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May 22, 2009
Board of Commissioner's Meeting
Minutes

Commissioner's Present:

Commissioner Blalock
Commissioner Cocke (Phone)
Commissioner Davis
Commissioner Garrett
Commissioner Hakeem
Commissioner Miller
Commissioner Osborne
Chair Pierce
Commissioner Pride (Phone)
Commissioner Wurzburg

Commissioner's Absent:

Commissioner Hewitt
Commissioner Jones
Commissioner Starling
Commissioner Walker
Commissioner Wiggins

Staff Present:

Beverly Watts, Executive Director
James. E. Davis, Housing Director
Shay Rose, General Counsel
Esperanza Soriano, Communications Director
Lisa Lancaster, Executive Director's Assistant

Guests:

Allen Staley, Shared Services Solutions
Jay Santiago, IT Intern

Call to Order

Chair Pierce called the meeting to order at 9:00 a.m. Roll Call was taken. In honor of Memorial Day a moment of silence was observed for all those who served in defense of this country, including the women who served and shared a flier to register WWII veterans. Commissioner Wurzburg noted a book titled "Our Mother's War" as a good read. Minutes of the March meeting were reviewed. Commissioner Miller made a motion to accept the minutes. Commissioner Davis seconded the motion. A vote was taken and passed.

Executive Director's Report

Executive Director, Beverly Watts welcomed the commission members and introduced Allen Staley from Shared Services Solutions to update the Commission on Budget matters.

He reported that THRC has been very conservative in their spending and to present have spent about 72% of the budget or 1.2 million with 85% of the year completed. Project Edison has undergone a major implementation and the billing has been impacted with delays. THRC is expected to meet the \$25,000 reversion target for the year. Commissioner Hakeem complimented the agency on its spending. Director Watts noted that there are 3 vacancies in the staff.

She also noted that three things that may impact budgets are revenue shortfalls, possible HUD contract \$20,000 reduction and EEOC contract reduced to fewer than 400 cases resulting in approximately \$20,000 reduction. Deputy Director Tiffany Cox will attend the annual EEOC in a couple of weeks. We will be able to meet the contract at its end which will be September 30.

Human resource issues are that we still have 3 vacancies and we have requested to fill them. Two of them are revenue generating positions which we can use as justification for filling them. We will keep you informed. Associate Counsel Kelly Sheeman will be leaving in July and we will be attempting to fill that position.

On the Legislative side our Sunset bill passed giving THRC 2 more years and we are tracking the Title VI bill which was referred to Finance Ways and Means on the 20th of May. If passed it will be a transfer of money and functions. Executive Director Watts thanked Commissioner Starling who has been very helpful in tracking these bills and reporting back to the agency. The English Only in the workplace bill said that an employer is not discriminating for implementing an English only policy in the workplace. The Tennessee Immigrant & Refugee Coalition opposed the bill and Executive Director Watts spoke regarding the EEOC guidance which allows the employers to impose English only when it is necessary for safety and customer service. The English First Organization was present for all sessions. The bill was defeated. Many of the anti immigration bills did not come out of committee.

The budget hearing with the Senate and the House went well with no questions and recommendations for passage to the next level.

Director Watts noted congratulations were in order for Commissioner Ruby Miller who was named the Insurance Professional of the Year by the National Association of Insurance and Financial Advisors for the state of Tennessee.

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

Chair Pierce noted that Executive Director Watts will have knee surgery next week and asked that we remember her.

Outreach and Education Committee Report

Commissioner Wurzburg reported on the meetings of this committee which noted that Commissioners needed to receive Intensive Re-Orientation to educate them on the function and laws of the agency. The date for the Retreat/Commission Meeting will be July 30 and 31.

The meetings will be held at the Holiday Inn Express Airport on Elm Hill Pike and will be facilitated by Nash and Associates. The schedule will begin Thursday evening about 4 and conclude around 9 pm and then resume on Friday morning concluding with a Board of Commissioner's Meeting finishing approximately 1 pm. Topics include our law, agency procedures, committee and commissioner functions, what we should do and should not do and goals. Dress will be casual.

Chair Pierce noted that a commissioner survey will be sent out in approximately 10 days via email and requested that it be completed and returned as soon as possible.

Commissioner Wurzburg noted that possibly the commission could meet in local communities could be discussed. Also Mediation Month preparations are underway for August. Twenty volunteer pro bono mediators have been identified and will be trained in July. A press release will be good public relations for the agency. Letters will go out to identify cases next week.

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

Budget and Audit Committee Report

Commissioner Osborne reported on the Budget and Audit Committee meeting that took place on April 24th. The meeting was held to review and approve the Senate Questions that would be submitted to the House and Senate at the Budget Hearings.

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

Executive Director noted that commissioners need to sign their conflict of interest statements today if they have not already done so. Also Chair of the Budget and Audit committee, Edwin Osborne on behalf of the committee will be sending the Executive Director a memo stating that all things will be done to insure that fraud does not occur.

