



**TENNESSEE HUMAN RIGHTS COMMISSION
CENTRAL OFFICE**

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February 28, 2013
Board of Commissioner's Meeting
Minutes

Commissioner's Present:

Commissioner Cocke
Commissioner Davis
Chair Garrett
Commissioner Horne
Commissioner Miller (Phone)
Commissioner Pierce
Commissioner Walker (Phone)
Commissioner White
Commissioner Wiggins
Commissioner Wurzburg

Commissioner's Absent:

Commissioner Blalock
Commissioner Hewitt Miller
Commissioner Jones
Commissioner McDaniel
Commissioner Starling

Staff Present:

Beverly Watts, Executive Director
Sabrina Hooper, Deputy Director
Shalini Rose, General Counsel
Tiffany Taylor, Title VI Compliance Director
Susannah Berry, Special Assistant to Executive Director/Communications Specialist
Lisa Lancaster, Executive Assistant

Guests:

Paula Casey, Contractor

Call to Order

Chair Garrett called the meeting to order at 12:12 p.m. CST. Chair Garrett called the meeting to order and asked that the attendees observe a moment of silence at the end of which she called the roll. The minutes of the January 18, 2013 meeting were reviewed. Commissioner Pierce made a motion to accept. Commissioner Davis seconded the motion. A vote was taken and passed.

Executive Director's Report

Executive Director Watts began her report on the Sunset hearing which was held on February 13, 2013. The Sunset Bill introduced by Senator Bell, the Chair of the Committee and the bill sponsor recommended THRC be extended until June 30, 2014. At this point, Executive director thanked Commissioner Miller who met before the meeting with Senator Bell and the NAACP who had its Day on the Hill on the day before our hearing and helped to educate the legislature on a number of bills including our Sunset Bill.

At the hearing a presentation was made by the Executive Director, Deputy Director and the Chair. Senator Kyle asked why 2014 instead of longer and Senator Bell noted that they just needed a date to get it on the docket because the bill came out of Government Operations Committee last Spring with no recommendation. After some discussion Senator Kyle moved that THRC be extended until June 30, 2018 and Senator Harper seconded the motion. The committee voted 8 to zero to pass Senator Kyle's motion. The bill then went to out of Senate Government Ops to the full Senate which voted 28 to 0 to extend us until June 30, 2017. Now the bill will go to the House for action.

The Commission Budget hearing will be on March 5, 2013 in the Senate. Senator Yeager, the Chair of that committee will be meeting with us prior to the hearing. The budget submission was given to you in November of 2012. On March 11, 2013 at 2:00 pm the House will hold budget hearings with the State and Local committee. At this time we do not think that there are any threats to our budget but we will keep you posted. The biggest hurdle was Sunset and we will keep you informed of its progress through the House.

She noted that the Legal report would contain updates on other legislation and the 50th Anniversary Committee would provide an update later in the meeting. Executive director noted that the Commission had a full calendar due to 50th Anniversary events and legislative hearings.

Commissioner Pierce commented that one of the things that stuck with her was that Sen. Kyle said that these hearings take so much of the agency's time and it did not make sense to continue to put all this stuff together for such a short period of time and that is so true. We had hoped that everybody would jot down a little thank you note to him because it was really what he said that made it happen besides the fact that our Chair and Executive Director and Deputy Director gave an excellent report to the committee.

Executive Director Watts asked Chair Garrett to take over this portion of the report. Chair Garrett noted that this is the part of being chair that she most enjoys. She read a resolution from the board in honor of Lisa Lancaster who was chosen by staff as the Employee of the Year for 2012. The resolution was read in its entirety. The commission congratulated Ms. Lancaster.

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

50th Anniversary Committee Report

Committee Co-Chair Wurzburg began her report by noting what a pleasure it is to work with Commissioner Pierce and reported that they have asked Commissioner Miller to join them as Co-chairs of this event because she has been doing such a wonderful job in East Tennessee on behalf of this committee to get the first events off the ground. Thanks were extended and accepted. She noted that Director Watts, Susannah Berry and all the staff have been a pleasure to work with the committee, getting a lot done.

