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March 19, 2010
Board of Commissioner's Meeting
Minutes

Commissioner's Present:

Commissioner Blalock
Commissioner Cocke (via phone)
Commissioner Davis
Commissioner Garrett
Commissioner Hewitt
Commissioner McDaniel
Commissioner Miller
Commissioner Osborne
Chair Pierce
Commissioner Pride (via phone)
Commissioner Starling
Commissioner Walker
Commissioner Wiggins
Commissioner Wurzburg (via phone)

Commissioner's Absent:

Commissioner Jones

Staff Present:

Beverly Watts, Executive Director
Shalini Rose, General Counsel
James E. Davis, Jr., Housing Director
Bobbie Porter, Special Assistant to the Executive Director
Marcus Thomas, Title VI Compliance Director
Lisa Lancaster, Executive Assistant
Matthew Stephenson, Regional Coordinator

Guests:

Matthew Stephenson, THRC
Allen Staley, SSS
Julie Fornay, Church of Scientology
Brian Fessler, Church of Scientology
Frank Guzman, THRC
Jay Santiago, THRC IT Intern
Seth Yu, Associate Counsel

Call to Order

Chair Pierce called the meeting to order at 9:00 a.m. and roll call was taken. Chair Pierce noted that March is Women's History Month and asked board members to participate in events that honor the accomplishments of women. She also shared information that both she and the Executive Director will attend the Nashville ATHENA Awards Program next weekend Award program honoring 24 women and attended the TSU Women of Legend and Merit honoring 8 outstanding women last night. She also shared information about the Yellow Roses luncheon which will take place at the end of the month sponsored by the Women's Political Caucus that honors the longest serving women in the State Senate and House.

Also in October will be the Economic Summit for Women.

For the moment of silence she read the Cherokee Prayer. Minutes of the January meeting were reviewed. Commissioner Wiggins 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 began her report updating the board on the English only legislation noting that both the English in the workplace and the English only Driver's license testing were causing a stir. Our agency worked with the bill sponsor and TIRRC on the English in the workplace bill to make sure it was consistent with federal law making it for safety and customer service. It is consistent with the EEOC guidelines that have been issued.

The English only driver's license testing bill has gotten little or no opposition to present. This bill runs afoul of the Language requirements of Title VI and is part of the English First Foundation campaigns out of DC. Currently the Driving tests are administered in four languages Japanese, Korean, Spanish and English and the bill would reduce that to one. Staff will be speaking with Senator Ketron and Representative Carr during the next weeks to discuss what they are willing to do. Commissioner Starling noted that the purpose of these bills was supposed to alleviate lawsuits.

The Title VI bill has been cleaned up at the request of the Comptrollers office. As it was passed last year THRC would be responsible for reviewing Title VI Plans in October of 2010. It was noted that we received the Title VI responsibilities and funds from the Department of Human Resources and they did not review the plans. We requested to put a fiscal note on the bill and were told we could not. Additional dollars for one staff person are needed to perform these tasks and staff will be talking to legislators about the negative impact on THRC with respect to budget cuts.

THRC still has two vacant positions. The Nashville investigator position is being filled at the end of the month. Knoxville Housing investigator, Kendra Smith has resigned and will be replaced.

Inez Crutchfield who served on this board during the 1970's, received an award during the International Human Rights Day event in December and she sent a thank you letter which was shared with the board.

It was noted that the YWCA is holding an event called "Stand Against Racism" at the end of April and we will have a resolution to support that event later during this meeting for review.

Allen Staley of Shared Services spoke to the 9% cut due by July 1, 2010. THRC's budget is \$2,471, 800 for FY 2010 and at the end of January have spent 45% or \$1.1M of the budget. No problems are expected through the close of the fiscal year on June 30, 2010.

The impact of the 9% budget reduction was reviewed and he noted that the savings for the year should be \$227,000 with the projected reversion being \$127,000 for the 2010 budget year. Fiscal year 2011 with 9% reductions will reduce the budget by \$155,700 and the reversion amount remains at \$127,000 that would require an additional \$50,000 in cuts. This would require cuts in salary and benefits for 2 vacant legal assistant positions that are vacant and operating expenses would be cut by \$40,000.

