



TENNESSEE HUMAN RIGHTS COMMISSION
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May 11, 2018
Board of Commissioners'
Meeting Minutes

Commissioners Present:

Commissioner Arnwine
Commissioner Behler (Phone)
Commissioner Crafton (Phone)
Commissioner Crider
Commissioner Derryberry (Phone)
Chair Houston (Phone)
Commissioner Martin
Commissioner Sloss
Commissioner White (Phone)

Commissioners Absent:

Staff Present:

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

Guests:

Allen Staley, Fiscal Officer
Tracy Davidson, IT

Call to Order

Commissioner Martin called the meeting to order at 9:01 a.m. and asked for a moment of silence followed by the roll call.

The minutes of the March 21, 2018 Board of Commissioners' meeting were reviewed. Commissioner Crider made a motion to approve the minutes and Commissioner Sloss seconded the motion.

Executive Director's Report

Executive Director Watts advised the Commission on vacancies. She noted there was a Compliance Specialist position in enforcement which is a newly created position. She indicated that Erika Wynn resigned effective April 16, 2018 which is currently being re-advertised due a lack of candidates with necessary experience.

During the legislative sessions, the House Government Ops and Senate Government Ops moved to reduce the agency Sunset to 2020 and the bill passed in both the Senate and House. In the Senate the vote was unanimous and on the House floor there were nine votes against the reduction along with vigorous discussion and questions on this bill. There were no questions for the agency at the House Gov Ops session. This means that auditors will probably return to the agency in the spring of 2019.

Commissioner Sloss asked what they were debating. Executive Director Watts shared that on the House floor the question about why the three years that were given last year was being reduced and the discussion was led by members not on the House Gov Ops committee.

The disability bill failed to pass but it was sent to summer study. The Disability Coalition has contacted us and indicated their concern and that they want to push this legislation to the next session and they want our help which we are happy to give.

General Counsel Cummings noted the legislation that would require the agency to notify the District Attorney General when intimidation occurs in a civil rights case. Rep. Johnnie Turner's Hate Crimes, Intimidation and Cold Civil Rights Commission was created to receive information on these cases.

Allen Staley noted that the 2018-19 budget was passed which includes an amendment for \$50K for the agency digitization project. We will be taking \$50K out of the carry forward amount of \$200K for the next fiscal year. There were no reductions taken and that leaves the base level budget that we currently have with some adjustments for insurance and other items.

Commissioner Sloss asked if the carry forward money was federal money that came in late and was not part of the original budget. Allen Staley responded that carry forward is state appropriated dollars that the budget office has agreed that the agency can utilize savings if needed with closing the fiscal year. It creates a safety net for the agency because case revenue can fluctuate. Commissioner Sloss noted that Assistant Commissioner Jerry Adams started the carry forward due to the way our federal dollars came in after the state closing date of June 30 of each year.

Allen Staley noted that the agency's two funding sources are HUD whose revenues are 100% accrued after the state fiscal year closing date and put back into the budget at closing. EEOC's revenue cycle is on the federal year ending September 30 of each year. Executive Director Watts noted that we receive two federal payments in the same fiscal year. The agency continues to close in the black without using carry forward funds. We

have only utilized these funds once during the last 10 years because of 7% cut to our budget.

Allen Staley noted our budget is at 70% of the budget as of April 30, 2018 and the final payroll is not included in this report which represents 83% of the budget period. Discussions are taking place to review expenditures in relation to closing and to utilize unused funds so as not to return funds unnecessarily.

Executive Director Watts reported that in April the agency had four housing events across the state- Knoxville on April 6, 2018, Nashville on April 17, 2018, Memphis on April 12, 2018 and Chattanooga on April 19. At the Fair Housing Matters Conference Executive Director Watts was awarded the Fred Cloud and Tracey McCartney Award for Long Term Service to Fair Housing. Before his death, Fred Cloud was the Executive Director of Metro for over 20 years and also the editor of Journal of Intergroup Relations and former Board Chair of the Fair Housing Council. Tracey McCartney was the long-time Director of the Fair Housing Council who passed away in 2017.

At the Cable Power of Inclusion (POI) Luncheon Executive Director Watts was awarded a long-term award for working on the POI awards committee.

The Commissioner Retreat will take place on Wednesday June 27, 2018 and Thursday June 28, 2018. The Timothy Demonbreun House is available and proposed for the retreat on the 28th and Commissioners will stay at the Marriott on West End. After the venue has been toured a report will be given to the Chair. Tentative plans include a meet and greet casual dinner on Wednesday evening and the Strategic Planning session with the facilitators, Dr. Trish Holiday and Antonio Meeks on Thursday.

