staff Present:

Beverly Watts, Executive Director
Sabrina Hooper, Deputy Director
Matthew Stephenson, Title VI Compliance Director
Shalini Rose, General Counsel
Erika Wynn, communications Director
Saadia Williams, Housing Coordinator (Phone)
Lisa Lancaster, Executive Assistant

Guests:

Allen Staley, Fiscal Officer (Phone)

Call to Order

Chair Houston called the meeting to order at 9:04 a.m. and asked for the roll to be called. She then asked for a moment of silence for our Nation and the school bus tragedy in Chattanooga and the East Tennessee fire victims and any personal things in our lives that we should take a moment for.

Chair Houston noted that to be in compliance with TCA 8-44-108(b)2 "If a physical quorum is not present at the location of a meeting then the board must vote and make a determination that a necessity exists for a quorum of the board to participate by telephone." Commissioner Martin made a motion that a necessity exists for the quorum to participate via telephone. Commissioner White seconded the motion.

Discussion opened with Commissioner Derryberry asking, what constitutes a necessity and are we within that perimeter. General Counsel Rose explained that it depends on the situation, but we believe that because our bylaws are not in compliance with state law and

need to be acted on as soon as possible, that would constitute a necessity. But it is at the will of the board to decide if it can wait until the next in-person board meeting. The vote on the proposed bylaws could be tabled until the March 2017 Commission meeting if it is the will of the Board. The Chair asked for a roll call vote which passed.

The minutes of the September 20, 2016, Board of Commissioners' meeting were reviewed. Chair Houston asked about the highlighted area on page five. Deputy Director Hooper noted it was not removed in editing. Commissioner Martin made a motion to approve the minutes and Commissioner White seconded the motion. A vote was taken and passed.

Employment Case Report

Deputy Director, Sabrina Hooper reporting on the period from September 1, 2016 to October 31, 2016 noted that 108 inquiries were received resulting in 62 charges, 52 dual filed and 10 THRC only. During the period 33 charges were closed with an average charge age of 279 days. Our open inventory at the end of October 2016 was 268 cases. Six (6) mediations closed within this timeframe, resulting in \$18,450 in monetary benefits to the Complainant and three (3) complaints closed as settlements with \$80,316 in monetary benefits to the complainants.

As of July 1, 2016, we have conducted eleven (11) mediations; Complainant was represented two (2) times and Respondent was represented five (5) times.

Last year at this time we received 96 inquiries resulting in 82 charges being accepted for investigation and 18 cases were closed. Open inventory at the end of October 2015 was 268 cases. Two mediations closed with \$1,475 in monetary benefits to the Complainants. Comparing the years we noted an increase of 11% in charges received and a 32% decrease in charges accepted. Complaints closed saw a 45% increase for the timeframe.

For the witness customer service surveys sent out for Employment, Public Accommodation and Housing for July 1, 2016 – October 31, 2016 placed forty (40) calls and interviewed 9 witnesses in employment. The majority of the responses were positive with no new comments.

On the ten (10) question survey for Employment, Public Accommodation, and Housing surveys 115 were sent via mail and forty-two (42) were sent via survey monkey. Eleven (11) were returned in the mail and six (6) Survey Monkey responses were received. Again, the responses were positive with no new comments.

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

Housing Case Report

Housing Coordinator, Saadia Williams' reported that this report covers the September 1, 2016 to October 31, 2016 time frame noting that there were 103 inquiries resulting in 15 complaints accepted for investigation. Disability was the number one basis in 6 cases or 40% followed by race and gender which tied with 3 cases each or 20% Color followed with 1 case or 7% and familial status, national origin, religion and retaliation rounded out the

other categories with 13%. During the period 7 dual filed cases were closed of which 5 were administrative conciliation closures and 2 were withdrawals with resolution.