We have completed the celebration in Knoxville which was held on February 5th and was a great event with 163 people attending and good press about the event in newspapers and on radio and television. Eleven civil rights advocates were honored to include Ms. Gloria Garner, Ms Rita Geyer, Mr. Dewey Roberts, Ms. Shirley Clowney, Mr. Avon Williams Roland Sr., Will Minter, Elizabeth Peele, The Highlander Center, Ruth Smiley, Rev. Harold Middlebrook and a surprise honorarium was presented to Phyllis Nichols.

The celebration will continue tonight at the Tennessee State Museum at 6:00 pm. This event is sold out and we anticipate media coverage by the Tennessean, reporter Michael Cass. Those being honored tonight are: Mr. George Barrett, Mr. Waverly Crenshaw, Ms. Jane Eskind, Senator Thelma Harper, Charles Kimbrough, Ms. Rosetta Miller Perry, Ms. Tommie Morton Young, Nashville for All Of Us, Tennessee Immigrant & Refugee Rights Coalition and the YWCA of Middle Tennessee.

On March 14, 2013 the 50th Anniversary Reception will be held at the UTC University Center in Chattanooga in the Chattanooga Room and noted that the honorees list is not complete. The Memphis celebration will be held at City Hall on April 11, 2013 at no cost to the agency.. The space is large and we hope that many will attend the event. Our Memphis Mini ELS Seminar will also be held on April 11, 2013.

The Memphis Project you will hear more about during the communications report. On April 12 THRC will co-host the Fair Housing Conference again this year in Memphis. On October 4, 2013 our celebration will conclude with a luncheon at the Airport Marriott where we will have a panel of human rights leaders with Nashville roots that will be the presentation. We will honor a group of leader's deceased and special recognition for former staff, former commissioners and others key to the commission's history.

We are happy to report that Gov. Haslam, Speaker Harwell, Lt. Gov. Ramsey, Representative Miller, Chair of the TN Black Caucus and Representative Armstrong, President of the National Black Caucus have agreed to serve as honorary Co-Chairs of this event. We have asked commissioners to help with the fund raising for printing, catering, etc for these events by donating \$250 each or getting tax deductible donations from others in that amount.

Co-Chair Pierce commented that at the Knoxville event the brother of Cornelius Jones was in attendance. Cornelius Jones was the Executive Director of the agency in the 1960's and 70's. We hope the October Luncheon will be self sustaining as there will be a charge for attending the luncheon.

Commissioner Davis made a motion to accept the 50th Anniversary Committee Report. It was seconded by Commissioner Miller. A vote was taken and passed.

Employment & Housing Case Reports

Deputy Director, Sabrina Hooper reported on the month of January. During this the period, we received 88 employment inquiries which resulted in 49 charges being accepted: 40 were dual filed and 9 were THRC only. We closed 42 cases with a closed charge age of 285 days and our open inventory at the end of January 2013 was 379 cases with an average open charge age of 203 days.

There were 3 mediations that closed resulting in \$26,152 in monetary benefits to the complainants and 6 settlements were resolved. Five of those resulted in \$12,285 in monetary benefits and 1 was non-monetary.

When compared to last year, we received 66 inquires which resulted in 55 charges being accepted: 49 dual filed and 6 THRC only.

Within the same timeframe the agency closed 35 cases with closed charge age of 210 days. Our open inventory at the end of January 2012 was 314 cases with an average charge age of 228 days. The comparison shows that our inquiries are slightly increased and our case closures are on the rise which is good news.

In Housing for the same period we received 22 inquiries resulting in 11 charges being accepted for investigation. Three complaints were closed with 2 being no cause and 1 was conciliated.

Comparing statistics to last year it is noted that there is a decrease in the number of inquiries and complaints closed. It also reflects that our 50% efficiency rate is at 33% for cases under 100 days. We are currently concentrating our efforts on cases under 100 days for closure so that next quarter we can increase in this performance measure.

A motion to accept the Employment reports was made by Commissioner Pierce and seconded by Commissioner Wurzburg. A vote was taken and passed.