Staff will send out the survey from the chair on Monday and it will be due back by May 31, 2018. The agenda and additional details will be sent out to Commissioner by June 14, 2018.

Executive director Watts indicated the Employment Law Seminar will be held on June 6, 2018 and if anyone like to attend they should let us know. We will send the agenda out to Commissioners along with other information. Judge Kevin Sharp will be speaking about litigating employment cases and other presentations will include sexual harassment, workplace violence and immigration. The event will be held at Vanderbilt University student center.

Commissioner Crider asked about an upcoming event on June 4th. Executive Director Watts noted there was not an event on June 4th but that there were four housing events hosted by THDA Fair Housing events.(and one is on the same day June 6, 2018 in Memphis as the Employment Law Seminar in Nashville) and if Commissioners would like to attend please let us know and we will make those arrangements for you. Commissioner White requested information on this event.

Commissioner Crider asked if there were particular events that would be helpful to commissioners that they should attend. Executive Director Watts noted that

Commissioners should attend the Employment Law Seminar to hear topics the commission handles and enables them to ask questions and hear other discussions about our laws and issues. About fifty percent of the training that is conducted by THRC is done with employers and housing providers. We appreciate all commissioner attendance at any of our events.

Commissioner Arnwine made a motion to accept the Executive Director's report and Commissioner Sloss seconded the motion.

Chair Houston announced her presence on the call and apologized for not being present.

Employment Case Report

Deputy Director, Sabrina Hooper reporting on the period from March 1, 2018 to April 30, 2018 noted that 100 inquiries were received resulting in 45 charges, 35 dual filed and 10 THRC only. During the period 34 charges were closed with an average charge age of 360 days. Our open inventory at the end of April was 258 cases. Four (4) mediations closed within this timeframe, resulting in \$5,230 in monetary benefits to the Complainants and one (1) complaints closed as settlements with \$1,000 in monetary benefits to the complainant.

Since July 1, 2017 we have been tracking how many mediations have been conducted and how many are represented by attorneys. Mediations conducted totaled thirty four (34) and complainants were represented twelve (12) times and respondents were represented twenty eight (28) times. The total amount of employment mediation benefits is \$97,234 for the year.

The comparison reflects that we increased by 8% the number of charges received and the charges accepted decreased by 23 charges. Cases closed increased by 13 cases and investigations still revolve around race, color, national origin, gender or religion as the top categories for closed cases.

The Sunset audit update from July 1, 2017 to April 30, 2017 shows that met all of the timeliness goals. In intake from assignment to acceptance of cases the days are an average of 36 days and our goal is 40 days. Our investigative plans have been submitted within the 10 day goal 250 out of 251 times. All ten (10) employment reconsiderations have been completed within the 30 day timeframe.

In housing the notification and acceptance letters have been sent timely in 97 out of 98 instances. Of the eight (8) housing reconsiderations conducted all have been completed within the 30 day timeframe. All investigative staff continues to attend training bi-monthly and the next session will be in July.

For the surveys since July 1 staff has placed 86 calls to witnesses and interviewed 34. Responses to the positively stated questions were 65% have strongly agreed; 26% have agreed; six have had no opinion and 3% or 1 person strongly disagreed. There were no new comments.

On the 10 question survey for Employment, Public Accommodation, and Housing surveys 258 were sent out and 24 returned. Electronically 252 have been sent out and 12 responses received for a total of 36 responses. Complainants responded 26 times and respondents responded 10 times. Question responses were 25% strongly agreed; 22% agreed and 5% strongly disagreed. In housing 31% strongly agreed; 14% agreed and 3% had no opinion.

We have completed the updates to our website and corrected the links. Our IT person is on the phone to answer any questions you may have. He is working with the Adobe manager to review the website and assure that links work and all information is accurate and up to date.

The electronic signature complaint form that we have been working on we now want to include some instructions such as having bubbles that will explain certain portions of the form. This is an effort to make the online form more user-friendly. The Adobe team will be meeting today and we intend to move forward with the testing of the product within the next couple of weeks.

Commissioner Sloss asked if this work will allow users to submit completed forms electronically. Deputy Director Hooper noted that this is part of the state's initiative to have everything online for the public to be able to file electronically. This will enable users to get additional help and information about filling out the form on line.

Executive Director Watts noted that examples will be included. Work on this form began in October of 2017 and we were given an entire new web platform. The website was rebuilt and then in December and January during a review of the website it showed that nothing was there. So the website was completely rebuilt again. Our goal is to test this by July and we will ask commissioners to look at it and provide feedback to assist us to identify issues before we go live in September. Press releases will announce this event.

