



**TENNESSEE HUMAN RIGHTS COMMISSION
CENTRAL OFFICE**
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**January 17, 2014 Telephonic
Board of Commissioners Meeting
Minutes**

Commissioners Present:

Commissioner Cocke
Commissioner Coleman
Chair Garrett
Commissioner Houston
Commissioner Horne
Commissioner Martin
Commissioner Pierce
Commissioner Walker
Commissioner White
Commissioner Wurzburg

Commissioners Absent:

Commissioner Jones
Commissioner McDaniel
Commissioner Miller
Commissioner Selberg
Commissioner Starling

Staff Present:

Beverly Watts, Executive Director
Sabrina Hooper, Deputy Director
Shalini Rose, General Counsel
Richard Gadzekpo, Housing Coordinator
Susannah Berry, Special Assistant to Executive Director/Communications Specialist
Lisa Lancaster, Executive Assistant

Guests:

None

Call to Order

Chair Garrett called the meeting to order at 9:05 a.m. CST and asked for a moment of silence. Roll call was taken by Lisa Lancaster. Minutes of the November 15, 2013 meeting were reviewed. Commissioner Pierce made a motion to accept. Commissioner Houston seconded the motion. A vote was taken and passed.

Executive Director's Report

Executive Director Watts began by noting the submission of our proposed budget and the upcoming budget hearings. We will have two hearings in the House and one with the Senate. The meeting with the House Government Ops committee is scheduled for February 4, 2014. They are asking questions such as why is our mediation program so successful. This will give us the opportunity to educate them about our mediation program.

They are also asking about parts of our law dealing with Affirmative Action Plans. They want to know if we have changed our rules. We are doing some research to determine when it was no longer an operational activity at the agency. We think this activity was abandoned in the early 2000s based on an Attorney General's opinion. The House Finance Committee has not been scheduled yet. The Senate Finance committee is scheduled for March 4, 2014. They requested the standard questions with 20 copies to be submitted by February 6, 2014.

The Financial Integrity report was submitted in December of 2013 and deals with risk assessment at the agency. Performance plans for all agency employees have been completed.

The interviews for the housing vacancy have been completed and the position filled. Richard Gadzekpo will give you more information in his housing report. The Comptroller's office called and informed us that we are scheduled for a performance audit this year and the entrance conference will be held on Wednesday, January 22, 2014. The Budget and Audit Committee will meet before the hearing on February 4, 2014 to discuss the audit.

The audit is set to begin next week following the entrance conference and they hope to complete it by April 2014 and issue a report.

Commissioner Cocke asked why it was surprise and Executive Director Watts noted that we have a 2017 Sunset date and we did not think we would see auditors for three to four years because the audit usually comes right before the sunset. When we asked if we were on a two year cycle and told them when our sunset was, they were surprised but did not change the date.

We have received a HUD contract to partner with NCRC in the amount of \$50,000 and we are moving forward to finalize the twelve month contract within the next thirty days. It was noted that we partnered with NCRC last year and received \$30,000 and this year will be an expansion of the earlier project and we will be looking at lending practices and specific banks in the state.

We are also in partnership with TSU on a HUD grant for eighteen to twenty four months. We will receive interns and will assist in developing Fair Housing Curriculum in their Sociology and Public Affairs department.

We will begin accepting applications for the Title VI Director position next week and hope to fill the position by March 1, 2014.

The survey report is for the period from July 2013 to December 2013 and during that time there were no specific issues. These reports are reviewed by Deputy Hooper and Frank Guzman and the usual customer service issues were addressed and had follow up, if necessary.

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

Education and Outreach Committee Report

Susannah Berry reported on the Education and Outreach Committee which met briefly to finalize the details of the Jocelyn Dan Wurzburg Civil Rights Legacy Award. The committee decided on a series of requirements and standard operating procedures on the way the procedure would work.

Every year at the January Commissioner meeting there will be a call for nominations by the Education and Outreach committee chair. All commissioners will be able to submit one nomination. Nominations will be given to staff member by the last day of February. The Education and Outreach committee will meet to review and submit a proposed recommendation to the full Commission at the March meeting and the full board will select the recipient and the award will be presented at the September Commission meeting and release of the Annual Report.