As of October 31, 2016 we are at 70% for our HUD efficiency goal. Seventeen (17) cases were closed during the period, twelve (12) were under 100 days; three (3) between 101 and 120 days; two (2) over 250 days. In comparison to last year for the same time period, the agency had closed 22 dual filed complaints of which eight (8) or 36% were under 100 days.

There is a staff vacancy due to the resignation of a seasoned investigator in October. The position has been advertised will hopefully be filled by next month.

Chair Houston asked where positions are advertised. Deputy Director Hooper responded on the state DOHR website and the THRC website. Follow-up question was do we advertise locally. Executive Director Watts noted we send them out to a list for the Knoxville area announcing the vacancy. It is typical to receive 30 or more applicants for vacancies.

Commissioner Martin asked if the two housing cases over 250 days old is usual. Executive Director Watts answered noting that HUD has asked us to address the aged cases. We have 44 aged cases which is higher than the 5% HUD allows. Staff shortages and lack of experience in staff are the reason these cases have not been closed. We are working with HUD to develop a plan that will eliminate them within the next three to four months.

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

Title VI Compliance Report

Matthew Stephenson reported on the September 1, 2016 to October 31, 2016 timeframe during which 32 inquiries were received. 18 were accepted for investigation. Eleven (11) cases were closed during the period leaving 62 in open inventory to include 1 in Revenue, 1 in Children's Services, 2 at TennCare, 1 in Human Services and the remaining cases are with TDOC. Three (3) departmental complaints were reported, one (1) with Mental Health and two (2) with Board of Regents.

There were twenty-three (23) requests for technical assistance and were related to Title VI Implementation plans. One (1) request was from a private company that contracts with a sub recipient about meeting their issues and all were resolved within one day of the request.

The agency Implementation Plans are the focus of the majority of our work. All were due on October 1, 2016 and all were received on time except one. Each plan is being reviewed and full details of the findings will be given at the next Commission meeting.

The Compliance Review for the Tennessee Arts Commission has been issued and one finding related to their procedures for verifying training with sub-recipients was issued. A corrective action plan has been approved and will be monitored going forward.

Initial findings have been presented to the Tennessee Commission on Aging and Disability and we found them to be compliant and issued no findings so there will possibly be no revisions.

The Department of Human Resources compliance review is complete and we will present them with our initial findings very soon.

Commissioner Crider made a motion to accept the Title VI Compliance report. Commissioner Martin seconded the motion. A vote was taken and passed.

Chair Houston requested to defer the review and approval of the document until Commissioners have time to review the Title VI Annual Report. Title VI Compliance Director Stephenson noted that the style of the report was copied from the THRC Annual Report and thanked Lauren Speer for the report.

The first pages are introductions and explanations of the purpose for the General Assembly and Governor. Key Data regards Implementation Plans showing 98% compliance with one plan arriving one day late. Contents of the Implementation Plans were made compliant before the due date.

A breakdown of past issues is included and a review of the complaint processes is included with an explanation of what the complaints were and where they were in the process. There were 326 inquiries and 269 of the inquiries came from the Department of Corrections.

There is a breakdown which shows the decline in the number of complaints over time. Noting that in 2013-2014 the rollout of the new complaint processing caused an uptick during that timeframe. Of the 326 inquiries 200 were not jurisdictional and became referral closes and were sent to the appropriate agency. There were 126 jurisdictional complaints and a total of 62 complaints closed for the Fiscal Year.

Included is an explanation on how we make the determinations on each of the cases. It is also noted which departments received complaints and the 622 complaints were received from the Department of Corrections and the others from various departments. There is also a breakdown of the investigations THRC is monitoring across the state.

A section reviews the Compliance Reviews conducted and the process for those reviews. It was noted that during the year the only review that was reported was the THRC Compliance review where it was noted that there were two findings that were corrected before the review was completed.

The Training section discusses each of the training events to include the Primary Title VI Coordinators Training and the Investigator Training. It reflects the THRC staff participation in the Board of Regents Title VI Training event also.

