



TENNESSEE HUMAN RIGHTS COMMISSION
WILLIAM R. SNODGRASS TENNESSEE TOWER
312 ROSA L. PARKS AVENUE, 23RD FLOOR
NASHVILLE, TENNESSEE 37243-1102
(615) 741-5825 FAX (615) 253-1886

May 13, 2014
Board of Commissioner's Meeting
Minutes

Commissioners Present:

Commissioner Cocke (Phone)
Commissioner Coleman
Chair Garrett
Commissioner Horne (Phone)
Commissioner Houston (Phone)
Commissioner Martin
Commissioner McDaniel
Commissioner Miller
Commissioner Pierce
Commissioner Selberg
Commissioner Starling
Commissioner Wurzburg

Commissioners Absent:

Commissioner Jones
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
Susannah Berry, Special Assistant to Executive Director/Communications Specialist
Lisa Lancaster, Executive Assistant

Guests:

Nancy Townsend, Budget Officer
Paula Casey, Contractor
Linda Reed, THRC Regional Coordinator

Call to Order

Chair Garrett called the meeting to order at 9:05 a.m. CDT and welcomed those in attendance and called roll. The board members in attendance received a resolution to present to Commissioner McDaniel at his retirement service. Commissioner Horne made a motion to pass the resolution and Commissioner Pierce seconded the motion. A vote was taken and passed.

Chair Garrett congratulated Commissioner McDaniel on his retirement from his 48 years of service at the Second Missionary Baptist Church, and he added that he has been in the ministry for a total of 62 years but has been at his current location for the past 48 years. He also served in New Jersey for 10 years.

Chair Garrett asked for a moment of silence for the young girls of Nigeria that are missing. The newest Commissioner, Rieta Selberg, from Memphis was welcomed. The minutes of the March 21, 2014 meeting were reviewed. Commissioner Pierce made a motion to accept the minutes and Commissioner Martin seconded the motion. A vote was taken and passed.

Executive Director's Report

Executive Director Watts began by introducing Matthew Stephenson, the new Title VI Compliance Director and noted that he has been with the Employment division as the Nashville Regional Coordinator prior to his promotion and he was welcomed by the Commission.

The Audit is concluding and a meeting with the auditor in charge will take place on Wednesday, May 14, 2014 at 2:00 p.m. where more details will be shared. Staff has responded to a few issues that they identified and commission members will receive a copy of the audit directly from the Comptroller's office. Once the audit is received staff will arrange for the Budget and Audit Committee to meet as we will have two weeks to respond to their findings.

Several issues have been identified which include not sending the required 100 day letter. In five cases it was sent two or three days late but none more than approximately ten days late. We have taken action to remind staff to send the 100 day letter even if they are close to finishing the case. We are still above the HUD efficiency goal of 50% in closing cases in 100 days or less.

In employment one case file was lost and we signed a form that reported that we lost a case file. We are continuing to look for the case file.

In communications our sign in sheets did not have as many people present as were actually in the room. The explanation was that we could have miscounted or some folks may not have signed in on the sheets.

In Title VI there are some issues with complaint intake and we are reviewing that process. There were four cases where auditors said that jurisdiction was wrong but we conclude that jurisdiction was right and the letters sent were wrong and this will be corrected.

It was noted that we were not monitoring the responses to investigations. The Title VI Director has been notifying Title VI Coordinators that they have 90 days to complete the investigation and respond to THRC. We are also reminding them at 45 days.

Also some complaints were misclassified meaning some were non jurisdictional complaints and were classified as jurisdictional complaints. We were aware of these issues in November and are working to correct them.

At the meeting tomorrow the auditors will do a preliminary discussion to talk about these and any other issues they have found. Once the audit is issued we will have two weeks to respond to any findings and then the final Audit will be issued. It is expected that all this will happen between now and June or early July. We will provide more information at the July Commission meeting.

As of June 30, 2014 Shared Services Solutions will cease to exist. On July 1 Allen Staley will begin working with us on our Budget. We want to thank Nancy Townsend for her service this past year as our budget officer.