The requirements for the award will be: a long term advocate of human rights whose life work embodies the ideals and principles of inclusion, advocacy, equality, access and diversity; demonstrates a consistent pattern of commitment to the elimination of discrimination; cultivates and promotes initiatives that establish and foster a more inclusive and equitable community and environment and exhibits visionary and insightful leadership to confront and resolve human rights issues.

There is a form in your packet for nominations and submissions will begin at this meeting if the full board approves the proposal.

Also discussed at the meeting were the Status of Human Rights in Tennessee hearings and the confirmed dates are: Memphis, January 28, 2014 at Rhodes College from 9:30 am to 12:30 pm with nine presenters; Chattanooga, February 24, 2014 at the UTC campus; March 25, 2014 at UT Extension campus in Knoxville; May 12, 2014 Nashville at the Downtown Public Library; and Johnson City on March 26, 2014 at the Bank of Tennessee.

Our first ever Webinar was held on December 3, 2013 which was trial run to work with the software. We covered a basic overview of our Commission and some history including our 50th Anniversary event. We had 25 registrants but only 5 signed on for the event. We will be doing another webinar on Fair Housing Month and this will be more technical and hopefully garner more interest.

Commissioner Houston asked if the Wurzburg award nominees were to be from Tennessee only. Executive Director Watts noted that the nominations are not open to the public and should be Tennessee residents. Commissioner Wurzburg agreed. Susannah Berry noted that she would clarify that in the requirements and redistribute that to all commissioners.

Commissioner Coleman moved the adoption of the report and it was seconded by Commissioner Horne. A vote was taken and passed.

Employment Case Report

Deputy Director Sabrina Hooper reported on the period from November 1, 2013 to December 31, 2013 where 94 inquiries were received which resulted in 44 charges being accepted and of those 40 were dual filed and 4 were THRC only. During the same period 49 cases were closed with a closed charge age of 333 days of investigation. Open inventory was 285 cases with an average open charge age of 255 days.

Two mediations were closed resulting in monetary benefits of \$41,566 to the complainant and one settlement closed with \$5,000 to the complainant.

Last year we received 143 inquiries which resulted in 81 charges being accepted for investigation and of those 73 were dual filed and 8 were THRC only. We closed 39 cases with a closed charge age of 234 days and our open inventory was 383 cases with an average open charge age of 204 days.

Last year we closed 6 mediations with monetary benefits of \$20,432 to the complainants; one mediation with non-monetary benefits to the complainant. Two settlements were closed with \$44,436 monetary benefits to the complainant and one settlement closed with non-monetary benefits to the complainant.

When looking at comparisons, we are down in complaints received and charges accepted but we closed 10 additional cases. Our mediation program continues to be very successful with both monetary and non-monetary benefits to the complainants.

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

Housing Case Report

Housing Coordinator Richard Gadzekpo reported that during the period from November 1, 2013 to December 31, 2013 43 inquiries were received resulting in 20 charges being accepted and race and disability were the main bases for cases. Of the cases accepted for investigation 10 were based on disability and 8 based on race. During the period 10 dual filed cases were closed and 5 were under 100 days giving a HUD efficiency goal of 59%.

Last year our HUD efficiency goal was at 33% and we are hopeful that by June 31, 2014 we can reach the goal of 50%

In comparison to last year we received 25 inquiries which resulted in 11 charges being accepted which is an improvement and the benefits received are very close with last year being \$1,500 and this year being \$1,400.

We have filled our staff vacancy with Richard Etensohn who started on January 13, 2014 and he has experience in employment discrimination investigation. He worked with the city of Los Angeles and he is training with Intake this week.

A motion to accept the Housing report was made by Commissioner Martin and seconded by Commissioner Horne. A vote was taken and passed.

Legal Report

General Counsel Shay Rose reported on the November 1, 2013 to December 31, 2013 period when 48 employment cases 7 were administrative closures with 2 conciliations; 3 withdrawals with resolution. We completed 2 reconsiderations/appeals.

In housing we closed 10 cases with 3 being conciliations, 2 withdrawals with resolution. Legal also completed 5 copy requests.

John Elrod began as a legal intern last week. He is a second year student from Vanderbilt Law School and will be assisting legal with legislation research and tracking.