Commissioner Martin noted it will be interesting to see how the trends are in reference to electronic versus paper submissions.

Commissioner Arnwine made a motion to accept the Employment report and Commissioner Derryberry seconded the motion.

Housing Case Report

Housing Coordinator, Saadia Williams reported that this report covers the March 1, 2018 to April 30, 2018 time frame noting that there were 102 inquiries resulting in 27 complaints accepted for investigation which included one THRC Only inquiry. Disability was the number one basis followed by race and familial status.

During the period 23 dual filed cases were closed of which 9 or 39% were administrative conciliation closures; 9 or 39% were no probable cause; 4 or 17% were failure to cooperate and 1 or 4% were withdrawal with resolution. Our HUD efficiency goal of closing 50% of cases within 100 days stands at 30 cases or 36% with 83 cases closed.

In comparison to last year the agency closed 73 dual filed cases of which 28 cases or 38% were closed within 100 days. There was an increase in the total number of closures and a decrease of percentage of cases closed within 100 days and a decrease in the number of cases closed within 250 days. There are two (2) aged cases that remain open of which one was closed yesterday and we anticipate closing the last substantially aged case by the end of the month.

The timing milestone of sending out the acceptance and notification letters to respective parties within 10 days and upon review all letters were sent timely. The housing investigator vacancy was filled on June 9, 2018 and the housing division is now fully staffed.

Commissioner Sloss made a motion to accept the housing report and Commissioner Derryberry seconded the motion.

Title VI Compliance Report

Gabrielle Lyons reported on the March 1, 2018 to April 30, 2018 timeframe during which 60 inquiries were received. 10 were accepted for investigation most of which were assigned to TDOC for investigation and the other 50 were non-jurisdictional.

Eighteen (18) cases were closed during the period leaving 35 in open inventory to include cases with TDOC, 4-year colleges and DOE.

We have sent out all 48 Implementation Plan final review notices to agency Commissioners and Coordinators. The Commission on Aging and Disability, Transportation and University of Memphis were submitted late and all other agencies received no findings. A review of the Implementation guidelines for next year will begin now.

There were 111 requests for technical assistance and most were feedback communications with the agency and were related to Title VI Implementation plans and the ongoing Compliance review of the TN Board of Regents.

The Compliance Review of the TN Board of Regents continues with an onsite review of East Tennessee State University, Technical College in Dickson, Columbia State Community College and the TN Board of Regents office in Nashville by Compliance Officer Jesse Madsen and Title VI Compliance Director Lyons. The University of Memphis interviews were conducted by phone the week of April 23, 2018. The onsite reviews noted some areas of non-compliance and Initial Findings memos will be sent by June 30, 2018.

A Title VI meet and greet was held on March 15, 2018 to discuss the agency goals and review Implementation Plan evaluations. The meeting was attended by 45 Coordinators and included coordinators from Memphis via video conference.

Director Watts and Title VI staff attended the TBR Equity Officers meeting on March 28, 2018 to discuss Title VI Requirements and the TBR Compliance Review. There were 45 people in attendance.

The non-jurisdictional inquiries report is attached to the end of this report.

Commissioner Crider made a motion to accept the Title VI Compliance report. Commissioner Behler seconded the motion.

Legal Report

General Counsel, Dawn Cummings, reported on the March 1, 2018 to April 30, 2018, period when legal closed 11 no cause employment cases. Seven were administrative closures, one conciliation was reviewed and one THRC Only case was closed.

One case was caused, 32 Investigative Plans were reviewed, and there were no reconsiderations during the period.

In Housing, legal reviewed and closed ten no cause cases, of which five were administrative closures and reviewed eight conciliations. There were no THRC only cases. One case was caused, ten Investigative Plans were reviewed and two reconsiderations were completed. Twenty one copy requests were completed.

Legal department updates include the cases appealed to state court where we are being represented by the Attorney General's Office. A motion to dismiss the Coffee County case is scheduled for June 5, 2018 and negotiations are active in the Barnes case.

For training and outreach Deputy Director Hooper and General Counsel Cummings conducted training in the Housing Office in Knoxville for new investigators. General Counsel Cummings also participated in a panel at the Fair Housing Matters Conference on April 17, 2018.

The Employment cause case number 2 has mediation scheduled for June 21, 2018; case number 5 has mediation scheduled for June 5, 2018; cases numbered 6, 7 & 8 have reached a settlement and the paperwork is being completed. Case number 9 has mediation scheduled for June 25, 2018 and in case number 10 the Notice of Determination was sent out on February 14, 2018.

