



**TENNESSEE HUMAN RIGHTS COMMISSION**  
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**July 22, 2016**  
**Board of Commissioner's**  
**Meeting Minutes**

**Commissioners Present:**

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

**Commissioners Absent:**

Commissioner Horne  
Commissioner Selberg  
Commissioner Sloss  
Commissioner White

**Staff Present:**

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

**Guests:**

Allen Staley, Fiscal Officer

**Call to Order**

Chair Houston called the meeting to order at 9:09 a.m. and asked for a moment of silence for the current and future leaders of our Nation, Commissioner Sloss and his family in the passing of his mother. Executive Assistant, Lisa Lancaster, called the roll.

The minutes of the May 20, 2016, Board of Commissioners' meeting were reviewed, and Chair Houston noted corrections on page 4. Commissioner Martin made a motion to approve the minutes as amended and Commissioner Crider seconded the motion. A vote was taken and passed.

**Executive Director's Report**

Executive Director Watts reported there are still two vacancies in housing as Brad Smiddy's last day was July 18, 2016. In employment, the last vacancy has been filled with a person who comes to us from the Pennsylvania Human Relations Commission and has nine years' experience. The only two vacancies that have not been filled are the Special

Assistant to the Executive Director position and the Communications position and I expect to fill those in the fall after the housing investigator positions have been filled.

The Audit is ongoing as we are still responding to questions. I met with the Auditor in charge 3 weeks ago at which time she indicated that they were trying to get the report written, issued and give us time to respond so that we can go before the Joint Government Ops Committee in September. There is no date for that meeting. The Auditor expressed concern that it might not happen.

Senator Bell is the Chair of the Government Ops Committee that will oversee the Sunset audit. An email was sent to us from his staff requesting that we copy, redact and give to his office all the case files that we closed last year: 371 employment cases and 142 housing cases. I explained to his staff that the request would be an undue hardship on us because our complaint form is 6 pages long so 500 cases times 6 pages that would need to be copied, redacted, and reviewed by our two attorneys. It was also noted that many people send additional information attached to their complaint forms, and all witnesses and personal information are confidential.

We offered to have the auditors review these cases instead. Although, we did not receive a response to that offer, the Auditor in charge requested information about our jurisdiction. In our Annual Report, we use the words "gender" and "sex" interchangeably. We do not take transgender or LGBTQ complaints. We had to provide a log to explain what we do with all non-jurisdictional cases.

We will keep you posted on the Audit when we have more information. Once the Audit is finished, the Budget and Audit Committee will be convened so we can share the details and our proposed responses. Once the audit is issued, we will have 15 days to respond, our response will be printed and then we will go before Committee. We will keep you informed as things happen.

Commissioner Crider asked whether we have asked Senator Bell what his concerns might be. Executive Director Watts noted that she asked his staff and no answer was given. We told his staff that we would do whatever we needed to do, but the task would be labor intensive because we would have to copy redact and copy the redacted file to ensure confidentiality on more than 500 complaints which are 6-8 pages long.

The auditors did ask questions about acceptance of non-jurisdictional complaints. We are not sure but they may have thought we were accepting transgender cases. Senator Bell has authored some legislation that deals with those issues, and sometimes people tell Senators that we are doing things that we are not doing.

Commissioner Crider asked whether the concern could be that we seem to have a lot of cases and don't seem to be working through them as fast as we should? Executive Director Watts noted that we have no backlog and are currently completing cases 39 days less than we were a year ago. Commissioner Crider offered to speak with Senator Bell if it would be helpful to the agency.

Commissioner Crafton asked if the files they have requested are paper files. Executive Director Watts noted that they asked for the complaint forms and those are always paper. He inquired if the paper files were digitized. They are not. HUD complaints are scanned into the HUD database system. EEOC has a system that only captures lists. Nothing can be scanned into that system.

Commissioner Crafton noted that in his office they had several hundred thousand pages of deeds and paid \$25,000 to have the information scanned in, and it is amazingly efficient and then SharePoint could be used to view files digitally.