The Legislature came back on January 14, 2014 and we have received several requests for fiscal notes and bill analysis. We have been asked to submit information on six bills. Two of them affect all state agencies and one affects THRC specifically. It was introduced by Senator Kelsey who is out of Germantown and sponsored by Representative Durham from Franklin in the House. It affects the THRA by saying that all of the remedies that are allowed under our statute are exclusive.

Basically you can't go outside of what is specifically stated in the statute. This limits our statute because while we don't go outside of our statute there are terms that allow us to be more creative but are not specifically stated in the statute. Apologies, specific money for THRC for training or outreach and education would not be allowed. We have put a fiscal note of \$750,000 which is the amount of our federal budget because we believe that if the bill passes it is possible that HUD and EEOC will find that we are not substantially equivalent. This will go to a hearing on Tuesday in the Senate Judiciary Committee.

There are three bills from Senator Summerville from Dickson and they say that state government cannot collect data related to race, gender, national origin or ethnicity; grant preferential treatment to any group on the basis of race gender, ethnicity or national origin and similar wording. These bills were introduced last year and rolled over to this session. Legal will keep you posted on these bills.

The legal cause case update includes the corrections officer who we felt was terminated based on his race and this case went to a hearing and we are still awaiting the decision. The second case is a new cause case based on failure to hire due to pregnancy. This took place in Giles County. The Complainant interviewed for a job as a convenience store cashier and was offered the job until they found out she was pregnant and they withdrew their offer stating that it would be unsafe because of the required lifting. They suggested that she apply again after having baby.

They have a policy of not hiring pregnant women due to required heavy lifting. This case mediated yesterday and was settled with the complainant receiving \$13,500, THRC receiving \$1,500 and training for the respondent and staff and changing their policy.

In housing the first case is a failure to allow a reasonable modification for the complainant's daughter who needed a wheelchair ramp to access the house. The respondent said they could have a ramp but not on the front of the house. The settlement

was to not be charged for back rent of about \$2,000 and \$100 to the complainants for moving expenses and a donation to the Spinal Muscular Atrophy Association and training for the respondent.

The second case is where the complainant was employed at the apartment complex and lived at the property. When his fiancé became pregnant the respondent told them that they were in violation of their occupancy standards because they lived in a three bedroom apartment and they already had four children. That would make it seven people in a three bedroom apartment and the occupancy standard was two people per bedroom.

HUD guidance is clear that a baby does not count as a full adult and this makes this a familial status violation. The complainant died in a car wreck and we have been working with the next of kin but without response so THRC settled with the respondents for \$1,000 for education and outreach, attending Fair Housing training and another training dealing with the occupancy standards and HUD guidelines. The next of kin can still file in court if she chooses to and she is aware that the case has settled.

The third case is a failure to accommodate due to a disability where the complainant required an emotional support animal which was prescribed by a doctor. The respondent views the support animal as a pet which is a violation. A support animal should be viewed like an assistance device such as a wheelchair or walker. We are attempting to settle and educate the respondent.

The fourth case is from Shelby County and the complainant is a person with a disability and she requested to move to the first floor. She made several different requests and the respondent just ignored her. Mediation was cancelled last week due to weather and via phone the talks continue and hopefully will reach a settlement.

Commissioner Coleman noted that in the Johnson City Washington County courthouse a veteran with PTSD who has a support animal was evicted because his dog was not an assist dog that does something for the person. He was questioned in front of everyone and embarrassed him and he left.

General Counsel noted that THRC does not do disability in Public Accommodation because it is not written on our law, but there is an agency called the Disability Law and Advocacy Center that deals with these cases and she would contact them.

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

Outreach & Education

Susannah Berry reported on the November 1, 2013 to December 31, 2013 time period where we participated in twenty four Education and Outreach events and six were educational presentations or speaking events and exhibited at 2 events. We attended eighteen events and placed an ad in one booklet. It is estimated that we reached 1,672 individuals making our year to date total 14,255. For the Fiscal year we have participated in sixty seven events.

We held our first webinar and participated as co-planners for the International Human Rights Day here in Nashville where 115 attended and Metro channel 3 taped the event. Fox 17 attended and filmed parts of the event and interviewed Executive Director Watts.

Executive Director Watts attended a dedication of the original chair of the board of Commissioners Rev. Sam Dodson at his former church Calvary United Methodist Church where a dedication was made at the church and a memorial service was held where Executive Director Watts brought remarks. This was attended by approximately 150 individuals.