Technical Procedures are explained and it notes the 39 requests for technical assistance during the year. There is also a discussion of the assistance given to Department of Safety for their new reporting requirements.

The final section discusses National developments that may result in changes to our state agencies requirements or processes.

Executive Director Watts noted that the Outreach and Education committee will meet and review the document before the January Commission meeting and come back to the Board with a recommendation.

Legal Report

General Counsel, Shalini Rose, reported on the September 1, 2016, to October 31, 2016, period when legal closed 630 employment cases. Eight were administrative closures and two were conciliations. The other twenty closures were no cause determinations. Five reconsiderations/appeals were completed within the 30 day time limit. In housing, we closed 7 cases: six were conciliations/settlements; one was no cause. There were no reconsiderations. We completed four copy requests and have five in inventory.

Legal department updates include the cases appealed to state court where we are being represented by the Attorney General's Office. There has been no movement on any of these cases. The online complaint that we have been working with the UT Law Class has made no progress, they will have to update the software before the project can be completed.

For training and outreach Legal participated in three internal trainings for new investigators.

The Employment cause case was on the bases of race where an African American complainant was subjected to the "n-word" on a regular basis throughout his 14 year employment. Respondent said he was discharged because of his behavior but this was not supported by the evidence. The Complainant's age discrimination allegation was no caused. Complainant is interested in mediation and has retained an attorney. They have requested a reconsideration on the age issue. The Respondent has also retained an attorney. Mediation hopefully will be conducted in January 2017.

The first Cause Case update for housing includes the case involving a failure to grant an accommodation for emotional support animals: one being a dog and one being a snake. This case is closed as the Judge has signed an order because the parties reached an agreement. THRC received \$2000 for Education and Outreach; Respondent staff will attend fair housing training within the year, and Complainant will be allowed to continue to be a tenant with both of her support animals and follow guidelines regarding the snake in certain circumstances such as when maintenance visits, or the Complainant leaves her apartment.

The second cause case is where the landlord found out the Complainant has PTSD and would not communicate with him concerning the property, preferring to communicate with

his wife. We found that he was being treated differently because of his disability. The Complainants have retained an attorney and are now reconsidering the discriminatory statements issues raised which were not caused.

The third cause case is the eviction and failure to grant a requested accommodation from Complainant with a disability and failure to respond to other accommodation requests. Mediation was scheduled for November because the Complainant was ill. The mediation will be rescheduled for December.

Commissioner Derryberry made a motion to approve the Legal Report, and Commissioner Martin seconded the motion. A vote was taken and passed.

Law & Legislation Committee Report

In the absence of Commissioner Sloss, Chair of the Law and Legislative Committee, General Counsel Rose gave an overview of the proposed bylaws. The proposed changes to the bylaws that were approved by the Law and Legislation Committee were emailed to Commissioners on November 1, 2016.

She noted that some of the changes were necessary due to the restructuring of the Commission by the Legislature. Additionally, the Committee recommended reducing the number of Vice-Chairs from three to one due to the reduction in the number of Commissioners on the board now.

Among the other items noted were the restriction that Commissioners may serve no more than two consecutive terms on the board and several changes to language for clarification, and that all Commission and committee meetings would conform to the Tennessee Open Meetings Acts (T.C.A. § 8-44-101 et seq.).

Information was added in regards to the Budget and Audit Committee to be in compliance with state law and guidance from the Treasury Department. There were additions to the Public Relations Committee section per Commissioner Derryberry's suggestion. The bylaws may be amended by a majority of the Commission, following recommendations of the Law and Legislation Committee and submission to each member by mail or electronic mail at least ten days prior to consideration of such changes by the Commission.

Commissioner White asked if these changes were already made. The recommendations were made by the Law and Legislative Committee and will be final only if the Commission votes to accept their recommendation.

