



TENNESSEE HUMAN RIGHTS COMMISSION
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March 21, 2018
Board of Commissioners
Meeting Minutes

Commissioners Present:

Commissioner Behler
Commissioner Crider
Commissioner Derryberry
Chair Houston
Commissioner Martin
Commissioner White

Commissioners Absent:

Commissioner Arnwine
Commissioner Crafton
Commissioner Sloss

Staff Present:

Beverly Watts, Executive Director
Lynn Cothren, Special Assistant to the Executive Director (Phone)
Sabrina Hooper, Deputy Director (Phone)
Dawn Cummings, General Counsel (Phone)
Gabrielle Lyons, Title VI Compliance Director (Phone)
Erika Wynn, Communications Director
Saadia Williams, Housing Coordinator (Phone)
Lisa Lancaster, Executive Assistant

Guests:

Allen Staley, Fiscal Officer (Phone)

Call to Order

Chair Houston called the meeting to order at 1:00 p.m. EDT and asked for a moment of silence for our Nation followed by the roll call. Chair Houston thanked the Commission staff for putting together the program this morning to present the Jocelyn Dan Wurzburg Civil Rights Legacy Award. It was an amazing tribute to an iconic leader, Rev. Paul McDaniel. Thanks were voiced for the Hamilton County Commission for allowing us to present the award at their Commission meeting today. Special thanks were offered to Commissioner Derryberry for bringing this nominee forward. As the information for his nomination was reviewed and the comments that were made today it was solidified that the decision we made was a fabulous decision in recognizing this individual who is well respected in this community, regionally and nationally.

The minutes of the January 19, 2018 Board of Commissioners' meeting were reviewed. Commissioner Derryberry made a motion to approve the minutes and Commissioner Martin seconded the motion. A vote was taken and passed. Commissioner Derryberry made a motion to accept the Education and Outreach minutes of the January 8, 2018 meeting with the previously mentioned changes. The motion was seconded by Commissioner White. A vote was taken and passed.

Executive Director's Report

Executive Director Watts began her report by sharing that Thierno Bah who has been the Compliance Officer for 35 years retired on February 28, 2018. We are in the process of reclassing his position and look to advertise it within two weeks. The class will be upgraded and there are possible internal candidates to fill it. The other IT position has also been re-classed and the current staff will remain.

The Commission made presentations before the Consumer Human Resource Committee and the House State Government Committee on February 6, 2018 and before House Finance Ways and Means Committee on March 12, 2018 and before Senate State and Local committee on March 13, 2018 regarding the Commission budget. At this time, we are performing at 99-100% on the 3 audit findings. In our Budget request we asked for an additional \$50K for our digitization project. When we went before House Finance Ways and Means, Senator Yeager, chair of the Senate State and Local Committee, recommended that we use \$50K of the \$200K carry forward and he would be Senate sponsor, Rep. Karen Camper and Rep. Kevin Brooks out of Cleveland are our House sponsors.

This morning there was a hearing to reduce Sunset from 2021 to 2020. Deputy Director Hooper and General Counsel Cummings attended the meeting and the bill was rolled to Wednesday, March 28, 2018. We will send that information to Commissioners.

Dawn Cummings, General Counsel was sworn in as a lawyer for the State of Tennessee by Chief Justice Clark on January 24, 2018. She is doing an excellent job and we are fortunate to have her working for us and look forward to her future with the Commission.

Gabrielle Lyons was introduced as our new Title VI Compliance Director. She attended the meeting via telephone.

There was a statewide Women's Conference February 9, 2018 in Chattanooga which was organized by Councilwoman Carol Berz. Executive Director Watts was a speaker at the event and spoke with the Chattanooga Free Press; her topic was MeToo/Sexual Harassment and what the law does and does not cover.

A calendar was sent to Commissioners showing the busy Fair Housing Month events in April which will be shared by Erika Wynn during her report.