Legal Report

General Counsel, Shay Rose reported on the month of January 2013 noting that Legal has closed 34 employment cases and 3 housing cases and completed 3 reconsiderations or appeals. Of these all three were confirmed as no reasonable cause as in the original findings. Legal completed 7 copy requests and Associate Counsel, Rachel Appelt attended the HUD training in North Carolina at the end of January.

In the Liu and Ma verses Weathers case at the last meeting in January, we updated the commission noting that Mr. Liu had another right to appeal, and it expired on January 15, 2013. We did not receive anything else so it has been finalized, and now we just have to try to collect on the order.

On the Legislation updates, we are watching 15 to 20 bills, but currently only one besides our Sunset bill has gone to committee. They are all still pending or being assigned to committees. The Senator Summerville bill that is in committee is the one called the Higher Education Equality Act which prevents institutions of higher education from granting preferences based on race, gender or ethnicity to students, employers or contractors. Ward Connerly testified for Senator Summerville and John Morgan testified for the Board of Regents and the bill was rolled for several weeks but this week it failed in committee. It is not moving forward at this time.

Senator Summerville has also withdrawn his bill preventing directors of schools from giving candidates for employment preference based on race, gender or ethnicity. We will monitor these bills because they deal directly with what we are working on.

The cause case update includes the employment case where the Coffee County corrections officer who was African American was terminated for not wanting to serve breakfast and no call no show one time. His comparators who were Caucasian were allowed to do a lot of other things that were worse such as being under the influence of drugs and letting inmates escape.

There was no settlement and mediation was not accepted so it went to hearing in November. The judge took the case under advisement and asked parties to submit briefs and proposed findings of fact which were due on Monday. In 60 or 90 days the judge will issue a finding and an update will be given at the next meeting.

The following is an update of the four housing cause cases. The first is the child who needed a wheelchair ramp and the landlord would not agree to let the family build one onto the house except in the garage which was not agreeable to the family as there was no safe way to get the child out of the house if there were to be a fire. The case has been assigned to a judge but the case will also be mediated on April 9, 2013.

The second case involves refusal to rent and discriminatory statements based on race. This case is where the complainant called the owner of the property and asked about an apartment being available and being told it was available at first but later in the conversation it was not available. The landlord told the caller that it was unavailable because he could recognize that the caller was black. The respondent is not responding to us anymore and we have gone to the judge and she set up a conference call and he did not call in so she has issued a Show Cause order telling the respondent that he needs to come on March 15, 2013 and explain himself. If he does not there will be a default decision. The complainant has an attorney and we have been working with him.

The third is a failure to grant a reasonable accommodation which is a disability issue. In this case the two roommates are disabled and both have emotional support animals and they requested an accommodation to allow them as the apartment had a no pet policy. This policy can be waived if you have a disability and require a support animal. The landlord would not allow the support animals. An agreement is pending that would give each complainant \$4,000 and the commission would receive \$1,000 to 2,000 and the respondent would receive training. I should have an update at the next meeting.

The last case is retaliation one where a woman complained that she was being retaliated against because of her gender and when THRC contacted the landlord about the complaint he had the electricity to the apartment turned off the next day. This was deemed retaliation for her filing a complaint. An agreement was pending when this report was written but has now been signed in which the complainant received \$2,000, THRC \$100 and the landlord will receive training.

Commissioner Wurzburg noted that the more difficult thing is explaining to someone that not every employment grievance rises to the level of a violation of either our law or federal law. Commissioner Wurzburg asked "These that were no cause, what was the nature of the employment complaints that they thought may have been discrimination but we found no probable cause, do you know the nature of those?" Director Watts noted that we could give a report on the issues and bases. Commissioner Wurzburg noted it would help with education purposes. General Counsel Rose noted that statistical information is included in the annual report.

