



TENNESSEE HUMAN RIGHTS COMMISSION
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July 18, 2014
Telephonic Board of Commissioner's
Meeting Minutes

Commissioners Present:

Commissioner Cocke
Commissioner Coleman
Chair Garrett
Commissioner Horne
Commissioner Houston
Commissioner Martin
Commissioner Miller
Commissioner Selberg
Commissioner Wurzburg

Commissioners Absent:

Commissioner Jones
Commissioner McDaniel
Commissioner Pierce
Commissioner Starling
Commissioner Walker
Commissioner White

Staff Present:

Beverly Watts, Executive Director
Sabrina Hooper, Deputy Director
Shalini Rose, General Counsel
Matthew Stephenson, Title VI Compliance Director
Richard Gadzekpo, Housing Coordinator
Lisa Lancaster, Executive Assistant

Guests:

Allen Staley, Centralized Accounting

Call to Order

Chair Garrett called the meeting to order at 9:04 a.m. CDT and welcomed those in attendance. She asked for a moment of silence for the Malaysia flight 17 that was shot down and for all victims of war. She then called roll. The minutes of the May 13, 2014 meeting were reviewed. Commissioner Cocke made a motion to accept the minutes and Commissioner Horne seconded the motion. A vote was taken and passed.

Executive Director's Report

Executive Director Watts began her discussion with the four current vacancies in the agency. She reminded the commission that Susannah Berry left on June 27, 2014 and noted that Erica Kesse will come on board on July 28, 2014 as the Executive Director's Special Assistant. She comes to us from Vanderbilt University where she worked in the STROKES Division working with a team of doctors and doing customer service. She is a candidate for the Masters in Civic Leadership at Lipscomb and will graduate in December.

The selection for the vacancy in housing has also been made, and on August 1, 2014 Corey Taylor will begin in the Knoxville office. He is a military veteran and has some background in housing investigations, and he has just received his Masters.

The remaining vacancies are the Nashville office front desk position and an employment investigator's position also in the Nashville office. We should have these filled sometime in September.

She noted that we are doing a close on the last fiscal year's budget and have heard that there may be some cuts for the new budget to be developed. She asked Allen Staley to give a brief review of the actions required for the close.

Allen Staley noted we are in the process of closing out FY 2013 that ended on June 30, 2014 and most of the operating expenditures are finalized but we still have a few interdepartmental expenditures between state agencies that need to be processed. We will be within the total budget which was \$2.53M where we are given state appropriated dollars plus our case processing federal revenue. It looks like we will be over in state appropriated dollars in the amount of approximately \$45,000.

THRC has the ability to carry forward prior savings and there is currently \$93,000 available and the shortage will come out of this amount leaving approximately \$50,000. Then we will begin the budget development for next year where we will look at line item expenditures to identify potential areas for possible cuts to take place to meet next year's budget.

Commissioner Cocke asked if this was an expenditure problem or a reduced federal revenue problem. Executive Director Watts answered that we have experienced a combination of both reduced federal revenue and some expenditure issues. Allen Staley noted that federal revenue is also down from last year and revenue is based upon case processing numbers.

Commissioner Cocke asked if the timeliness of case processing is a factor. Executive Director Watts noted it was not. She stated that we are down in both employment and housing and we have met the contract in Employment and we don't have a set number in housing but we are processing 61% of our housing cases in 100 days or less. Our case processing is quite good but the number of cases coming through our front door is down.

We did have additional expenditures that took us over the budgeted amount, and we are looking at those in preparation for the new budget discussions. As we close between now and September, a more detailed report will be given to the Budget and Audit Committee for their review and the commission will have a chance to go over this in more detail at the September meeting. We will also be working on Budget year 2014-15 as we close the current budget year.

We will release our Annual Report and the Status of Human Rights in Tennessee report at our September meeting. Next week Title VI will have their Annual Training, and we have not heard from State Audit but we expect that they will come back and do a formal exit

conference with a report. When that happens we will convene the Budget and Audit Committee to review their findings and our responses.

Executive Director Watts reported that she met with Brian McCormack from the Governor's office of Boards and Commissions and his assistant about the transition that will take place on December 31, 2014 when this board is vacated and a new nine member board convenes on January 1, 2015 appointed by the Governor, Speaker of the House and the Lt. Governor. If any commissioner is interested in serving on the new board they may mail or email Brian McCormack and express those desires to him.

Information on contacting him will be emailed to all commissioners after this board meeting. They do not expect any movement until November or later. Executive Director Watts will also be meeting with the Lt. Governor and the Speaker of the House.

Commissioners are issued badges when they join the commission and these will be collected at the last board meeting in November. If you have misplaced your badge and cannot turn it in you will need to pay for it and they cost \$100 to replace.

At the September meeting we will be releasing the Annual Report and the Status of Human Rights in Tennessee report and awarding the Wurzburg award to Carol Berz from Chattanooga who is a city council person and former economical council chairperson.