In Housing cause case number 1 settlement negotiations failed and parties will now engage in discovery and no hearing has been set. In case number 2, procedural issues have delayed the case and we have filed a Motion to Compel and are awaiting the Administrative Law Judge's ruling. Case number 3 the Commission will file a motion for Summary Judgement. Case number 4 is completed and the Commission received \$3,750 for Outreach and Education and proof of training for the respondent has been received.

In case number 5, an agreement has been reached; case number 6 a hearing has been set for June 19, 2018; case number 7 working with opposing counsel to set initial hearing. Cases 8 & 9 deal with companion animals and are in the beginning process of preliminary settlement negotiations.

Commissioner Sloss asked for additional information about the housing case number 4 where the complainant suffered a stroke. General Counsel Cummings noted that the case

is a failure to accommodate as the complainant suffered a stroke and could not live alone and needed an assistant. The respondent denied his request and told him that he needed to move into assisted living and refused to release him from the lease and told him he was not disabled.

The original request was to be released from their lease early which the respondent denied. Commissioner Sloss asked about the settlement. General Counsel Cummings noted that the complaint was settled with the respondent for \$3750 for legal fees associated with filing with the Attorney General's Office and the remainder for education and outreach for THRC and respondent was required to attend fair housing training approved by THRC legal and provide proof that the training was completed.

Commissioner Sloss noted that the complainant died before the case could be completed and the family received no compensation as they did not want to participate in a hearing and only wanted to see the respondent receive training.

Commissioner Crider asked for an explanation about the cost of \$3750 for litigation and education and outreach. General Counsel Cummings explained that the agency is charged for filing with the Attorney General's office and those expenses are reimbursed to the agency and any remaining monies go to education and outreach efforts. In some cases costs for depositions, court reporters and filing fees are higher fees.

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

Communications Report

Lynn Cothren, Special Assistant to the Executive Director reported on the period March 1, 2018 to April 30, 2018. He indicated there were seventeen outreach events; nine speaking engagements; six exhibits and three advertisements which reached 28,637 people during the period. Total events for the Fiscal Year are 92 and total people reached for the FY has been 1,472,614. An adjustment was made in the numbers as it was noted at the last Commission meeting regarding the number of individuals reached at the MLK Celebration.

The months of March and April were very busy outreach months as April was Fair Housing Month and Executive Director Watts was given the highest award for Fair Housing. Other events are listed in the report.

An updated calendar for May and June will be emailed out today and any Commissioners wanting to attend the Employment Law Seminar on June 6, 2018 should notify the agency so the registration can be completed. Information about ELS is posted on Twitter, Facebook and our website if you need further details.

Our web analysis numbers have decreased due to the issues with the website but are beginning to stabilize and are starting to go back up.

Commissioner Sloss asked how many are registered for the ELS. Registration opened last week and offers both attorney and Human Resources CLE's to attendees. Deputy Director Hooper reported that registration is currently at 68.

Commissioner Crider made a motion to accept the Communications report and Commissioner Sloss seconded the motion. A vote was taken and passed. A vote was taken for the Legal report acceptance and passed.

Executive Director Watts shared that the Frances Guess Bridge to Equality Award Luncheon hosted by the Community Foundation is today from 11:30 to 1:30 and we have four tickets available if any commissioner would like to attend. This event and award is named for the late Francis Guess was a longtime Chair of this Commission.

Chair Houston asked that the May and June Communications Calendar be sent to all commissioners at the end of the meeting.

In regards to the upcoming Commissioner Retreat a survey will be sent out electronically with general questions that will be used by the facilitators at the event. Please fill them out and return them with any suggestions you may have.

Commissioner Behler would like to go back the Survey Monkey report on page 2 where it refers to TEAPOTS and he would like an explanation of what that is. Deputy Director Hooper noted that TEAPOTS was the previous case management system used in Housing cases. The current system used is called HEMS. A correction will be in the report. Commissioner Behler indicated suggestions on a way to increase those responses would be appreciated.

Commissioner Sloss noted he received an email about someone trying to contact him and Executive Assistant Lancaster noted that contact information is not shared about Commissioners with callers. Executive Director Watts noted that callers will be questioned if the call is case related. If so it will be addressed by staff.

It was noted that the Commission will gather on June 27th and 28th for the Commissioner Retreat.

Commissioner Behler made a motion to adjourn and Commissioner Derryberry seconded the motion. The meeting was adjourned at 10:06 a.m. CDT.