Chair Houston noted that the files would still have to be printed, redacted and copied again even if it was digitalized. Commissioner Crafton noted that there is software available. He noted that it might be beneficial if additional funds were requested in the next budget cycle to digitize the files.

Executive Director Watts will check and see if there is a statewide contract that exists for that function. Additional funds requests do not always get approved as we found out when we requested \$20K for education and outreach last year.

The question about access is about the confidentiality rules that exist for the state as everything is confidential. We can't tell you who filed, who it is filed against or their witnesses. That is where we get into the issue with these 6 to 8 pages of what is included in the complaints. We must make sure that we don't violate the confidentiality rules.

Our attorneys review the copy requests for records, and it is tedious. We do about 50 cases a year for entire records for copies. We will continue to work with Senator Bell's office. It is my hope that the auditors might be able to review the cases for him as they will have access to the most information that is available to assist them to understand what we do.

Chair Houston asked in the discussion about digitalizing forms in our last Commission meeting Commissioner Crafton suggested that we scan our complaint forms and email them to those requesting them. Executive Director Watts noted that our complaint form is online and we can email or fax it to anyone requesting it. Executive Assistant Lisa Lancaster noted that a lot of complaint forms are emailed by the Customer Service staff when forms are requested. Executive Director Watts also noted that we maintain logs as to who the forms are sent and we can provide that information.

The audit is covering everything from FY 2011, the suspended audit, the Sunset audit for the period including FY that ended on June 30, 2015. We were granted a 4 year extension of the agency at the last Sunset.

Commissioner Martin asked if there is a set completion date for the audit. Executive Director Watts noted that there is not, but the auditor in charge indicated that Senator Bell has requested this as quickly as possible. His staff indicated that they want us at a September Sunset hearing and the audit has to be completed, sent to us for response and to committee members and available to the public.

Before we send out anything it will be brought to the Budget and Audit committee for review and the Commission which might mean we need to convene a special Commission meeting so the full board can review the audit.

Commissioner Crider asked about the budget and Executive Director Watts noted that Allen Staley, our Fiscal Officer, is here to talk about the budget. She explained that executive staff will talk about work plans in their reports this morning; she will give the Communications report. They will be talking about where we are; agencies challenges such as vacancies and low inventory. She turned the meeting over to Allen Staley for a budget review.

Allen Staley noted that it was the end of the fiscal year 2016 on June 30 and we are now in fiscal year 2017. The handout titled "Current Allotment Status" gives the budget for FY 2016 which is closing. The columns indicate Budget; Actual anticipated are expenditures with adjustments; Percentage of budget spent; variance column.

The total expenditures line shows the total budget is \$2,510,400 with anticipated expenditures expected to be \$2,184,625.25. The good news is that we are well within the budget authority and the second item we have to keep in mind is staying within the appropriated state dollars. We anticipate that we will save \$24,000 which is carry forward funds. The Human Rights Commission can carry forward up to \$200,000 from each fiscal year.

The budget closing looks good and we are in the beginning stages of FY 2018 budget which is due October 1, 2016 and this year the budget office is implementing a new way of requesting the budget which is called BEARS or Budget Entry and Reporting System. We have for many years used an ACCESS database request system and the new system is an online system.

We will come back to the Commission once we get the 2018 budget formulated. Commissioner Crider asked if there is anything he should be concerned about. Allen Staley noted that everything is in good shape. There are a couple of categories such as training where the expenditures were above the budgeted amount, but in total we are well below the budget authority. Executive Director Watts noted that as we put together the budget for 2018 we will look at the variables and do reductions. We are also challenged by the budget authority process as we are sometimes asked to make a cut. Allen Staley noted that every year for the past several years we have had to go through a budget reduction exercise, but the reductions were not taken.

Executive Director Watts noted that most of our budget is salary and benefits so if cuts are necessary we are cutting items by 10% and we look for places to cut such as travel. The Budget and Audit Committee will review the budget and then it comes to the Commission for approval. Monthly reports will be made to the Commission on where we are.

