



TENNESSEE HUMAN RIGHTS COMMISSION
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September 24, 2009
Board of Commissioner's Meeting
Minutes

Commissioner's Present:

Commissioner Cocke
Commissioner Davis
Commissioner Hewitt
Commissioner Jones
Commissioner Miller
Commissioner McDaniel
Commissioner Osborne
Chair Pierce
Commissioner Starling
Commissioner Wurzburg

Commissioner's Absent:

Commissioner Blalock
Commissioner Garrett
Commissioner Pride
Commissioner Walker
Commissioner Wiggins

Staff Present:

Beverly Watts, Executive Director
Tiffany Baker Cox, Deputy Director
Shalini Rose, General Counsel
Lisa Lancaster, Executive Assistant

Guests:

Kim Hix, Communications
Gary Eugene Bender-2nd Missionary Baptist Church Chattanooga
Rev. Cyronose D. Spicer, Sr.-Lauderdale NAACP, New Beginning Christian Center
Rev. Catherine C. Spicer-Lauderdale NAACP, New Beginning Christian Center
Wayne Robertson-Johnson City NAACP
Glodine Davis-Johnson City, NAACP
Daphne Nelson-Jackson NAACP
Alicia Brooks-Jackson-Madison County NAACP
Gloria Sweet-Love-Brownsville TN
Velma Luis Jones-Memphis NAACP
Margaret Parr-Dyersburg-Dyer County NAACP
Mattie L. Anderson-Memphis NAACP
Sheryl Alli-Nashville NAACP
Barbara Alston-Memphis NAACP
Tene Franklin -Nashville NAACP

Raphael Smith-Nashville NAACP
James Jaycox-Dyersburg-Dyer County NAACP
Michael W. Parr-Dyersburg TN
Frank Washington-Clarksville NAACP
Jimmy Garland-Clarksville TN
Mary I. Jaycox-Dyersburg-Dyer County NAACP
Harroll Carter-Jackson NAACP

Call to Order

Chair Pierce called the meeting to order at 4:50 p.m. and thanked the NAACP State conference and Gloria Sweet Love for allowing the Tennessee Human Rights Commission to hold its Board of Commissioner's meeting in conjunction with the 63rd Annual State Conference. Roll call was taken. Chair Pierce asked board members to reflect on the importance of the work that the Human Rights Commission, the NAACP to ensure that all citizen's of Tennessee are afforded equal rights and equal opportunities.

She reminded all attendees to sign the guest list and pick up an agenda for the meeting and noted that time was set aside at the end of the meeting for comments and questions from the audience. She asked all participants to speak up and identify themselves when speaking for the purpose of recording.

Chair Pierce announced that Congratulations are in order for Commissioner Rev. Robert Jones who celebrated 25 years as pastor of Hill Chapel Missionary Baptist Church in Memphis. Executive Director Watts, Commissioners Blalock, Cocke, Pride and Wurzburg attended the day's events.

Commissioner Jocelyn Wurzburg was congratulated for receiving the Herman C. Ewing Community Activist Award at a luncheon today hosted by the Memphis Urban League. She noted that Herman C. Ewing was a former THRC Commissioner.

Chair Pierce and Executive Director Watts met in Chattanooga in August to thank outgoing Commissioner Yusuf Hakeem for his service to the Commission and present him a token of our appreciation and then introduced Commissioner (Rev.) Paul McDaniel who replaced Commissioner Hakeem on the Board.

Chair Pierce noted that former Chair and current Commissioner Spencer Wiggins sends regrets that he could not be here today as he is having knee surgery due to an injury and asked the board and guests to keep him in their thoughts and prayers.

Minutes of the July meeting were reviewed. Commissioner Hewitt made a motion to accept the minutes. Commissioner Miller seconded the motion. A vote was taken and passed.

Executive Director's Report

Executive Director, Beverly Watts began her report by thanking the NAACP and President, Gloria Sweet-Love for allowing THRC to share in the State Conference. She introduced staff members Linda Reed an investigator in the Memphis Office and Kim Hix from Communications in Nashville and noted other staff would be introduced during the meeting.

She reported that the required rescission amount for the 09-10 Budget has been increased to \$100,000. She noted that planning for 2010-2011 budget has started and indicated there is a two tier structure for proposed budget cuts. She asked that Commissioner Osborne, Budget and Audit Committee Chair convene a meeting in the next three weeks prior to the first budget hearing on November 4, 2009.