The report that was requested by Commissioner Behler regarding the non-jurisdictional Title VI complaints that are received shows that since July 1, 2017 there have been 149 of 198 TN Department of Corrections complaints that did not allege a Title VI issue. Seventy

five (75) of these non-jurisdictional issues include unfair treatment, denied medical services, and denied access to programs or services based on their race, color or national origin. Other issues included internal affairs grievances, religious accommodations, sentencing issues, housing issues, assault, and harassment. These non-jurisdictional complaints are returned to the identified Agency for resolution. There were twenty-one (21) complaints referred to state agencies. We referred five to Children's Services, four to Education, three to THRC's Employment Intake Division, two to Department of Labor and Workforce Development, and one each to Human Services and Commerce and Insurance. These did not involve allegations of race, color or national origin. Twenty-eight of the cases were closed because the facility was not in our jurisdiction due to not receiving state or federal funding. We will send this report out to all Commissioners as a follow-up.

Commissioner Behler asked what was the number one reason in the complaints. Director Watts replied that unfair treatment was number one with 31 complaints, medical services with 24 complaints and access to programs/services was 23.

Chair Houston asked if this information could be provided again in six months or on a regular basis to Commissioners. Executive Director Watts noted that the information will be included in the Title VI report going forward.

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

Employment Case Report

Deputy Director, Sabrina Hooper reported on the period from January 1, 2018 to February 28, 2018 noted that 104 inquiries were received resulting in 37 charges being filed: 36 dual filed and 2 THRC only. During the period 46 charges were closed with an average charge age of 272 days. The open inventory at the end of February 2018 is 247 cases.

Six (6) mediations closed within this timeframe, resulting in \$66,260 in monetary benefits to the Complainant and six (6) complaints closed as settlements with \$72,128 in monetary benefits to the Complainants. Of the 25 mediations held eight Complainants were represented and twenty Respondents were represented.

In comparing last year for the same time period there was a 5% increase in charges received and a 42% decrease in charges accepted. Complaints closed decreased by 6 cases. Cases involving allegations based on race, color, national origin, gender and religion) remain the top category for closed cases.

The Audit results show that timeliness goals are met. We are averaging 36 days from acceptance to assignment which is under average of 40 days; submitting Investigative plans within ten working days show that of 212 charges, 211 were sent timely putting us at 99%. For timeliness goals for reconsiderations show nine in employment and six in housing and all were completed timely. Notification letters show 72 of 73 letters sent timely with one missed in August of 2017 putting us at 99%.

Quarterly training continues to assist staff to understand the nuances of the law. We are implementing processes that will help streamline case processing. Our new legal staff has helped with revamping our Investigation Plans and Rationales for a more concise case investigation. We have implemented a mediation plan that helps mediators assess the case before mediation is held.

For the witness customer service surveys sent out for Employment, Public Accommodation and Housing staff placed 73 calls and interviewed 30 witnesses; there were no new comments. Answers were strongly agreed and agreed to the positively stated questions.

On the 10 question survey for Employment, Public Accommodation, and Housing surveys 220 were sent out via mail with 22 returned and Survey Monkey sent out 195 via email with 11 responses received. Answers were strongly agreed and agreed to the positively stated questions. There were no new comments.

The new website is about 80% complete with a review of all links and information operable. Our IT staff has been attending training every Friday and receives specific help with our content. Once the website is complete the work on the electronic complaint form will continue.

Commissioner Crider asked about the monetary mediation benefits being higher for January and February of 2018 then 2017. Deputy Director Hooper explained that amounts reported are only for the timeframe of two months. Commissioner Crider noted that the comparison would also be the same timeframe. He asked what caused the amounts to be higher. Deputy Director Hooper explained that all cases mediated have different allegations. Some cases terms that are negotiated came in at a higher level. The terms are negotiated between the parties based on the allegations.

Commissioner Derryberry asked if we are seeing a trend that caused the higher values. Executive Director Watts added that it depends on what the issues of the case are and what the two parties involved were able to agree. Both parties have to agree if there is mediation. Two or three of the cases were cause cases and we have to offer post-cause conciliation as a rule. Some of them are done by attorneys and we have seen an increase of the number of cases that have been caused and settled with higher benefits.

Commissioner White made a motion to accept the Employment report and Commissioner Martin seconded the motion.

Commissioner Crider noted that people bring cases that they think are legitimate and we ask the complainants to do a survey. Do we ask those that were not legitimate cases? Executive Director Watts noted that only cases that are accepted for investigation are asked to complete a survey at the end of the investigation.

He followed up with when the investigative process is complete and no cause has been found do we ask the respondents how they thought the process went. Executive Director Watts noted we ask both parties. Respondents are more positive and Complainants are more negative. He asked if Respondents are more likely to respond to the surveys. Deputy

Director Hooper will check on that and get back with you. She noted that the Respondent responses are usually more positive.