Allen Staley commended the staff of THRC especially with the turnover, to be able to process the cases and generate the revenue to be able to still have a savings.

Chair Houston called for questions. Hearing none, Commissioner Crafton made a motion to accept the Executive Director's report. Commissioner Crider seconded the motion.

### **Employment Case Report**

Deputy Director, Sabrina Hooper reporting on the period from May 1, 2016 to June 30, 2016 noted that 104 inquiries were received resulting in 57 charges, 52 dual filed and 5 THRC only. During the period 49 charges were closed with an average case age of 278 days. Our open inventory at the end of June 2016 was 253 cases. Six (6) mediations closed within this timeframe, resulting in \$12,417 in monetary benefits to the Complainant and five (5) complaints closed as settlements with \$12,023 in monetary benefits to the complainant.

As of July 1, 2014, 40 mediations were conducted; the Complainants were represented 7 times and the Respondents were represented 32 times. Last year at this time we received 127 inquiries resulting in 54 charges being accepted for investigation and 34 cases were closed with an average age of 280 days. Open inventory at the end of June 2015 was 249 cases.

Five mediations closed for a total monetary benefit to the Complainant of \$11,410. The previous year comparison shows that charges received decreased by 18% and charges accepted remained the same and the complaints closed increased by 31%.

Investigators are working to submit cases by the August 15, 2016 which will allow us time to review and close the complaints by August 26, 2016. This will allow for the reconsideration period and close the EEOC contract by September 30, 2016. Correction: the report states 2015 and should be 2016.

For the witness customer service surveys sent out for Employment, Public Accommodation and Housing for July 1, 2015– June 30, 2016 placed 109 calls and interviewed 39 witnesses with 4 witnesses making comment in employment only; 2 of the witness were not happy with the results of the investigation; 1 stated the investigator had a wonderful demeanor and was professorial and 1 witness stated they have recommended our agency to others.

On the 10 question survey for Employment, Public Accommodation, and Housing 317 surveys for were sent out and 50 were returned and The Survey Monkey survey had 20 email responses. Not all responders provided comments. Most wanted to retell the details of their case but two stated that we could improve on more frequent communication. We are reviewing how we can communicate more with the parties.

For goals and objectives: Every year the biggest goal is to close the contract cases and do so in a manner where we can ask for an upward modification, if available. This year, we will need to renegotiate our contract numbers to a lower amount. This year we have been challenged with staff turnover and extended absences due to medical issues and other things. Our EEOC contract number is 259 and the projection is that we will be down about

34 cases. Executive Director Watts noted that we still have to 30 days for the review process for reconsideration.

The second goal for employment is to look at inventory and to work with EEOC on cases being transferred to them and being able to get a reciprocal transfer back. We have sent EEOC 70 cases this past year that allege disability and a failure to provide an accommodation. Our law does not allow us to do an investigation so we transfer those to EEOC.

Executive Director Watts noted that if the law had passed this past year it would have allowed us to do accommodations investigations and those cases would still be in our inventory. We will continue to lose these cases until we change our law.

Our third goal that we are concentrating on is to have a thorough investigation within an average of 270 days. This past year we were at 278 days of investigation.

To fill our vacancy in employment, we have hired Gretchen Reese from the Human Relations Commission in Pennsylvania and she will begin on August 15, 2016.

Chair Houston called for questions. Commissioner Martin made a motion to accept the Employment report and Commissioner Crider seconded the motion.

### **Housing Case Report**

Housing Coordinator, Saadia Williams' report covered the May 1, 2016 to June 30, 2016 time frame noting that there were 87 inquiries resulting in 18 complaints accepted for investigation. Disability was the number one basis in 13 cases or 72% followed by race in 5 cases or 28%. Disability continues to be the number bases for cases filed.

During the period 21 dual filed cases were closed. 12 were no probable cause closures and 7 were administrative conciliation closures and 2 failure to cooperate closures. Of the cases that were closed during the month of June 5 or 24% closed with 100 days or less; 3 or 14% closed within 101 to 150 days; 0 cases closed in 151 to 200 days; 1 case or 5% closed within 201 to 250 days and 12 cases or 57% closed in over 250 days.