The witness surveys from July 1 to April report that we called 194 individuals and interviewed 72 people and there were only two complaints and both noted that the investigators were positive and professional. The witness surveys noted that the complaint should have been caused rather than no probable cause. We sent out 648 ten question surveys and 34 were returned which is a very low rate. There were no issues reported that required action. On July 1, 2014 we will begin using Survey Monkey and we hope this will increase the responses as they will be sent out via email and it will not require much time to complete.

During our hearings we asked for testimony about broad issues and we have had people that wanted to do individual complaints. In January a complainant came to us and with a complaint that they had been discriminated against and they indicated that they were white and that they worked for state government and we agreed to look at the issue. This issue came to us from a legislator and upon review it was determined that the complaint was not timely as it was four years old.

The complainant wanted to testify at the hearing about her issues because she said it was about her and three other employees. She posted on our Facebook page, "As the hearing draws closer I am amazed at the fact that I am a US born citizen and resident of Tennessee was not permitted to tell the true story about my civil rights or in this case the fact that the state of Tennessee employee and two others we had N O N E because we were white. Its cases like this NOT BEING ALLOWED TO SPEAK that I now believe that the state of Tennessee is right. I don't have any rights because I am white."

This was posted because we would not let her testify at the hearing about her complaint which was not jurisdictional. Susannah Berry noted that she was asked to submit her testimony in writing which she never did and we shared with her that we were looking for broad based testimony at our hearings. We shared this information in order to keep the commission informed about all issues that arise and want our record to reflect that.

Commissioner Hewitt asked if we could limit our Facebook settings to prevent postings of this nature on our page. It could be done but they could then post the comments on their own page.

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

Education and Outreach Committee Report

Chair of the Education and Outreach committee McDaniel reported that they met on April 28, 2014 to review the nominations for the Jocelyn D. Wurzburg Civil Rights Legacy Award and noted that Carol Berz from Chattanooga is an attorney and Council Woman and has worked for many years since the beginning of the Chattanooga MLK Celebrations. It was confirmed that she was the only nominee for the award.

Chair McDaniel asked the commission to accept the nomination and Commissioner Miller made a motion to accept the recommendation of the committee and Commissioner Martin seconded the motion. A vote was taken and passed.

Susannah Berry reported that the committee approved a proposal to increase agency awareness through a Summer 2014 Campaign that includes letters to the editor, public affairs programming, radio ads and bus ads. Increased awareness through these measures should increase our intake numbers.

An overview of the hearings was given and information about the Nashville hearing held yesterday, May 12, 2014 at the Nashville public library was shared. There will be fourteen speakers giving testimony about employment, housing, public access, immigration, civil rights, education and domestic violence and other violent crimes.

She also reported that on April 29, 2014 the second webinar Fair Housing 101 will be held and there are 57 attendees registered. The Employment Law Seminar will be held on June 12, 2014 at Century One Conference center.

Commissioner Starling moved adoption of the report and a vote was taken and passed.

Staff Presentations

Chair Garrett presented Saadia Williams, housing investigator in Knoxville, with her 5 year service award, Shay Rose, General Counsel in Nashville with her 10 year service award, and Linda Reed, employment and housing investigator from Memphis with her 30 year service award.

Law and Legislative Committee Report

Chair Wurzburg thanked staff for keeping the commission informed about the legislative activities and asked General Counsel Shay Rose to give an overview of the legislation that included Senate Bill 2054 that would have renamed the agency, reduced the number of commissioners to nine, restructured the appointment process and vacated the board. The bill was amended and became a bill that would vacate the board as of December 31, 2014, and reduce the number of commissioners to nine, three from each division appointed by the House Speaker, Lt. Governor and the Governor. The bill was signed by the Senate speaker on May 1, 2014, The House speaker signed it on May 7, 2014, and it is on the

Governor's desk for signature. If he does not sign it, it will automatically become law unless vetoed by the Governor.