A vote was taken and passed.

Housing Case Report

Housing Coordinator, Saadia Williams reported that this report covers the January 1, 2018 to February 28, 2018 time frame noting that there were 75 inquiries resulting in 23 complaints accepted for investigation. Disability was the number one basis for complaints as it has been for the entire fiscal year.

Staff closed 11 dual filed complaints of which five or 45.4% were conciliations; four or 36.3% were no probable cause; 1 or 9% was withdrawal with resolution and 1 or 9% was a failure to cooperate.

For meeting the HUD efficiency goal of closing 50% of dual filed cases in 100 days or less, we closed 60 dual filed complaints of which 21 or 35% were closed within 100 days or less. We have closed 96% of our aged cases. Our timing milestone regarding our audit finding shows that all acceptance and notification letters were sent out timely within the ten days required. The division has one vacancy and interviews will be conducted beginning this Thursday.

Commissioner Crider asked what restrictions are in place for applicants who have may have an arrest record to gain a position with our agency. Executive Director Watts noted the state of Tennessee passed a state law that allows for more flexibility of hiring individuals with a record. All applications are reviewed by DOHR and the agency receives those they deem meet the minimum qualifications. Commissioner Crider asked if a convicted felon could interview for these jobs and the answer is yes. Violent felons are prevented from applying.

Commissioner Behler noted that the legislature passed last year an expungement act that allows for charges to be deleted from a persons' record. Commissioner White noted that his church has completed over 100 expungements and attorneys are doing them pro bono. This is not the same as the diversion process that used to be in place.

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

Title VI Compliance Report

Gabrielle Lyons, Director of the Title VI Compliance division reported on the January 1, 2018 to February 28, 2018 time period 60 inquiries and 17 were jurisdictional and assigned for investigation, 15 cases were closed and there are 39 cases in inventory.

Implementation Plans for all 47 agencies have been issued initial reviews. We are on track to complete the final memos to the agencies by April 2, 2018.

Our technical assistance requests totaled 38 for the period and most from state Title VI coordinators about feedback regarding the Implementation Plans. Requests were also received about complaint processing and investigation procedures.

Our compliance review with the Tennessee Board of Regents involves 46 community colleges and technical schools and we will be conducting five on sites to review their Title VI records. This review should be completed by the end of the fiscal year.

We hosted a meet and greet with Title VI staff and state coordinators on March 15, 2018 and approximately 40 attended.

Executive Director Watts, Title VI Compliance Director Lyons and Title VI Compliance Officer Jesse Madsen will meet with Tennessee Board of Regents staff to give them an update on the Compliance review and conduct Implementation Plan training next week.

Commissioner Behler made a motion to accept the Title VI report and Commissioner Derryberry seconded the motion. A vote was taken and passed.

Legal Report

General Counsel, Dawn Cummings reported that during the January 1, 2018 to February 28, 2018 timeframe in employment legal reviewed 17 no cause cases, 20 administrative closures of which 6 were failure to cooperate; 3 were no jurisdiction; 3 requested a right to sue; 6 withdrawals and 2 outside settlements. During the timeframe there were 11 conciliations and 4 THRC only closures.

In housing there were five no cause, 1 administrative closure and five conciliations. In employment there were six cause cases reviewed and caused; reviewed 44 investigative plans and two reconsiderations were completed.

Again in housing we reviewed one cause case and eleven investigative plans and one reconsideration was conducted. Nine copy requests were completed.

Cause case review shows case number one A & B are with the Attorney General's office. The hearing scheduled for March 12, 2018 has been rescheduled.

There were two days of training in February. On the 6th training was conducted for employment investigators and on the 7th training was held with housing staff.

Other employment cause cases updates are as follows: New cause case number 7 is a disability case. Cases 8, 9 and 10 are all the same respondent and three different complainants. Cases 11 and 12

February 28, 2018. Final cause case number 12 is a disability case and has a filed on February 14, 2018. We will see if the parties want to conciliate and move on from there.

Housing cause case update on case number 10 is a failure to accommodate companion animal.

Legislative updates include several bills we are following. Legislative session convened on January 9, 2018 and submission of bills was scheduled for the last week in February. The Sunset hearing was today. The disability bill HB1899/SB1904 would add accommodation to the HRC statute. The bill was sent to summer study.