Director Watts noted the issue is not what they mistake but what we find and that is different. Evidence to support their allegations was not there, we could not find it. What you are talking about is somebody says, somebody did not talk to me and that is discrimination. Those go away right away because it was a mistaken notion that someone not talking to them was discrimination. Did you suffer? no; what happened? nothing. These are usually taken care of in intake and are never filed. The ones that are filed meet the timeliness test, and they allege a bases and one of the issues such as failure to promote, failure to hire or firing or failure to accommodate a disability. All of those are within the realm of the law. When we investigate and look for the comparables, we cannot find anyone who was treated differently from those persons based on the differences so therein lies how we make the finding. It was not their mistake because anybody can allege, but our role is to look for factual details to determine whether or not their allegations can be supported by fact. And if it is supported by fact then a case is caused.

That is why the mediations and settlements are critical because those we do not investigate. That is agreement between parties to settle the matter. We can give you a report so you can get an idea of what the issues are. Commissioner Wurzburg noted that it is more of evidentiary issues as opposed to can you support the claim. This is about the investigative process.

Commissioner Wurzburg noted that there was a case that a lady in her 80s claimed age discrimination and it was determined that everyone at the workplace was over the age of 63. Director Watts noted that age is tricky and that EEOC is now looking at age bands and has actually found for workers over 65 that they may have been discriminated against.

General Counsel Rose noted if you are 80 it does not matter if they hire people in their 40s as they have to be much closer to your age because if there is a bigger gap there then it can be discrimination. Generally we find in no cause cases that there is miscommunication between the employer and the employee and so maybe the employer is not telling them exactly why they are being terminated or answering their questions so the employee fills it

in and when they do it is always a protected class so they file complaints with us. Some of these cases mediate where we can get them to the table to talk and other times we find no cause.

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

Outreach & Education

Communications Specialist, Susannah Berry reported on the month of January when we participated in 10 education and outreach events and this included one speaking engagement. Through these efforts we reached an estimated 3,000 individuals which brings the year to date total to 14,084. We exhibited at 1 event and 1 educational presentation at an event and we attended 9 events which brings the total events attend for the year to 55.

The educational presentation was from the Title VI Compliance Program when they conducted a Title VI 101 Training with 15 attendees. Many of the events during this period were MLK related events. Our Knoxville Housing Coordinator and Investigator, Richard Gadzekpo and Laura Burch attended the Knoxville MLK Awards Luncheon attended by 250 individuals; Title VI Director Tiffany Taylor attended the MLK event hosted by the Waller Law Firm on January 17, 2013; Deputy Director Sabrina Hooper attended the Bone, McAllester, Norton Law Firm MLK event on January 21, 2013; Susannah Berry exhibited and attended the MLK Commemorative event at TSU Gentry Center; Tiffany Taylor attended the program hosted by the Vanderbilt Black Cultural Center and Office of Religious Life for an MLK Commemorative event.

Executive Director Watts attended the Race Relations Conference hosted by the Kentucky Human Rights Commission in Louisville, KY and she also attended the HUD FHAP Training in Charlotte NC along with Deputy Director Sabrina Hooper, Associate Counsel Rachel Appelt and Housing Coordinator Richard Gadzekpo.

Media inquiries and articles and interviews were numerous centering around the Knoxville Roundtable and 50th Anniversary events that included an inclusion of our Roundtable information on the calendar of events in the Power Shopper News which is a small local daily; Knoxville News Centennial ran a story on the 50th Anniversary which also mentioned our roundtable just before the event took place; Commissioner Pierce was on WBIR in Knoxville discussing the commission, the Anniversary and the upcoming events in Knoxville;

THRC had an MLK Day Ad that ran on Clear Channel Radio Stations and they also included a banner on their website. An impact report is being generated by Clear Channel that will be reported on at the next meeting.

Our Emancipation Proclamation event was included in the Side Bar in the Tennessean newspaper and their website. Several press releases have gone out by Paula Casey for the Knoxville Roundtable, 50th Anniversary event and the Chattanooga Employment Law Seminar.

Special Projects officer Frank Guzman responded to 16 phone calls from the Hispanic community and there were not translation services requested.

Tonight's event at the Tennessee State Museum is sold out but tickets from THRC commissioner's and staff are not required but we would like you to wear your THRC nametags at the event to identify you as a Commissioner. Linda Wynn will make a presentation and a presentation will be made to the honorees that Commissioner Wurzburg named earlier.