Executive Director directed Commissioners attention to the Budget Documents in there packet which indicate that Tier One will require a 6% cut for a total of \$103,000 base reduction and Tier Two being an additional \$51,900 cut. These reductions will be accomplished by reduction of equity, loss of a vacant position and some below the line cuts. She noted that this information was in there packet. If the Tier Two reduction is necessary it will require a position loss and additional below the line cuts such as travel and printing. The combined total of Tier One and Two would be \$155,700. The agency currently has 27 positions filled two of those are vacant.

At the November meeting the Budget & Audit Committee will report on their discussions. Chair Pierce noted that this was the third year that we have been asked to reduce our budget for the fiscal year. Executive Director Watts noted that in the FY 2008 the cut was \$25,000 followed by the \$100,000 FY 2009 and the planning of 2010 will be \$155,700 if both Tiers are implemented.

She reported that the Title VI position has been moved from Human Resources to THRC and that 9 interviews were conducted and that on November 1, 2009 Marcus Thomas, an attorney from TennCare would fill that position as Title VI Director.

Title VI comes to us with several media inquiries about the 50 plus complaints that have been filed regarding issues in Clarksville Tennessee. Executive Director Watts will be meeting with Clarksville residents that have filed complaints or have issues next week. There have been suits filed in the Clarksville area that include suits against the former Title VI Commission and staff and those issues are being handled by the Department of Human Resources as the Title VI Commission was housed there at the time the suits were filed. Questions as to how money was spent by Title VI were also referred to HR.

Title VI is being organized within THRC at this time. We are receiving files, determining status of complaints, and identifying issues in those complaints concerning jurisdiction. Other items that need to be done will include developing rules and training staff. Immediate Title VI issues are currently being handled by Director Watts and Deputy Cox.

Commissioner Wurzburg asked that Director Watts explain Title VI. She explained that Title VI is a federal law that prohibits discrimination for any entity receiving financial federal assistance. In Tennessee Gov. McWhorter established a Title VI commission to coordinate and monitor the law at the state level. During the last legislative session Rep. G.A. Hardaway introduced a bill that would transfer those functions over to THRC. So we will coordinate and monitor Title VI on behalf of the state of Tennessee to insure that coordinators and agencies have the resources and tools to be in compliance with Title VI. The protected classes for Title VI are race, color and national origin.

With respect to the report on the July retreat, Executive staff are working on a detailed report on where are we going including the institution of formal and informal listening

sessions as well as other issues that commissioners identified at the session. A more detailed outreach calendar and other information will be presented at the next board meeting.

Chair Pierce noted that additional information about outreach events is available on the THRC website. She also informed the guests that time has been set aside at the end of the meeting for questions from the audience and that there was information on the display table in the lobby about how to file complaints and staff are available to answer questions or be of assistance.

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

Employment Case Report

Deputy Director Tiffany Baker Cox reported on the period from July 1, 2009 to August 31, 2009. She noted that the first chart breaks down charges filed information by county as requested. During the period 179 inquiries were received; 84 were accepted as complaints. 82 cases were closed, 70 of which were dual filed and 12 were THRC only.

Of the closed cases 39% were Title VII cases, which cover race color religion, gender and national origin. 11% were ADA Disability cases and 10% Title VII/ADEA which covers age. There were 4 settlements and 29 mediations due to the Mediation Month that was held in August with 19 being successful and 10 impasses. There were no cause cases and 21% were administratively closed. Average case age was 361 days and total inventory is 500 cases.

She noted that inquiries were down and closed cases were up during the period. Also benefits are down due to 2 large settlements received in the comparative period of 2008. Also total charges are down and we are looking for the reasons for that trend. Settlements and benefits are substantially higher this year due to the re-implementation of the Mediation program. October 1, 2008 through August 31, 2009 we received \$113,992 in benefits from mediation and \$49,265 from settlements.

During Mediation month 35 parties responded to our offer of Mediation with 26 held during the month of August, 5 cancelled and 5 have not be held yet. The results are that 17 ended with agreements, 9 came to an impasse and a total of \$44.975 received in benefits for the month. Mediation month was a success and the volunteer mediators from Memphis, Knoxville and Nashville who participated were grateful for the opportunity to do pro bono work.

Deputy Director Cox thanked the investigative staff for their hard work in closing cases and working more effectively to identify cases that will take less time to close. Staff training will take place with EEOC assisting on the 27 & 28th of August to assist with these issues and Commissioners wishing to attend are welcome to attend.

Deputy Cox updated the Commission on the Robo calls and Interactive Voice Response system research that has been ongoing for several months that would allow THRC to follow-up with potential complainants after the initial contact via telephone. IT intern, Jay Santiago has been working on this project and setting up the test calls which some

commissioners may have received. Out of 55 calls 14 were successful, 8 failed and 32 were uncompleted with 8 people called the agency back but only 1 complaint was received.