Commissioner Osborne asked 9% from what. Mr. Staley noted that was from the total budget request. Commissioner Starling noted that would actually be almost a 10% cut. Mr. Staley also noted that last year the Commissions were held harmless by the budget and this year the reversion amounts have increased from \$25,000 to \$127,000.

Mr. Staley noted that these cuts were requested of all state agencies but also added that some commissions were granted restoration funds from the rainy day fund. Executive Director Watts added that we have requested funds from this source but have not been given an answer but is in communication with the legislators about the possibility of receiving some rainy day funds to THRC.

Chair Pierce noted that these cuts would impact the revenue stream of the agency as we will not have the staff to work cases for HUD and EEOC. Executive Director Watts explained that in the Housing division there are several aged cases and that for those cases the payment will be reduced or denied all together. Full payment is \$2600 and we will be paid somewhere between \$0 and \$1600 from the most severely aged cases that we have closed. She contacted HUD about the 45 cases that we have not been notified about the payments and could not get an answer.

EEOC funding is going up as we are set to receive an upward modification which could mean an increase of \$50,000 to \$75,000 in Employment funding but will not know until June and these funds cannot be cut by the state but can be impacted by loss of staff to work cases.

Commissioner Starling noted that THRC is up for Sunset review in 2011 and the lower productivity could reflect negatively on the agency and that should be discussed with legislators. Mr. Staley noted that the cuts are 9% of the state appropriated dollars of the budget.

Chair Pierce read the Employee of the Year resolution congratulating Francisco Guzman as the ultimate team member of THRC for 2009.

Executive Director Watts asked commissioners to review the resolution for the YWCA's Stand Against Racism event to be held on April 30, 2010. Commissioner Miller made a

motion to approve the resolution. It was seconded by Commissioner Wiggins. A vote was taken and passed.

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

Law & Legislation Committee Report

Commissioner Hewitt reported on the February 17th meeting held telephonically to review the draft of the Title VI Compliance Program rules which were supplied to commission members 10 days prior to the commission meeting as required. A few minor changes were made and those are reflected in the minutes of the meeting that you have been provided.

The committee approved the draft subject to the changes discussed and recommends approval of the draft. Mr. Thomas, title VI Compliance Director noted that the THRC rules in their entirety had to be reformatted but the Title VI rules are only 15 pages and the rest of the changes were formatting changes.

Commissioner Cocke made a motion to accept the recommendation of the committee to approve the rules changes and Commissioner Davis seconded the motion. A roll call vote was taken: Blalock, yes; Cocke, yes; Davis, yes; Garrett, yes; Hewitt, yes; McDaniel, yes; Miller, yes; Osborne, yes; Pierce, yes; Pride, yes; Starling, yes; Walker, yes; Wiggins, yes; Wurzburg, yes.

IVR System Report

Jay Santiago handed out a report which will be emailed to commissioners on the phone which reported on the IVR System or robo call system to follow up with customers requesting complaint forms and a customer service survey to complainants when there cases were closed which began in August of 2009. The report shows that after three campaigns all the numbers appear to be down and an explanation was not obvious. The good point was that we are receiving more callbacks to receive feedback. It was noted that in one day 300 calls could be placed and useful information about our customer service has been received.

It was reported that further testing would be required and is recommended. Commissioner McDaniel asked how complex is the system. Mr. Santiago noted that the campaign is set up and any staff member could administer it. Commissioner Starling asked about caller ID information and it was confirmed that it shows State of Tennessee.

Executive Director Watts noted that the system has been provided to us at no charge thus far but a cost will be attached to the implementation of this system if we choose to provide this service ongoing and the company is growing nervous about the length of time we have utilized the service for free so a decision should be made fairly quickly. The program will be reviewed by staff and a determination made as to if we can afford to go forward and a report will be made at the next board meeting.

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

Outreach and Education Committee Report

Commissioner Wurzburg reported on the Outreach and Education committee meeting was held on March 12, 2010 and discussed the Clarksville Listening session which was successful and the upcoming sessions in Memphis on April 5th at 5 p.m. at Bridges and East Tennessee on May 6, 2010 at 5 p.m. in Clinton TN. Also, Edy Nash has been requested to submit a proposal to facilitate our Commissioner Retreat on May 20, 2010.