Employment Case Report

General Counsel Shay Rose reported on employment division in the absence of Deputy Director Cox. The report covered the period from March to April 2009. Inquiries received were 157 and 105 charges were accepted; 94 were dual filed and 11 were THRC only; 97 cases were closed in comparison with 68 cases closed in the same timeframe of the previous year which indicates the hard work of the staff this year.

Of the closed cases 82 were dual filed; 15 were THRC only; 16 were administrative closures. The average case age was 286 days slightly higher due to older cases being closed. Five settlements were reached and 4 mediations completed with benefits received over \$4,000. Case inventory is 522. For the EEOC contract period 280 dual filed cases and 32 THRC only have been accepted and 223 cases were closed with that average case age being just under 300 days. Twenty three settlements were reached which is significantly more than the previous period due to Mediations program being reinstated. Over \$82,861 benefits were received from settlements and mediations completed.

We are anticipating approximately \$20,000 in EEOC budget cuts and more information will be shared when available. Goals for the year include closing more cases, Mediation Month in August, Mediator training in July. We have 9 mediators on staff and 20 volunteers across the state.

Commissioner Wurzburg requested a more detailed breakdown of each protected class and which bases settles easier. Director Watts noted that information is reported in the Annual report and could be reported monthly.

Chair Pierce questioned why we are accepting fewer cases. Director Watts noted that we are sending out more forms but they are not coming back and the commission has previously discussed how we follow up on inquiries. Robo calls are being investigated and more information will be provided later in this meeting. Severance packages, arbitration and other issues may be affecting how many complaints are received by the agency.

Chair Pierce noted that there is discrimination and then there is unlawful discrimination. Commissioner Wurzburg added that the commission needs to educate folks about the difference.

Commissioner Garrett made a motion to accept the report. Commissioner Hakeem seconded the motion. A vote was taken and passed.

Housing Case Report

Housing Director, James Davis reported on the period March and April 2009. He noted that 49 inquiries were received and that 32 inquiries were accepted as complaints. During the timeframe 12 cases were closed which bring the total cases closed to 96 for the year. With cases turned in and closed by next week the total should be 113 with the goal by June 30th being 120. Counties represented were Blount, Carter, Davidson, Henderson, Hickman, Madison, Shelby and Williamson. The main basis of complaints closed was race and disability with 5 of each.

Numbers are not significantly different on the chart from last year with the exception that the average case age spiked. Due in part to the fact that a lot of cases were aged that have since been closed. The amount of benefits received is down and this is attributed to a large number of companion cases that were settled last year resulting in a large monetary settlement.

The goal of having all housing staff attend a Fair Housing Outreach event has been accomplished by the end of April. Our goal of closing 120 cases should be met as of June 30, 2009 when the contract ends. The last goal which was closing 50% of all cases within 100 days will not be met but we will strive to meet that goal in the upcoming year.

The addendum to the report was to address a request by Commissioner Davis and Commissioner Starling, regarding which counties cases are closed in and complaint follow-up. He noted that the housing complaint forms requested through the THRC office are tracked via a log and when they are returned it is so noted on the log. Calls are made weekly to request completion of the forms and after 2 weeks the inquiries are closed.

Commissioner Davis's question was answered with the addendum to the housing report found in the meeting materials.

Commissioner Miller spoke to the Democratic Women's Club which was well received. I will need some English brochures. Commissioner Osborne noted that during the commissioner retreat among the subjects that need to be discussed is what can we as Commissioner's do to help.

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

Legal Report

General Counsel Shay Rose gave the legal report covering the March 1 through April 30 time period. In employment legal closed 82 cases and 91 investigative plans were reviewed and 4 reconsiderations were completed. Of the closed cases 6 were THRC only and 8 were administrative closures and 1 mediation.

In housing 11 cases were reviewed and closed with none left in inventory; 1 pre-cause case, 1 investigative plans were reviewed with none left in inventory; 3 cases sent back for corrections. Of the closed cases, 4 were administrative closures and 1 conciliation.

The Cause case update included the Knox county case of the gender abusive general manager which will go to mediation in June and if that is unsuccessful it will go to hearing on July 30. The second case is a race based complaint where the complainant was denied a raise and promotion. Some clothing was stolen from the store and the district manager felt that the complainant and another African American employee had stolen them even though there was no evidence to prove they did it. An arbitration agreement was signed by the complainant and this case will be transferred to EEOC because they can file it in federal court.

The third case was a retaliation case where the complainant filed a complaint because a co-worker, who was the brother of the supervisor, was sexually harassing her. She complained to human resources and they moved the man out of that facility. This made the supervisor mad and he fired the complainant. We are attempting to settle this case.

The fourth case is a housing case where the landlord agreed to rent to the family until he found out that the children were older than he thought. March 31 hearing was continued for a witness to testify on June 24th.