HB2224/SB2284 regards minimum attendance requirements for Commissioners would allow for removal from boards and commissions following three regularly scheduled meetings missed. No movement on this bill. Our rules already have this provision.

HB2572/SB2451 requires THRC to send an electronic report annually to each member of the General Assembly for housing discrimination claims. Reset to final calendar day next week. We currently meet this requirement in our annual report.

HB2623/SB2632 increases from 10 days to 60 days the time with which THRC must send a person filing a complaint that we have received it. The bill has not moved or sent to committee.

Chair Houston requested a copy of the listing of the bills. Executive Director Watts noted this will be sent out to Commissioners. Commissioner White asked what Commissioners can do to escalate movement in these bills. Executive Director Watts noted these are not our bills. The disability bill was brought by the Disability Coalition and we supported them and it has gone to summer study.

The Sunset bill we would like to continue to 2021 and we will go to that next week. We are meeting with Senator Bell on Monday and give him our rationale for why we think 2021 makes sense. We think we have made tremendous progress.

The electronic reporting bill will require us to send our annual report to legislators in September when it is released. The increase from 10 days to 60 days would give some relief on an audit issue but we are not sure that one will move. The attendance issue bill is already in our bylaws.

Commissioner Behler noted that the issue with electronic reporting is that there have been an increasing number of requests for reporting of different things. A word of caution to just be careful when they start asking for reports because then they ask for it monthly or quarterly and you are stuck reporting. Then if you fail to report other issues arise from that.

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

Communications Report

Communications Director Erika Wynn reported on the January 1, 2018 to February 28, 2018 timeframe when staff participated in 22 Education and Outreach events that included two exhibits, nine speaking engagements. Through these efforts we reached 4,372 individuals and reached at 81,931 year to date.

Highlights include: Executive Director Watts gave a presentation to the Downtown Chattanooga Rotary Club at which 212 attended and included Commissioner Derryberry who extended the invitation. Multiple events were attended for the MLK day activities and included the Knoxville MLK Commission event which was attended by Housing Coordinator Saadia Williams and Chair Houston. Other events included the Bone, McAllister, Norton Law Firm MLK Breakfast and the MLK Day Convocation at TSU attended by Myself, Lynn Cothren and Executive Director watts

The Nashville Ballet partnership Light the Holocaust Humanity Project featured a panel moderated by Executive Director Watts at Fisk University on February 3, 2018 entitled "Our Tolerance Panel" and Executive Director Watts served as a panelist in a question and answer session Paul Vesterling the Executive Director of the Ballet and Steven Mills of the Austin Ballet, who created the ballet.

Executive Director Watts attended the Women's Policy Conference in Chattanooga; the Ballet was February 11, 2018. We placed an ad in the Knoxville MLK Commission program, an ad in the Nashville Pride newspaper that ran through the MLK Day edition and ads that ran weekly during Black History Month which is where we reached 81K people. Commissioner Derryberry asked if we are boosting posts on Facebook and Communications Director Wynn noted that for March we spent \$100 on boosts. Suggested audiences are chosen per content. The analytics are pretty good on our registrations. Commissioner Derryberry asked what the click thru rate was and Communications Director Wynn noted she would have to check and get back with her on that.

Chair Houston noted that the program for the MLK Commission event where the ad was placed is used all week long and surely reached more than 200 people. Saadia Williams will check on that and report back to Communications Director Wynn.

Executive Director Watts noted that her speaking engagement at the Women's Policy Conference led to a Me Too article in the Chattanooga Free Press and the Nashville Ballet article. A calendar was sent out to Commissioners and will be updated as needed for area events. During the month of April the MLK 50 events will be in Memphis from the 2nd through the 4th; the April 4th Foundation event; Fair Housing Conference events in Knoxville on April 6th, Chattanooga on April 20th from 8 to 3 at the Innovation Center, Memphis on April 12th, Nashville on April 17th and Johnson City on April 17th.

The Employment Law Seminar will be on June 6, 2018 at Vanderbilt. Registration for this event is not open but the save the date will be released by the end of April. Chair Houston noted that this calendar will be updated regularly and provided to Commissioners. Commissioner Behler noted it would be good if it could be provided monthly. Commissioner Derryberry requested that thank you letters be sent to the Hamilton County staff that assisted with this mornings' presentation. Chair Houston noted that the letters were discussed earlier and will be sent out.