Senate Bill 2126 affects our law as it sets caps on damages, removes individual liability and does not allow state and federal court cases at the same time. It also adds that "nothing in the act shall require THRC to provide training or education in its current operations" thus removing the fiscal note we had placed on it. The bill was signed by the House and Senate speakers in May and awaits the Governor's signature.

The Healthy Workplace Act was passed and creates a workplace process to report bullying and legal relief for employees harmed by abusive conduct in the work place. The bill also passed both Houses and is waiting for the Governor to sign.

Senate Bills 2294 (Religious discrimination); 2453 (Homelessness); SJR0534 (Constitutional Amendment); 2566 (denying same sex couples services); 1507 (statutory remedies); and 1734 (video streaming) did not pass. Some were assigned for study, discussion or General subcommittee.

Commissioner Coleman asked if we know what the basis of SB2054 was. Executive Director Watts responded that staff met with Senator Bell to discuss aspects of the bill and explained that THRC has not done Affirmative Action in 32 years and explained our role and law. The bill was amended to remove the name change. The bill was rolled many times and staff were present each time it came back on the agenda. No questions were asked or action taken.

A meeting was held with the House sponsor and he indicated he thought THRC should be in the Department of Labor. Legislators need to be educated about what our role is and what our jurisdiction is.

Representative Turner from Old Hickory raised some serious issues. Representative Gilmore and Armstrong made some calls on behalf of THRC and ways to improve the bill. On the last day of the legislative session the bill came up on the House side and having been amended to change the number of commissioners to nine to make it more efficient the bill passed. When it went to the floor there were more amendments such as Representative Turner purposing making 40% of the board African American which failed.

Representative Shaw spoke against the bill on the Floor of the House. Then the Senate bill is amended to reflect the House bill. There was no rationale for the bill given even though several Senators asked why the bill was being heard. Senator Harper asked Executive Director Watts to testify at the Senate hearing. Our thinking was that the most detrimental piece of the bill was the name change so that was our focus.

Staff noted that vacating the board would leave the board with no working knowledge on the new board and that was a concern. Suggestions were offered about phasing in a new board over 3 years in order educate new board members. Commissioners were thanked for speaking with Senators and representatives from their local areas on behalf of THRC regarding this bill.

Staff met with all members of the Senate Government Operations Committee during the course of the legislative session regarding this bill. The morning of the vote in Senate Government Operations, several boards were changed and the notion given was that the legislature had a right to have people on the boards, and they were insulted that people were calling into question their and the Governor's ability to make fair appointments to boards.

Commissioner Starling noted that THRC staff was diligent in attending hearings every time the bill came up and thanked them for their work on this issue. He noted that with the passage of this bill, he saw 20 years of work being erased and history repeating itself. He noted that as a lobbyist he could not be reappointed to the board, but he will continue to support the efforts of THRC and if he was ever needed to call on him. The board thanked him for his service and support.

Commissioner Wurzburg added that affirmative action was used to overcome the affects of past discrimination and to guarantee an equal place at the starting line. The legislation came about because the women's movement did not have faith that the law would be enforced. They also requested a private right to sue be included. She suggested prior to the elections in August and November that staff prepare a fact sheet for commissioners with information about candidates running for office.

Executive Director Watts suggested that commissioners give feedback about the transition of the board at the end of the year and what issues they would like to see brought going forward. We could address those at the November Commission meeting. We will be meeting with the Governor's appointing office before the end of the year to help with the transition.

Commissioner Miller made a motion to accept the Law and Legislation Committee report. Commissioner Pierce seconded the motion. A vote was taken and passed.

Employment Case Report

Deputy Director Sabrina Hooper reported on the period from March 1, 2014 to April 30, 2014 where 141 inquiries were received which resulted in 75 charges being accepted and of those 68 were dual filed and 7 were THRC only. In the same period 68 cases were closed with a closed charge age of 318 days of investigation. Open inventory was 266 cases with an average open charge age of 256 days. Three mediations were closed resulting in monetary benefits of \$32,040 to the complainant and three settlements resulted in monetary benefits to the complainant in the amount of \$8,524.