March 9, 2013 there are seats available at the NAACP Advocacy Summit Freedom Fund Banquet Dinner (formerly the Race Relations Conference) in Jackson TN. Please notify Susannah Berry if you would like to attend.

March 14, 2013 our Mini ELS Seminar in Chattanooga which will be held at the UT Chattanooga Campus including CLE credits at a very low cost and that evening from 6 to 7:30 pm our 50th Anniversary Reception will be in the University Center on campus as well. Special thanks to the east Tennessee Commissioners for help in identifying the honorees for this event.

On March 21, 2013 the Athena Awards will take place and our Chair Stacy Garrett is nominated for the award this year. If you would like to attend this event please contact Susannah Berry.

April is Fair Housing Month and is very busy with the Fair Housing Matters Conference on April 3, 2013; April 4th Awards in Memphis; April 11, 2013 in Memphis the Mini ELS Seminar at University of Memphis Law School and that evening the 50th Anniversary Reception at City Hall; April 12, 2013 THRC will co-host the Memphis Fair Housing Conference at the University of Memphis Law School with David Berenbaum keynoting this event; June 6, 2013 the Employment Law Seminar in Nashville has been confirmed.

Commissioner Wurzburg asked if all the honorees have confirmed attendance for this evening and it was noted that Ms. Jane Eskind is unable to attend. Commissioner Pierce announced that our Chair is also being honored at the Most Powerful Women event on May 15, 2013 and if you would like to attend let Susannah Berry know.

Executive Director Watts noted a special thanks to Susannah Berry for her work with events and thanked her for a wonderful job. Thanks were offered by commissioners as well.

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

Title VI Compliance Report

Title VI Compliance Director, Tiffany Taylor reported on the month of January. A great deal of the programs work deals with agency Implementation Plans. This year we are monitoring 42 agencies within the state and we requested additional information from 34 of

those and they were given until January 15, 2013 to respond. The good news is that 32 of the 34 did respond and only 2 agencies did not respond and they were the Commission on Children and Youth and the Department of State. Since they did not respond to issues they will become final findings for them.

Many agencies are making requests for technical assistance regarding their training plans and we have provided assistance to Department of Environment and Conservation to approve their method of training; Department of Health who has launched a new online learning management system and we reviewed their content and test which will be used by staff and sub-recipients; provided assistance to Tennessee Board of Regents regarding a complaint based on race and national origin; Alcohol and Beverage Commission regarding information that we sent to them concerning their IP.

Several Title VI Coordinators came on board after our annual training event and refresher training was requested and 15 attended the event on January 16, 2013. This training included the basics of Title VI, handling complaints, agency responsibilities and preparing a Limited English Proficiency Plan.

We attended the Waller Law Firm MLK Luncheon on January 17, 2013 which included a panel discussion with Diane Nash, Rev. James Lawson Jr., and Ernest Rip Patton Jr. and was moderated by John Seigenthaler.

We participated in the Vanderbilt University MLK Day where Michelle Alexander, author of the *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* was the speaker. This event also included a candlelight vigil, book signing and reception.

Director Watts and I met with the Tennessee Arts Commission based on the complaint that originated in West Tennessee regarding minority institution access to grant funding. They needed assistance to complete some outstanding items and findings that we found in their process.

We have also completed and held interviews with witnesses regarding a discrimination complaint based on race against the Tennessee Department of Education.

In January we received 29 inquiries with 4 complaints filed and this is slightly less than last year when we had 36 inquiries and 4 complaints filed.

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

Announcements

The event this evening will start at 6:00 pm and Susannah Berry asked those Commissioners being picked up at the hotel to be available by 5:30 and Mr. Frank Guzman will pick you up and return you to the hotel after the event.

Chair Garrett will be honored Napier Looby Bar Association where she will be presented the Trail Blazer Award this evening immediately following our event. Chair Garrett

announced that the next meeting will be on May 17, 2013 which will be an in person meeting and adjourned the meeting at 1:05 p.m.