A month ago we received a letter from Senator Tate regarding Corizon which provides mental health and substance abuse services to the states prison population via state contract. He received a complaint from an employee who filed with EEOC and asked us to look into whether prisoners were being treated appropriately with respect to their civil rights.

We will continue to monitor the situation and will respond to Senator Tate's inquiry. Executive Director Watts has talked with Commissioner Schoefield in Corrections who has also talked with Senator Tate who wanted the company to come back before his committee due to some contract issues.

Commissioners have two sets of surveys and one is for fiscal year July 1, 2013 through June 30, 2014 and July 1, 2012 to June 30, 2013 in Employment when comparators show that the percentage of positive answers received was 88% but the number of surveys returned was still low. Complainants gave positive responses in 70% as compared to respondents who responded positively in 100% of their responses received.

These percentages are higher than the previous year responses received. Survey Monkey has been initiated and we will report the details at the next meeting. In Housing 148 surveys were sent out compared to 159 last year and results go up in positive responses so overall we are doing better for the responses received by the few that return the surveys.

On the witness surveys we had 64 surveys sent out and only 14 responded. In the comments we still receive statements about not liking the investigator or dissatisfaction

with the results of the investigation which is our most common complaint. Some are dissatisfied with the amount of time it takes to investigate and others just don't like the decision and we often do inform complainants about the next steps in the process.

There were no negative responses from respondents. We are going to use Survey Monkey for the 10 question survey to complainants and respondents. We are reviewing the process to see how we can get better results and how to prepare parties for its arrival.

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

Employment Case Report

Deputy Director Sabrina Hooper reported on the case processing period from May 1, 2014 to June 30, 2014. During this time we received 111 inquiries which resulted in 62 charges being accepted for investigation: 57 dual filed and 5 THRC only.

Within the same timeframe the agency closed 77 cases with an average of 276 days of investigation. Our open inventory at the end of June 2014 was 236 cases.

Six mediations were closed resulting in monetary benefits of \$25,742 to the complainant and two settlements closed which resulted in monetary benefits to the complainant in the amount of \$736.

Last year we received 136 inquiries which resulted in 87 charges being accepted for investigation: 81 dual filed and 6 THRC only. We closed 87 cases with an average of 296 days of investigation. Our open inventory at the end of June 2013 was 343 cases. We closed 6 mediations and 3 settlements with a total monetary benefit of \$130,000 to the complainants.

The comparison reflects the charges received and accepted have decreased 18% and 28% respectively. We continue monitor to see how it is affecting our cases inventory and closures. We usually see higher closure this time of the year but we were able to close more cases during the EEOC measurement period which assisting in increasing our contract by 10%. Closure numbers indicate that we will be able to complete the EEOC contract earlier than expected.

For the annual report there is a slight increase in benefits reported as we had 33 total mediations resulting in \$396,341 in monetary benefits to complainants.

Billie Jean Haddock who has been with the agency for 8 years has been promoted to Regional Coordinator for the Nashville office. Billie Jean began her work with agency as Intake supervisor and then an investigator.

Commissioner Wurzburg asked if charging parties are represented by counsel at our mediations. Deputy Hooper noted that those numbers are not currently tracked and noted that it is permissible for parties to have counsel present. General Counsel Shay Rose noted that on the majority of settlement agreements she reviews the complainants have counsel.

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

Housing Case Report

Housing Coordinator Richard Gadzekpo reported that during the period from May 1, 2014 to June 30, 2014 40 inquiries were received resulting in 29 charges being accepted and disability was the primary bases for cases and was followed by race. During the period 25 dual filed cases with HUD were closed. About 48% were administrative closures involving conciliations. In the month of July 72% of closed cases were closed in 100 days.

Comparing statistics for last year our case statistics indicates that inquiries increased and case closures and case processing remained the same. Benefits received were down slightly from \$28,036 this year and \$32,592 for last year.

Our efficiency goal as of July 1, 2014 was 50% which is 10% above the targeted goal HUD has set for us.

We have a new employee that will be starting on August 1, 2014 and hopefully that will improve our case processing.

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

Legal Report

General Counsel Shay Rose reported on the May 1, 2014 to June 30, 2014 period when 71 employment cases were closed, 11 were administrative closures with 4 conciliations and 6 were reconsiderations. She noted the higher than normal numbers for case closures due to an attempt to get prepared for the contract period to end at the end August.

In housing, we closed 24 cases 5 of which were administrative closures and 12 were conciliations. These numbers were also higher as the fiscal year ended for housing. Legal also completed 6 copy requests.

Rachel Appelt our Associate Counsel spoke at UT Battelle/ORNL Employment and Labor Law Seminar on May 22, 2014, and legal staff attended the THRC Employment Law Seminar and General Counsel Rose was a member of a panel. Both attorneys also assisted in the July 10, 2014 THRC Investigators training session.

Jesse Yoder is a 2L at Vanderbilt University and is our legal intern that started in May and will end at the end of July.