Last year we received 146 inquiries which resulted in 86 charges being accepted for investigation with 82 being dual filed. We closed 89 cases with a closed charge age of 265 days and our open inventory was 361 cases with an average open charge age of 214 days.

Last year we closed 7 mediations with monetary benefits of \$78,997 to the complainants; 4 settlements with benefits of \$5,193 to the complainant.

When looking at comparisons we are down in charges accepted and we are reviewing Education and Outreach efforts to see if there is an effect on case closures. Even with that decrease we have closed 75% of our EEOC contract during the measurement period.

Frank Guzman, Susannah Berry and I are testing Survey Monkey to send electronic surveys to complainants and respondents and will hopefully increase the number of responses we receive and the survey will consist of only one page so it will take less than five minutes to complete.

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

Housing Case Report

Housing Coordinator Richard Gadzekpo reported that during the period from March 1, 2014 to April 30, 2014 46 inquiries were received resulting in 27 charges being accepted and disability was the number one bases for cases. During the period 18 cases were closed.

Last year our case statistics remain mostly the same but pointing out that our case processing age increased. This was brought to the attention of staff and our HUD efficiency goal stands at 55% and we are hopeful that by June 30, 2014 we can reach the goal of 50%

Executive Director Watts acknowledged that housing staff has consistently closed cases within 100 days or less. And this will mark the third year that they are moving toward the 50% goal.

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

Legal Report

General Counsel Shay Rose reported on the March 1, 2014 to April 30, 2014 period when 68 employment cases 10 were administrative closures with 5 conciliations.

In housing we closed 13 cases with 7 being conciliations or settlements. Legal also completed 18 copy requests.

Our intern, John Elrod completed his internship, and we have confirmed Jesse Yoder for eight hours a week during the summer. He is also a Vanderbilt law student.

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 his stack of pancakes, and the restaurant replaced his pancakes but he wanted a complete new meal. He got upset, and they asked him to leave and not return. The investigation shows he was a regular customer and stayed for hours using the free wi-fi. 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. Mr. Ruff wanted a new meal and his money back and wanted the restaurant to withdraw their ban of him from their establishment. He has asked for his entire case file and has requested our EEOC regulations, our workshare agreement and our prima facie case requirements, despite this not being an employment case.

The cause case update includes the employment case where a corrections officer was terminated. This went to hearing in November 2012 and the ALJ has not issued a response.

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 is continuing to revive discussion with the respondent.

The second case is a disability failure to grant a reasonable accommodation by allowing two emotional support cats which was denied, and she then asked to be let out of her lease due to stress and that was denied, and then she provided documentation from her medical provider and that was also denied. The respondent never tried to talk to the tenant about her requests. HUD has reactivated the case because the respondent wants to file in court.

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

Outreach & Education

Susannah Berry reported on the March 1, 2014 to April 30, 2014 time period where we participated in 31 Education and Outreach events and 13 were speaking engagements. It is estimated that we reached 4,842 individuals making our year to date total 29,947. We exhibited at 2 events and placed 2 ads in program booklets. For the Fiscal year we have participated in 123 events.

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

Events attended were:

- Knoxville Hearing on March 25, 2014 where Commissioner Houston and Commissioner Pierce were in attendance along with 51 other attendees including the Mayor of Knoxville.
- April was Fair Housing Month and events included:
 - NCRC Training in Memphis with 12 attendees
 - West TN Fair Housing Conference at the University of Memphis with 104 in attendance
 - ECHO was held on April 11, 2014 which was attended by Executive Director Watts who was given an award for her work in fair housing, Housing Coordinator, Richard Gadzekpo and Housing investigator, Saadia Williams from THRC and was attended by 102 people.

- Fair Housing Webinar with 11 attendees

Frank Guzman, Special Projects Officer exhibited at the Fair Housing Matters Conference and Richard Gazekpo, Housing Coordinator, moderated at the Housing Equality Alliance in Nashville with 195 attendees.