Results from the customer service surveys have not been received but should be available for the November meeting.

In October an audit of the employment division will take place in addition to the policy manual being updated and as always training will continue throughout the year.

Commissioner Starling asked about the uncompleted calls on the IVR system and was concerned that maybe the calls take too long to complete. Deputy Cox noted that the uncompleted calls were caused by a failure to initiate the call by pressing 1. The survey is only eight questions and approximately three minutes long.

Commissioner Hewitt asked about the mediation impasse trend and Deputy Cox explained that the impasses were caused by both complainants and respondents.

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

Housing Case Report

Executive Director reported the housing numbers in the absence of James Davis. She informed Commissioners, Mr. Davis was absent because he was working with staff to reduce the number of aged cases by October which was noted in the July 2009 HUD performance assessment review. Two new investigators have been hired bringing the total to four investigations for the housing unit. These new employees and Barbara Gardner from the THRC office in Chattanooga will be attending the HUD National Fair Housing Training Academy in Washington DC in October.

Again the county information for housing cases is included in his report as requested by Commissioners at previous meetings. There are 102 open cases with 21 of those cases being over 300 days old. These aged cases are a result of open investigator positions which impacts THRC's ability to close cases. There are 41 cases that are 150 to 300 days, 15 cases 100 to 150 days and 25 cases at less than 100 days. A total of 75% of our caseload consists of aged cases which will affect the amount of revenue we receive from HUD for these cases. We must also close 50% of all cases during this fiscal within 100 days or less which is a contract mandate and also affects our revenue from HUD.

A performance plan has been sent to HUD that indicates we will review all new cases close all new cases in 100 days or less if they are complex, and we will close aged cases within the next 60 days. We believe that we will be able to close most of the aged cases and/or make a decision. These cases could be administratively closed, they could be caused, or we could end up settling those cases.

To facilitate this plan we have good news which include the review of all cases by a team which includes Legal Counsel, the Housing Director and the investigators. This team has met on every aged case at this point to determine the exact course of action that will be taken, rather than waiting until later, we have done some triage, pre-emptive work to make

sure that we are focused and that investigators have good information and that they proceed on the investigation appropriately on these cases.

From July 1 to August 31 the chart on page 2 shows that benefits of \$3935.16 have been received in comparison to \$5,000 the previous year. Four cases have been closed in less than 100 days since July 1, 2009.

Commissioner Starling noted that it was interesting that THRC has received only one housing case in the Shelby county area during the reporting period. Director Watts noted that cases will vary from month to month.

Outreach & Education

Executive Director Watts reported that during the months of August and September she spoke at UT in Knoxville and Frank Guzman spoke to the Real Estate Investors of Nashville monthly meeting.

Education and Outreach events included the Labor Management conference in Nashville. We were also represented at the Fair Housing event in Cookeville and the SHRM conference and met with the Church of Scientology.

There were three media inquiries during the period. Two of them were about the former Title VI Commission and the third was from the Nashville Business Journal about the statistical information on the number of complaints received in the last Fiscal Year. They noted that EEOC was experiencing a slight increase in calls and THRC a slight decrease in the same time period. We are currently investigating what the cause of our decrease is. We believe that some people don't know where to file, some people fear losing their job if they complain and some people don't know that we exist or they confuse us with the EEOC.

She explained that if people file with us that we will dual file their case with the EEOC and THRC to allow them protection of the state and federal laws in employment with 8 employees or more and in housing we can dual file with HUD if you have 4 units or more.

We are in the process of creating an outreach calendar to include listening sessions around the state for commissioners and guests and also targeted media events that will help us be on specific radio and television programs that will focus on targeted audiences rather the general radio programs. When we spent money more than half of the radio stations were conservative talk radio and we were not generating anything but animosity. We are doing more targeting such as the public affairs, community affairs shows on radio or TV. We will be developing talking points for those who agree to be TV or radio. We will be talking with commissioners and staff about this in the future.

Frank Guzman is the special projects officer of the Communications division and he received 49 calls from the Hispanic community during the reporting period. He explains the role of THRC to these callers. Often times these calls do not generate complaints for us but information on other services are referred. He was interviewed on August 4., 2009 for the TN Latino Newspaper on the role of THRC.

Commissioner Wurzburg commented on the comment Commissioner Starling made about only one housing complaint being filed in Shelby County. She questioned if people just don't know that we exist. Executive Director Watts noted that it was likely several factors the most used being limited resources. She noted that the Commission would be talking with commissioners before the next meeting when we present the proposed communications plan. THRC also has limited resources to go out and educate the public. We would love to be out every day talking with people, telling them what we do and generating communication. Sometimes it is just that simple and sometimes it's not.