The THRC brochures and complaint forms have been revised and are now available on the website and in the packets for review.

The ADR and Employment sections of the Memphis Bar Association are in discussion with Director Watts to host a Lunch and Learn CLE event in the Memphis area and a date will be chosen in the near future. Commissioner Davis is assisting with scheduling of Executive Director Watts on radio and television in the Johnson City area.

Executive Director Watts noted that THRC has contracted with Paula Casey to assist with Outreach in the West Tennessee area. She will be contacting Memphis legislators, blogs, press releases and fliers about upcoming events. Thanks to Commissioner Jones for supplying a list of area churches that will be invited to the Listening session which will be attended by Memphis Commissioners, THRC staff and Executive Director Watts and Bobbie Porter.

Commissioner Osborne asked about the changes to the complaint form and Bobbie Porter noted that the notarization section was removed due to confusion. The housing, employment and public accommodation forms were combined and it is fillable online. Commission Osborne thanked the staff for their efforts.

Chair Pierce noted that the report from the 2009 Commissioner Retreat has been supplied in the board materials and should be reviewed prior to the upcoming retreat as it supplies excellent information on the goals commissioners shared last year.

Commissioner Osborne made a motion to accept the report and it was seconded by Commissioner McDaniel. A vote was taken and passed.

Employment Case Report

Matthew Stephenson, Nashville Regional Coordinator reported on employment in the absence of Tiffany Baker Cox, Deputy Director. The report covers the first two months of the year and that 144 inquiries were received and 118 of those were accepted as complaints from Davidson, Knox, Hamilton and Shelby counties receiving the most. During the previous year only 112 inquiries were received so that represents a substantial increase.

Of the 118 complaints accepted, 84 were dual filed and 34 were THRC only. 98 cases were closed and no cases were caused and average case age remained the same from each period. The settlements and mediations from last year were 2 with \$10,300 in benefits received and this year with 2 settlements and 11 mediations \$78,000 has been received in benefits.

That reflects a 23% increase in the number of charges accepted and an increase of 42% of cases closed which can be attributed to the Mediation program being resumed.

The EEOC contract goes from October 1 to September 30 of each year and you should note that there are significant increases in all the numbers. Last year charges accepted was 185, this year that number is 226 and cases closed has increased by 101 this year. The current case inventory is 481 and was 521 last year and case age is up slightly. With the completion of 30 mediations complainants have received \$202,157 in benefits this year. The EEOC contract period will close on September 30 and to reach the contract requirements it will be necessary to close 30 cases each month. We are ahead of schedule on case closures and are hoping for an upward modification of our contract. It should be noted that we are still short one investigator.

Seth Yu, Kaleda Bentley and Billie Jean Haddock have been trained as Rule 31 Mediators. Plans are being made to have an investigative staff training event in May or June and discussions are taking place to determine if Mediation Month will take place again this year. Executive Director Watts noted that the staff has done an excellent job with case processing and conducting mediations and should be commended for their work.

We have a contract with a bi-lingual mediator to assist with Spanish mediations and have not required additional mediators from outside the agency.

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

Housing Case Report

James Davis, Housing Director reported the housing information for the first two months of the year. At a previous meeting Commissioner Wiggins asked about mediating housing cases and the answer is that one housing case has been mediated and the complainant received \$9,000 in benefits.

During the period we have had 25 inquiries that covered 17 different counties. We have closed 17 cases this period and 75 for the year to date total and the HUD contract requirement is 120 cases closed. In comparison to 2009 inquiries are down as are cases accepted for investigation but case closures are about the same. The average processing age has spiked due to the fact that we have been working to closed 90 severely aged cases of which 71 have been closed to date. Two conciliations have been completed netting \$28,000 to complainants and a current inventory of 52 cases.

The chart shows that we received 84 inquiries, accepted 57 and closed 75 and in the next report it shows that we have actually closed 101 to date. Conciliations and settlements show that we have received \$42,000 this year in comparison to \$8,000 for last year. Additional cases closed between March 5 and 19 were 26 and as of today the inventory sits at 52 with 3 in intake.