Updates include the rules became final on April 30, 2009. Kelly Sheeman will be leaving in July and legal staff attended 2 fair housing seminars in April also an employment seminar and spoke at one employment seminar.

Westchester county articles are found in your materials concerning grants blocked by HUD and then restored the funds. Executive Director Watts noted that the CDBG agreement states that entities are to further fair housing. HUD now has an agreement with Westchester County to ensure that they take the steps to be in compliance that HUD said was not happening before.

On the DOJ website there appears an article about stimulus funds and it is followed by an article concerning compliance with Title VI for agencies receiving stimulus funds. This is reflective of the new leadership at HUD. It was noted that THRC may partner with some agencies and see if we could receive some stimulus funds to assist with fair housing outreach.

Commissioner Hakeem asked about the criteria for a reconsideration. General Counsel Rose noted that complainants who inquire about their determination are granted a reconsideration completed by a different legal staff person.

The A T & T versus Hulteen case was brought by women who worked for AT&T and took maternity leave before the pregnancy discrimination act. At that time women were given less retirement credits due to the time they took pregnancy leave as opposed to medical leave. The supreme court in 7-2 decision stated that the employer did not violate the pregnancy discrimination act at the time even though they would be today.

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

Chair Pierce noted that the Employment Law Seminar was excellent and thanked staff for their time spent planning and carrying out the event.

Outreach & Education

Communications Director, Esperanza Soriano, reported on March and April where THRC participated in 14 outreach events with 65 total events for the year. Events included March 14th Faith and Disability Days on the Hill; March 19th Women of Legend and Merit Awards at TSU; April 3rd USDOJ Community Relations Services Exhibit event at the MLK Civil Rights Museum in Memphis; April 4th Foundation 9th Annual MLK April 4th Commemoration Celebration. Commissioner Wurzburg and Cocke attended the event.

April 25th THRC was a co-presenter with Memphis Longview 7th Day Adventist church on religious discrimination. April 30th Ms. Soriano attended an open forum with Nashville city officials and the Hispanic community.

During the time period 2 media inquires were received. On March 12 a Tennessean reporter requested statistical information which was provided from our annual report and on April 23rd Paul Brown with WBIR-TV in Knoxville requested information about a case. This request was denied.

Customer Service surveys were sent to 8 complainants and Special projects coordinator, Frank Guzman, answered 39 Spanish calls.

It was noted that 85% of the complaints sent out are not returned and the Commission requested that we look into Robo calls or Interactive Voice Recognition calls which were discussed by Jay Santiago, our IT intern who passed out a power point document.

There are two types of systems for Interactive Voice Recognition calls. One is a software system with a monthly subscription and the second includes hardware and would only be used if the system was purchased. The system is web based and easy to use.

Tennessee is growing at 77,000 persons per year according to the 2000 census. With 80 to 85% of complaints not being returned becomes \$95 per month loss to the agency. After some discussion about different systems and set up fees and monthly fees apply it was decided that more information was needed. Commissioner Cocke thought it might encourage more filings, would give a better picture of the process and be cost effective in the long run. Broadcast calls might be cheaper.

Executive Director Watts noted that we wanted to increase the return of complaint forms sent out and also increase the number complaint forms in which issues that have validity come to us. We have live people answering our phones and that makes a difference. Chair Pierce noted that this was a good discussion and a good place to start. We will look at numbers and statistics and continue the discussion at the next meeting.

A comparison chart will be prepared and provided at the next board meeting outlining what it would cost for mail, robo calls, and staff.

Commissioner Osborne made a motion to accept the Communications report. Commissioner Davis seconded the motion. A vote was taken and passed.

Executive Director Watts noted that there is a New York Times article about Morristown TN and treatment of Hispanics in the materials. Southern Poverty Law Center has just completed an article on the treatment of low income Hispanics in communities in the South and how they are being treated in a discriminatory manner. It also includes some policy recommendations that we are reviewing.

Commissioner Wurzburg noted that there was a Wage Theft rally for Hispanic workers in Memphis at the St. John Methodist Church and that Rev. Rebecca Jordan got an ordinance passed in the city council and the county commission regarding a living wage. She requested that we have a time set aside during the commission meetings where commissioners could share what is happening in their local areas.

Executive Director Watts spoke about the NAACP annual meeting which will be in Memphis in September and she spoke with Gloria Sweet Love, president of the State NAACP about partnering to co-host a Commission board meeting and listening session at the Conference. More discussion will take place in the coming months and updates provided at the next board meeting.

Talking points will be provided to Commissioners for speaking engagements in addition to a power point presentation. Brochures as well as staff are also available when we receive advance notice.

Chair Pierce encouraged commissioners to attend the Retreat in July and to turn in their Conflict of Interest forms to Lisa Lancaster before leaving today.

With no further business to address, Commissioner Garrett made a motion to adjourn which was seconded by Commissioner Hakeem. The meeting was closed at 11:00 am.