In comparison to last year we received 87 inquiries this year and 78 last year. Inquiries accepted this year was 18 and 26 last year. Cases closed this year was 21 and last year 24 and the average processing age for this year was 289 days versus 227 days last year. This was due to being understaffed.

Conciliations for this year was \$21,677 and last year \$24,600. Of the cases closed again due to being understaffed we did not meet the 100 day 50% efficiency goal for HUD. Executive Director Watts noted that at some point we were a 5 person staff last year and are currently a 2 person senior staff with one trainee since December. While we did not meet the goal this team has worked tremendously to get to 80 or 44%. While we did not get to the goal we understand why. We thank Saadia Williams and Laura Burch for their hard work to close these cases.

There are currently two staff vacancies that were advertised in July and will fill both positions soon. Thanks were offered to General Counsel Rose and Associate Counsel Appelt, Deputy Director Hooper and Executive Director Watts for their assistance as we strive to accomplish our mission.

Being understaffed for most of the year we closed 80 dual filed cases for the year with a 44% efficiency goal. Our threats include staff burnout which is evident throughout the agency and our inability to timely process intake for investigation. Also cases continue to age due to increased inventory.

Our opportunities include filling our vacancies with highly qualified persons. Our goal is to close 100 dual filed cases for the year and to get back on track to meeting our 50% efficiency goal. The opportunity to cross train investigators across the agency is a positive step.

Commissioner Crider asked about the turnover and filling positions. Saadia Williams noted that they wanted to be doing something else as their reason for leaving. Executive Director Watts noted that we hired someone that had worked in the Inspector General's office in Military Affairs who was set to start on January 5, 2016 and was commuting between Nashville and Knoxville. They got a better salary offer. Our investigators make \$32,456 and we asked that we be given additional monies because we think that we are underpaying compared to other groups in state government who do investigations. In Transportation make about \$8K more a year than our investigators.

This gentleman was offered \$50K and could not refuse it. He did ask us if we could match the offer but we could not so he took the other job. Commissioner Crider asked how many positions we are down. Executive Director Watts noted two housing positions. Deputy Director Hooper also noted that the positions have been advertised and interview will be scheduled soon. Executive Director Watts also stated that we must make sure they are qualified and they want to do this. Commissioner Crider asked if we have been short staffed for the entirety of 2016 and the answer was yes. In 2014 we lost 2 people, one to a different state job and more money and one left the agency. We then hired and trained two new people and they left in September.

We now institute a clause that says if you come to work for us and we train you and you leave before one year you must pay us back for your training. We hope that by the end of August we will have all investigative positions staff identified. There are still two vacancies in the Executive Directors office that I have chosen not to fill because they generate no revenue.

Commissioner Crafton excused himself from the meeting to attend another meeting and we no longer have a quorum.

Commissioner Martin asked what the average time to fill a position is. Deputy Director Hooper noted that it takes a week after the paperwork is submitted to get them advertised where it is advertised for two weeks. Then it goes to DOHR to review those that applied and then a week to review the applications and decide who they want to invite to interview.

After invitations are sent they have a week to respond if they want to interview. Then schedule interviews, conduct interviews and close requisition within 30 days.

So 7 weeks to identify and offer. Commissioner Martin asked how long it takes to come on board. If they are not working they can start immediately but if they are working they must give two weeks' notice to their employer.

Commissioner Crider asked what the biggest obstacle is in the hiring process. The process takes two months and low salary was noted. Executive Director Watts noted that the staffing issues are compounded by extended absences by current staff. At one time there were 8 or 9 vacancies in the agency. Staff burnout was also noted as a concern and without staff to do investigations we cannot make the contract numbers. Deputy Hooper noted that other positions in state agencies are called investigators and ours are called Human Rights Representatives.