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

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

Legal Report

General Counsel, Shay Rose introduced herself and explained that the legal department reviews housing and employment cases after the investigation is complete and the case is submitted with a recommendation from the investigator to determine if discrimination has occurred. There are approximately 500 employment cases and 125 housing cases reviewed each year. In most cases there is no discrimination found under the reasonable cause standard which means that the side that wins must have 51% evidence that the discrimination happened. It was noted that a lot of cases settle before investigation.

During the July and August period in employment legal reviewed and closed 40 cases. 37 Investigative plans were reviewed for investigators. 1 reconsideration was completed and 5 administrative closures of which 2 requested right to sue letters, 2 failed to cooperate with the investigation and 1 withdrew and there were 4 settlements.

In housing, 11 cases were closed, 6 investigative plans reviewed, 2 reconsiderations completed and assisted with 8 conciliations. There was 1 administrative closure.

Ms. Rose noted that our new Associate Counsel, Seth Yu was progressing nicely and was reviewing cases and investigative plans. Legal participated in all staff training in August and updated staff on the newly revised Americans with Disabilities Act. Legal will also participate in training in January and February of 2010.

The employment cause case update included the disparate treatment based on race case out of Hamilton County which will probably arbitrate. In Housing the one cause case which was failure to rent based on Familial status, went to hearing in March and post-trial briefs were submitted August 3, 2009 and expect to receive a ruling in 90 days. The Knox county case of failure to provide a wheelchair ramp and grab bars may settle soon.

General Counsel Rose noted that all cases are reviewed in Nashville where the legal staff is located and that in some cases other agencies such as the legal aid society are recommended to complainants if no cause is found.

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

Chair Pierce appointed Commissioner's Miller, Wiggins and Wurzburg to the Nominating committee and charged them with preparing a slate of officers to be presented at the November meeting.

She also invited all to attend the Economic Summit on October 19th and noted that she and Director Watts will be making a presentation about sexual harassment that morning.

President of the NAACP, Gloria Sweet Love spoke briefly to the commission and its guests to welcome them and thank Director Watts for having the board meeting in conjunction with the State Conference. Commissioner Starling noted that it was hard to believe that number of housing complaints in the Memphis area was so low and questioned if more education and outreach in the area would educate citizens about THRC. He suggested that more advertisement in the area might improve the knowledge level about THRC.

Gloria Sweet Love noted that the Shelby county NAACP has bi-monthly meetings and that the commission is always welcome to attend. It was noted that there is still much work to be done by the NAACP and THRC and that people are hurting.

Jimmy Garland from the Clarksville area brought to light the situation of public housing in Clarksville and Dickson where elderly people are being told to move so that their homes could be torn down to construct upscale buildings that they could not afford to live in. He also noted that there are only five black families living in Clarksville housing developments. The issue of where to go and who to talk with was a common complaint with people he talked to.

Cheryl Allen asked several questions about the mediation that THRC offers complainants and respondents. Deputy Director Tiffany Cox explained that mediation is voluntary and that if a resolution cannot be reached then the case would return to investigation. Director Watts interjected that all cases are different and noted that in cases of several complaints against an employer that EEOC has the authority to handle class action cases.

Velma Lewis Jones inquired about THRC services and what the percent of our success was. Director Watts gave a brief outline of our services and noted that cases under 180 days that fall under our statute are accepted and that 51% evidence is required to show cause. She noted that all cases are offered mediation at the intake stage. With only 26 staff members and 6 million residents we have our work cut out for us. We currently have about 500 cases in inventory and are answering 3400 calls per month. She explained that hate crimes and layoffs have added to inquiries.

She also noted that last years annual report is on THRC's website if more statistical information was needed. Legal is assisting with the education of employers and landlords about the law and that our commissioner's are also willing to speak a community gatherings to get the word out about who we are, what we do and how to file a complaint.

Commissioner Starling noted that anyone with connections to legislators should speak to them about budget funding as state dollars are reduced by cutbacks THRC's enforcement power goes away.

Kathy Spicer from Lauderdale County raised questions about substandard public housing and lack of maintenance in areas where black families are housed and the nice, well kept areas where whites live and how to change this. Director Watts referred her to HUD and offered to assist in the preparation of the correspondence.

Jimmy Garland from Clarksville noted that there is no section 8 housing in Clarksville and the Mayor has said to get rid of public housing. Director Watts noted that there might be other agencies that could help and asked him to contact THRC to try to work with the NAACP to address these issues.

Chair Pierce thanked all who were present and adjourned the meeting at 6:15 p.m.