There were several articles:

- Former Commissioner Spencer Wiggins wrote an article that ran in the Tennessean entitled “ Tennessee Human Rights Commission’s name shouldn’t be changed”
- Also in the Tennessean an article “Two proposals encourage bigotry in Tennessee” authored by Gail Kerr
- The Chattanooga News Chronicle ran “9 United for Equality” in February with THRC and UTC a documentary
- Three articles ran featuring our Knoxville Hearing (2 TV and 1 Newspaper)
- The community television station in Knoxville aired the information about our hearing several times

Executive Director Watts participated in a follow-up interview with Sharon Kay at FISK Jazzy 88 radio station and this may become a regular event.

Consultant Paula Casey generated four press releases related to the Knoxville hearing and the Employment Law Seminar in Nashville and our facebook page received 16 new likes bringing our total to 257 likes and we reached 819 via facebook. To date we have had 393 views of our videos on You Tube with 1,007 minutes viewed.

Special Projects Officer Frank Guzman responded to 24 calls to the Hispanic community and 10 additional calls came in that were answered by Matthew Stephenson or Avaza Language translation service.

Executive Director Watts noted that as part of Senate bill 2054 an item that was not passed that required the Department of Labor to create a sexual harassment brochure in consultation with THRC and send it out to all state employees.

In researching this we found that this was a 1993 requirement that Employment Security put together based on the EEOC guidelines but did not continue in the following years. They have called THRC and stated they need us to do the brochure because they need to check off a box by June 30, 2014.

We noted that we will be willing to work with Labor to develop the brochure but the responsibility is not ours. Two weeks ago we agreed to meet and formulate a realistic work plan.

There is an editorial in today’s paper about the Women’s Museum and building a monument to the women who worked for the 19th amendment and Women’s rights in Tennessee in downtown Nashville. Paula Casey is working with Economic Council of Women and other organizations. Paula also edited “The Perfect 36” which is about Women’s Suffrage and the history of the ratification of the 19th amendment in Tennessee.

Susannah Berry reported that the Employment Law Seminar will be held on June 12, 2014 and the agenda includes Shay Rose, Commissioner Rachel Hunter and Danielle Barnes from Human Resources. Kim Vance from Baker Donelson, Supreme Court Justice Cornelia Clark, Shirley Richardson from EEOC, Eric Stevens from Littler Mendelson, Luther Wright from Ogletree Deakins and Waverly Crenshaw and Jeb Gerth from Waller Lansden.

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

Title VI Compliance Report

Matthew Stephenson, Title VI Compliance Director reported on the timeframe of March 1, 2014 to May 1, 2014 and noted that regarding the four agencies that were not compliant, after review the District Attorney General's Conference and the TN Community Services Agency have been corrected and are now recorded as compliant. The final rate of compliance is 95% with University of Tennessee and Tennessee Student Assistance Corporation being non compliant.

In March we received 28 inquiries which resulted in 6 complaints filed and in April we received 17 inquiries resulting in 3 complaints filed. Procedures have been updated and staff are meeting the 10 day timeframe to respond to inquiries and cases are being resolved within 90 days.

Compliance review for the Tennessee State Museum onsite has begun and should be completed within the month.

Title VI annual training for coordinators is scheduled for July 23, 2014 and will review the Implementation guidelines and procedures.

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

Announcements

Executive Director Watts announced that Commissioner Pierce attended the Vision 20/20 Congress in Philadelphia and their goals are to achieve women's economic and social equality by the year 2020, the 100th Anniversary of the 19th Amendment that granted women the right to vote; to connect with and convene National Allies that represent more than 20 million women and girls and to advance initiatives of Delegates who represent all 50 states.

Commissioner Wurzburg asked about dissemination of the information gathered from the hearings. Executive Director noted that a full report will be shared after it is approved by the Education and Outreach committee.

The next meeting will be on July 18, 2014 and will be telephonic.

Chair Garrett noted that the Vice Chairs are Commissioner Jones, Commission Miller and Commissioner McDaniel and they should be on call should Commission business arise as she will be out of the country in Nepal for 30 days beginning on September 23, 2014.

Chair Garrett closed the meeting at 10:45 a.m.