We had exhibits at the Tennessee Association of Affordable Housing conference and International Human Rights Day.

There were no media contacts during the time frame but did have several articles:

- Executive Director Watts article about International Human Rights Day published in the Tennessean on December 9, 2013
- Fox 17 covered International Human Rights Day
- December 13, 2013 small segment that featured our upcoming hearings by reporter Tony Gonzales who did an in depth look at housing discrimination that featured THRC back in October. He received the information by being on our mailing list.
- Executive Director Watts participated in one interview

On December 5, 2013 all 28 THRC staff members participated in the All Staff meeting with Executive Director Watts, Deputy Director Hooper, General Counsel Rose, Associate Counsel Appelt, Title VI Coordinator Guzman, Trish Holiday from DOHR and Rhonda Ellison from EEOC.

No publications were release during the period. In regards to web based initiatives, we gained 11 new likes to our Facebook account and had 32 posts and engagement from 5% of those reached. We reached almost 1.000 people and had 53 engaged in those posts.

We are excited that Governor Haslam's communications office approved the Commission to have a YouTube account and the link is provided in the report. Footage from the 50th Anniversary account is posted there as well as the film that was screened at the 50th Anniversary, highlights from interviews that were done and the footage from the webinar and we will continue to share events there. Beginning next month you will see information about this account in the Communications' report.

Special projects Officer Frank Guzman responded to twenty calls from the Hispanic community and 5 additional calls were responded to by Matthew Stephenson and the Avaza Language Service.

Commissioner Pierce commented that Executive Director Watts participated in the Music City Girls leadership program which was for high school juniors about leadership issues and I wanted to express my thanks to her for participating. There were twenty eight girls

from across the state and our second class will begin soon. This program is associated with the women's Final Four Basketball tournament that will be in Nashville in April

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

Title VI Compliance Report

Executive Director Watts reported on the period November 1, 2013 to December 13, 2013 during which time we have completed the reviews of 42 Implementation Plans from departments that receive federal funds. Thirty nine were timely and two were untimely and one was granted an extension.

After the initial review, four agencies met all of the requirements for the plans. You have a list of the fourteen areas that were looked at and the chart shows the agencies and which areas were met, not met and those requiring further review. Thirty nine plans require further review or they did not meet the requirements as outlined in their plans.

Commissioner Cocke asked if that was a lot and executive Director Watts noted that it was but is a lot less than it used to be but still more than we want it to be. Initial reviews will go out to the agencies next week and we hope that it was oversight by the person who put together the plan and that number should reduce. Last year we had five to six plans that did not meet and we talked with them and negotiated issues some of which still had not met as of the beginning of this fiscal year.

We will be sharing a report card that will show this commission over time what is going on with every agency and hope to do that after we finish these plans this year.

During the period there was one request for technical assistance regarding the Systemic Alien Verification Program for Entitlement called the SAVE program. This is a federal program and we have looked at it and don't believe it is in conflict with Title VI.

There were nine complaints filed in November and there are 27 complaints in inventory as compared to three filed last year and fourteen cases in inventory and in December we had inquiries and filed three complaints with 31 complaints in inventory. We are currently doing an audit of all complaints filed to determine where they are and update them. Some of them are quite old and we are trying to find out if things have been done and bring all the files up to date within the next thirty to forty five days.

During the month of December Matthew Stephenson has assisted with oversight and I wanted to thank him for his help.

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

Announcements

Commissioner Pierce thanked everyone for your cards and calls and the beautiful flowers that you sent for my husband's service and to thank Beverly for attending the service. I

appreciate that very much and it has been very helpful. Commissioner Wurzburg noted that we have all been so concerned and know that this is a hard and trying time for Commissioner Pierce and she has all of our love and best wishes and support. Chair Garrett added that Commissioner Pierce has been in our thoughts and prayers.

Executive Director Watts noted that the Commission will be receiving an award on Monday in Knoxville. It is to recognize the commission for community service from the Knoxville MLK commemorative commission.

Commissioner Wurzburg is receiving the MLK Dream Legacy Award in Memphis on Monday and we congratulate her on that award.

Chair Garrett noted that Commissioner White will be serving on the Law and Legislation committee.

The next meeting will be on March 21, 2014 and will be an in person meeting.

Chair Garrett closed the meeting at 9:53 a.m.