It was also noted that if you plan to attend any of the calendar events that you notify the Chair of your attendance and it would be good to have representation from the Board whenever possible. Commissioner Derryberry indicated if speakers were needed for

events, Commissioners could be if notified be very helpful in assisting with identifying and obtaining them. Executive Director Watts noted that if you come to an event and there is an introduction of a speaker or a proclamation we may ask you to assist with those.

Commissioner Behler noted that if an event is happening in Chattanooga he is committed to being available to support and help THRC staff in any capacity. Commissioner White noted that the same support is available in West Tennessee. Executive Director Watts noted that the West Tennessee Fair Housing event is being co-sponsored with Memphis Area Legal Services and a lot of others. Commissioner White would like information about this event on April 12, 2018. It was noted that THRC will pay any fees for Commissioners to attend.

Executive Director Watts instructed Communications Director Wynn to send the information about all the April events to Commissioners this upcoming week. Commissioner Derryberry thanked the Director for taking the extra step to keep commissioners informed and how important it is for to those who appointed these Commissioners to know that their appointees will be active members of this board.

Executive Director Watts noted that at the Ballet event a video was made and will be posted on YouTube if anyone would like to view it. It will also be uploaded to our website when we receive it. Our website is still under construction and it will be updated in 15 to 30 days.

Commissioner Derryberry made a motion to accept the Communications report and it was seconded by Commissioner Behler. A vote was taken and passed.

Our Fiscal Officer, Allen Staley gave an overview of the year to date finances through January 31, 2018 and the total expenditures are \$1.325K which represents 50% of the budget and January represents 58% of the time. Overall we are in good shape for being within our budget and are not anticipating any issues.

Commissioner Crider asked if there was anything worth mentioning. Mr. Staley noted on line four Awards and Indemnities which shows 353% increase which is because the budget was \$200 and we spent \$726.

Executive Director Watts asked Mr. Staley if he could explain the item in red under other funding. Mr. Staley noted that current services revenue listed at the bottom of the page included copy fees and settlement payments of \$8K for two cases. Executive Director Watts explained that when a cause case is settled THRC often receives money for support of our Education and Outreach endeavors. This money has to be spent this year and a discussion with Mr. Staley will take place to determine how that will happen.

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

The last topic of discussion is the Strategic Planning Retreat scheduled for June 27 and 28 which are the dates that DOHR Facilitators Trish Holiday and Antonio Meeks are available.

Communications Director Erika Wynn was asked to place this event on the THRC calendar. Chair Houston will send out a survey during the first part of April which will identify what information you may wish to cover during the event.

Please fill out the survey and return it as quickly as possible so it can be shared with the facilitators. The location for the retreat will be the Timothy Demonbruen House in Nashville and lodging will be provided in the city and more information will be provided when it is available.

Commissioner Crider noted he liked the idea of using the Tennessee State Park Facilities and some are under renovation. We will continue to monitor that situation and report back to the Commission.

There were no public comments or announcements. The next scheduled Commission meeting will be May 11, 2018 which is in person meeting. This is a change in date from the original schedule. We will resend the information to Commissioners this week.

Commissioner White noted that he chairs a law enforcement review board and we investigate complaints from police and other agencies and one of the issues that is coming up is to review subpoena power which is not sufficient. We have to go through the city council and they send it somewhere and they come up with a decision as to whether they will do it. Our attorney noted that we can complain to the Human Rights Commission and who is that handled by at THRC and what is the procedure. Executive Director Watts noted that it could be the Memphis Human Rights Commission or the Tennessee Human Rights Commission. She noted that THRC does not have jurisdiction unless it is based on race, color or national origin under Title IV. It was suggested that Commissioner White call Executive Director Watts for further information.

Commissioner Behler thanked Commissioner Derryberry for nominating Rev. Paul McDaniel for the Wurzburg Award. He is a fantastic individual and a well-deserved recipient of the honor. Copies of the presentation will be available from the County Clerks' office and will be provided via CD to Director Watts. Thanks were offered to Executive Director Watts for speaking at the Rotary Club in Chattanooga. He was sorry he missed the event due to the passing of his father. Thanks for the card and condolences from the Commission.

With no further business to address the meeting was adjourned at 3:30 pm EDT.