The Ruff verses Denny's case on the legal report was a public accommodation case that was filed because there was a chocolate chip on Mr. Ruff's stack of pancakes, and the restaurant replaced his pancakes but he wanted a complete new meal. He filed with us stating religion, race and gender, and no cause was found, so he asked for reconsideration and the decision was the same. He has filed in court, and the Attorney General's office is

handling this for us, and Mr. Ruff has asked for a continuance until September. We hope this will be heard before the end of the year.

The other update is on the THRC verses Weather's case that we call the "stir fry" case. It is a housing case which went to hearing and the judge found for the commission, and Ms. Ma and Mr. Lui. We have been unable to collect the money awarded, and we have forwarded this to the Attorney General's office and they have filed a petition this week to collect from Mr. Weathers.

The cause case update includes the employment case where a corrections officer was terminated because of his race. This went to hearing in November 29, 2012, and the ALJ has not issued a response. Our Associate Counsel has reached out to the ALJ several times and has received notice that an order is expected next week.

In housing, the first case is a disability one - failure to grant a reasonable accommodation by moving the Complainant to a first floor apartment. Complainant has a new attorney and staff are continuing to revive discussions with the respondent and hope to complete the case by the end of next month.

The second case is a failure to grant a reasonable accommodation based on disability which was just caused on June 30, 2014. The landlord felt that the Complainant calling an ambulance for assistance with her medical issues was a nuisance and evicted her for this reason. They also denied her request for a companion animal when they added an additional fee to her monthly rent which is not allowed under fair housing laws. This is a mixed finding case, as we did not find cause for the discriminatory statements, harassment or retaliation. We will continue to work on conciliating this case.

Commissioner Wurzburg added that an aluminum ramp was used in her neighborhood that was totally portable and wondered if in future cases of landlords not wanting ramps attached to rental property if this would be a viable remedy. General Counsel Rose noted that it could be in similar cases, but would not have been in the case we had due to the topography of the land which was very hilly.

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

Outreach & Education

Executive Director Watts reported that Susannah Berry worked right up to the last minute before she left in June and publically acknowledged a fantastic two years with her on staff. The report covers May 1, 2014 through June 30, 2014 when we did three exhibits; there were seven presentations and speaking engagements and nine outreach events; two ads in program booklets making a total of 16 events for the reporting period and brings the yearly total to 139 which is above the number for last year.

She noted that she was in Chattanooga for the retirement celebration for Commissioner McDaniel and presented the commission's resolution and Governor Haslam's recognition during the Gospel Music tribute to him.

Rachel Appelt made a presentation at the UT Battelle at their Employment Law Conference in May in Oak Ridge and THRC held its Employment Law Seminar on June 12, 2014 that was attended by 153. There were 65 evaluations returned which will be presented to the Education and Outreach committee and details will be shared at the next board meeting.

We received good feedback on what people want included in the event next year including the return of Kim Vance. The overall attendance this year was made up of more state employees and agencies than in the past and they requested more information about human resources and the TEAM act.

There are still some issues with payment for state employees to attend this event and these will be discussed in the budget process and with Finance and Administration and Department of Human Resources to hopefully resolve them.

The chart on page three reflects the ad campaign impact that THRC implemented in the spring with Google Adwords at \$8.29 per day; Clear Channel Radio at \$107.14 per day and Clear Channel internet at \$35.71 per day.

We are looking for new ways to get the word out on social media, such as Facebook and Google ads, and will monitor to see if it improves the influx of complaints. This information will be shared with the Education and Outreach Committee who will come up with strategies to improve the number of complaints received and their cost.

The spring newsletter was sent out to 3,000 emails including commissioners and 635 people viewed it by the end of June.

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

Title VI Compliance Report

Matthew Stephenson, Title VI Compliance Director reported on the timeframe of May 1, 2014 to July 1 2014 and noted that 47 inquiries were received and 7 were classified as complaints and all seven have been resolved. Totals for the 13-14 fiscal year are 354 inquiries received, 60 complaints filed and 40 complaints closed. (Correction of total cases closed change to 40 on chart at bottom of page one in report). In comparison to 12-13 fiscal year we received 338 inquiries, 45 complaints filed and 53 cases closed.

During the period an investigation was begun of a local county government which fell under Title VI but was not covered by a state agency so we will conduct the investigation directly. We have completed the compliance review for the Tennessee State Museum who were largely in compliance with the exception of two minor findings about where they posted signs about Title VI policy and two security guard contractors who had not been completely trained in a while. We gave them a correction plan and have this week confirmed that they have completed it and are now compliant.

Our focus is now turned to our Annual Training event that will be held next Wednesday for all Title VI coordinators of every state agency. Our opening session will begin with Executive Director Watts making comments to department heads about their compliance followed by new coordinator training and ending with an extensive training of our processes to unify the complaint investigation process across the state. We have 60 people registered to attend.

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

Announcements

The next meeting will be on September 19, 2014, and will be an in person meeting.

Chair Garrett closed the meeting at 9:54 a.m.