Commissioner Crider noted that he is comfortable in moving ahead and approving the proposed changes to the bylaws. Chair Houston agreed as did Commissioner Martin. They thanked Chair Sloss of the Law and Legislation Committee and the committee members for their work on this project.

Commissioner Crider made a motion to adopt the recommended changes to the bylaws. Commissioner White seconded the motion and a roll call vote was taken by Lisa Lancaster. The vote was unanimous in favor of adoption of the changes.

Executive Director noted that Law and Legislation Committee should meet and define the questions concerning the vacancies and when the officers should begin. Chair Houston agreed. The Committee will meet and make recommendations at the January Commission meeting.

Executive Director's Report

Executive Director Watts began her report identifying staff vacancies which include one housing investigator, one employment investigator and the assistant to the Executive Director. It was noted that the Communications Director position has been filled by Erika Wynn who started on November 15, 2016. Director Watts indicated she came to us from the National Civil Rights Museum where she was assisting with social media. A plan is being developed for the Education and Outreach Committee which will meet in January.

The Annual Risk Assessment is 95% complete issues and includes the audit concerns. It will be submitted before the end of the month. We are currently working on a plan to address HUD aged cases which will be submitted in January.

The all employee meeting will be held next week in Nashville. It will include two days of team building training with Dr. George Manning. Dr. Manning, a psychology professor at Northern Kentucky University and author, will train our staff (supervisors and all staff) on collaborative team building.

On December 6, 2016, the agency will host the Affirmatively Furthering Fair Housing event in Memphis and co-host International Human Rights Day in Nashville at the First Amendment Center. Other co-hosts for International Human Rights day include Metro Human Relations Commission, Muslims Women's Advisory Council, Tennessee Board of Regents, and United Nations Nashville Chapter. A Life Time Achievement award will be given to Dr. Charles Kimbrough, long time president of the NAACP and the Rising Advocate will be given to Justin Jones, a senior at Fisk University.

We have been contacted by the Chattanooga NAACP, The Unity Group and others who are holding an International Human Rights Day on December 10, 2016. We are preparing an editorial referencing this event and plan to attend.

On November 1, 2016 the Finance and Administration Budget Hearing was held at which time we requested additional funds for four (4) positions (three (3) Human Rights Representatives and one (1) support position). We also requested additional funds to increase investigator salaries.

Executive Director Watts noted that she just returned from a personal trip to South Africa where she met with the South African Human Rights Commission to learn about their programs and the U.S. Consulate in Johannesburg in reference to Tennessee State University's Exchange program. Chair Houston thanked the Director for using her vacation in this manner.

Commissioner Derryberry asked for details to be sent out concerning the December 10, 2016 event in Chattanooga. Executive Director Watts indicated she would and will post a flier for the event on the agency website later today.

Commissioner White noted that a radio station has contacted him in regards to the December 6, 2016 event. Executive Director Watts will call to make arrangements to appear with Commissioner White on the radio program.

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

Communications Report

Executive Director Watts noted this report will transition to Erika Wynn, the new Communications Director, for the next Commission meeting. She noted that for the period September 1, 2016 to October 31, 2016 there were three (3) exhibits; four (4) speaking engagements; twenty-three (23) outreach events; three (3) advertisements in program booklets for the Bolivar NAACP, the Clarksville NAACP and the Knoxville Urban League. We reached 13,904 people during the period. The total events for the Fiscal Year are 33 and we reached 15,805 people.

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

Executive Director Watts noted that over the last months several staff members have been called upon to assist her with events and projects and she thanked Frank Guzman, Jennell Riddle, Matthew Stephenson and Lauren Speer for their assistance.

There were no public comments or announcements. The next scheduled Commission meeting will be January 27, 2017 and will be telephonic.

Chair Houston wished Commission members Happy Holidays.

Commissioner White made a motion to adjourn and Commissioner Martin seconded the motion. The meeting was adjourned at 10:05 a.m. CDT.