Chair Houston noted that with the absence of Commissioner Crafton there is no longer a quorum so she would entertain a motion to receive the Housing report. Commissioner Martin made a motion to receive the Housing report and Commissioner Crider seconded the motion.

### **Title VI Compliance Report**

Matthew Stephenson reported on the May 1, 2016 to June 30, 2016 timeframe during which 59 inquiries were received. 19 were accepted for investigation. Eleven cases were closed during the period leaving 61 in open inventory to include 57 in Corrections, 1 in Children's Services, 1 at TennCare, 1 in Human Services and 1 in Administrative Office of the Courts which we are monitoring. TDOC reported 32 internal complaints received during the period.

One direct investigation was initiated against a county clerk's office which was jurisdictional but there were multiple lines of oversight from state agencies so it was better for us to do the investigation.

There were only five requests for technical assistance and all were resolved on the same day working with THDA regarding potential complaints; assisted the Commission on Children and Youth regarding the training of their subrecipient and volunteers at the subrecipient events; did a one day briefing with a person at the Department of State who is a new Title VI Coordinator developing their implementation plan; assisted the TN Community Services agency with their Implementation plan and assisted DIDD's with regard to their subrecipient oversight.

Next Tuesday, July 26, 2016 is our Annual Title VI Training and the topic will be monitoring subreceptients. The new compliance review schedule has begun and includes 8 reviews and the first is the TN Arts Commission which is currently underway and in August we will begin the review of Commission on Aging and Disability. This is a new accelerated schedule and reviews will overlap each other.



We were delayed briefly due to staffing issues but we have new staff onboard and are proceeding. We also anticipate some excitement regarding a new training platform we are developing with the Strategic Technical Resources the information technology end of Finance & Administration where we will be using the statewide HR Application Edison as a basis for Title VI training. We are hoping to make that available to all state employees by January of 2017.

Last year we had 97% compliance of the Implementation Plans because one agency plan arrived one day late. The previous year we had 100% compliance. We have made it our goal to have 100% Compliance this year.

Chair Houston asked where the July 26, 2016 training to be held. In the Multi Media room on the 3<sup>rd</sup> Floor of this building and all Commissioners are invited to attend.

Chair Houston asked what Edison was. It is the state web based Human Resource app that includes finance, time and attendance, training and everything else. Jennell Riddle on Title VI staff is the resident expert on Edison. Edison is for state employees and the program is based on Captivate which does program presentations and allows you to embed it in other programs. We will then move that to a web based product that will also be available for subrecipients. It would be available to UT employees that are part of Title VI.

Chair Houston asked for a motion to receive the Title VI Report. Commissioner Crider made the motion and Commissioner Martin seconded the motion.

### **Legal Report**

General Counsel, Shalini Rose, reported on the May 1, 2016, to June 30, 2016, period when legal closed 47 employment cases. Sixteen were administrative closures and thirteen were Conciliations, Settlements or Mediations. One reconsideration/appeal was completed. In housing, we closed 21 cases (25% of what they closed for the year): three were administrative closures and four were conciliations/settlements. The rest were no cause. We completed 6 copy requests.

Legal department updates include the cases appealed to state court where we are being represented by the Attorney General's Office.

1. Coffee County/ Holsey case THRC issued an order in and the Coffee County Sheriff's Dept. appealed in Court. No new information.
2. Mr. Ruff who was not satisfied with his meal at a local restaurant. This case was dismissed, but he has filed a motion to amend.
3. Little v. THRC is in Chancery Court of Tipton County. We are waiting for Mr. Little's attorney to move the case forward.
4. Clovis v. Nashville Public Library where Mr. Clovis was removed from library for one year. He filed against THRC with the Claims Commission asking for \$20 million. This case was dismissed in April. He also filed in state court against THRC wanting to appeal our finding that we did not think that discrimination had occurred. This case was dismissed on July 8, 2016.

Rachel Wright, our intern from Vanderbilt Law School, left on July 12, 2016. We are interviewing for a Fall Intern and we will also need help in the Spring with Legislation.

The online complaint that we have been working with UT Law Class on has hit a snag as the programming software they are using is not compatible with the state website. We will speak with them via conference call next week to see if the issues can be resolved.

June 21, 2016 was the THRC Employment Law Seminar was attended by 180 Attorneys and HR Professionals. Judge Crenshaw was the Keynote speaker. Evaluations were really good.

The Cause Case update includes the failure to grant an accommodation for the emotional support animals one being a dog and one being a snake. We are working on settling with them, but there are some issues we are still trying to settle. If we are unable to settle by the first of August, the judge wants us to come back to her to set a trial date.

Goals and Objectives for the past fiscal year indicate that the agency is short staffed and legal assists when we can. Thanks were offered to Associate Counsel Appelt and Lauren Speer for stepping up and helping out with the Employment Law Seminar.

Our goals for the year are tied to everyone else's, and our main goal is to review cases and legal was successful in reviewing all cases that came in. We will continue to assist in that function and help out where we can.

Our goal is to close cases within 30 days of our receiving them. Legislative session begins in January, and it will be a busy year. We will continue to support staff and commissioners.

Commissioner Crider asked if Mr. Ruff was represented by an attorney. He does not have an attorney. He noted that if there is an activity that we want them to know about and attend, we will need to let him know the difference and when his attendance is required. General Counsel Rose noted that there is an employment law seminar in West TN that might be easier for him to participate in.

Chair Houston asked that Commission move to receive the Legal report. Commissioner Crider made a motion to receive and Commissioner Martin seconded the motion.

### **Communications Report**

Executive Director Watts reported on the period May 1, 2016 to June 30, 2016. During the period we had 2 exhibits, 1 speaking engagement and 17 total outreach events. We reached 3,448 for the period and 33K for the Fiscal Year.

We attended the YWCA Stand Against Racism; the SHRM Capability Conference on May 25, 2016; a Title VI Presentation by Executive Director Watts in Indiana Consortium on Civil Rights; the Juneteenth Celebration in Nashville on June 19, celebrating the announcement in Texas of the freeing of all slaves in the US.

There were no advertisements or media contacts during this timeframe. Information about Face Book, Twitter and You Tube is listed in the report. As we look at this year we are comparable to last year in terms of the number of events we had but we are going to review the events to see where we need to focus.

I will be meeting with Commissioner Derryberry to discuss Face Book ads and old school mailings of letters. Our Twitter account is not active at this time. Commissioner Derryberry noted that you can link your FaceBook account to your Twitter accounts so they will populate at the same time.

We are going to review some of the events in the past which was stopped because we just did not have staff to cover extra events like a monthly presence at the Knoxville City County Building to speak to people about how to file a housing complaint. We need to determine where else we should be, get commissioner input about important things in your communities especially providing brochures and speaking to groups locally. We try to be wherever we need to be to get the word out. We do a lot of work with SHRM which is educating employers on why we ask for the things we do and assist them when we can.

Commissioner Crider moved to receive the Communications Report and Commissioner Martin seconded the motion.

Comments from Chair Houston included the appointment of Commissioner Crider to the Law & Legislation committee.

Executive Director Watts noted that in 2015 when the Legislation was passed to reduce this body from 15 commissioners to 9 the term for the Chair of the Board and Officers and Chair was set at 2 two year terms. The current Chair was elected in January of 2015 and served to June 30, 2016 at which time a motion was made to have her continue for another term. In reviewing the By-Laws we noted they are not consistent with these terms, so they need to be reviewed and made consistent with the new statute. Legal is going to review and provide an overview to Law and Legislation committee who will meet to review and recommend changes to the full Commission for final approval.

The Annual Report will be released at the September meeting, and Education and Outreach Committee will need to meet to approve that document.

The Budget and Audit Committee will meet concerning the Budget documents and maybe the Audit response if it is available.

It was announced that Commissioner Horne retired from the Chattanooga Housing Authority, and the Commission sends their congratulations to her.

Commissioner Crider made a motion to adjourn and Commissioner Martin seconded the motion. The meeting was adjourned at 10:35 a.m. CDT.