HUD has mandated that we close 95% of all aged cases and we have completed 77% and it will require that we close 14 more of the aged cases to meet this goal and we should be able to reach that goal within 3 to 4 months. Another HUD goal is to close 50% of all cases within 100 days and we will probably not be able to reach that goal this year.

All staff are new and should be commended for their efforts and the legal staff who review all cases both HUD and EEOC.

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

Legal Report

General Counsel, Shay Rose reported on the months of January and February. Legal closed 49 employment cases, 17 of which were administrative closures and reviewed 49 Investigative plans and 2 of these are pre-cause and in housing 12 cases were closed 5 of which were administrative closures, 2 of which are pre-cause and 5 investigative plans were reviewed.

Updates included a presentation by General Counsel on Feb 19 with the EEOC attorney on religious accommodations and discrimination. Please put on your calendars our Employment Law Seminar that will be held on June 17 and noted that Commissioner Garrett agreed to speak on national origin discrimination.

Legislative update consisted of the three English bills that Executive Director spoke about earlier and assisting the Title VI division with the updated rules. It was noted that there are currently no cause cases to report on in either housing or employment but several are being reviewed.

In housing updates the case from 2006 finally went to trial and the judge dismissed it on merit and standing and we have filed a petition to reconsider the standing issue because we disagreed with that ruling. In the future Associate Counsel Seth Yu will be handling the case going forward. The second case is waiting for a settlement with the complainant's wife because the complainant died.

Seth Yu discussed what the options the commission has in reference to this case. The judge has until April 1, 2010 to decide whether or not to grant that reconsideration that THRC requested but it is unlikely that he will overturn himself. The commission needs to delegate who will review this case and it can be one person, a group of commissioners or the Law & Legislation committee. This decision needs to be voted on today.

Whoever is chosen will decide to review the initial order; or decide to appeal the decision; review the appeal and then hear and decide the case. We have until June 15, 2010 and it was recommended that the Law and Legislation committee be chosen to handle this case.

Chair Pierce suggested that the Law and Legislation committee be chosen to handle this task and report back to the commission.

Commissioner Miller made a motion to accept the recommendation of the Chair to have the Law and Legislative committee review and hear this case. Commissioner Garrett seconded the motion. A vote was taken and passed.

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

Outreach & Education

Bobbie Porter reported on the Outreach and Education activities for the months of January and February which were very busy due to Martin Luther King Jr. events and Black History month. 18 Outreach activities were attended which included 2 speaking events. Executive Director Watts spoke in Oak Ridge, Francisco Guzman was on Hispanic radio and Commissioner Wiggins was on Lets Talk with Ernie Allen.

The Commission was recognized by the Unity Group in Chattanooga at their MLK Celebration with an award which was accepted by Executive Director Watts. It was noted that Commissioner McDaniel is a member of that group.

At the Clarksville Listening session 24 people were in attendance and Commissioner Starling chaired the meeting. Francisco Guzman was there and spoke with Spanish attendees and took complaints. Dr. Richard Waters with the Department of Justice was also in attendance as were the folks from the Title VI Action Committee who have met with this commission. Executive Director Watts also noted that they did not provide THRC with any copies of the complaints they have filed with the previous Title VI commission as promised.

A member of the Clarksville Resource Center spoke about the kinds of complaints they receive and we will provide him copies of the revised brochure when we have them. Rev. Tommy Vallejos invited Executive Director Watts to come and appear in the Patriot TV show called Taking Back America.

Clarksville Online which is a mobile internet outlet was present which ran the story on January 28th about the Listening session. The Memphis Listening session is coming up and fliers are available to those present.

Media contacts included a request by a TV show hosted by Andy Cordan called That's Messed UP about service animals not allowed in a hotel. He had actually filed a complaint with THRC but General Counsel Rose noted that we did not have jurisdiction for his complaint and it was referred to Department of Justice.

Executive Director Watts noted that the Tennessee Law does not cover disability as it relates to public accommodation and employment complaints. These complaints are referred to the Department of Justice or the EEOC.

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

Title VI Compliance Program Report

Marcus Thomas reported on the activities of the Title VI Compliance program for the months of January and February. He extended thanks to the executive staff, Lisa Lancaster and Executive Director Watts for their assistance. He reviewed the proposed rules and noted that they have been reviewed by the Law and Legislation committee and the next step in the process is to present them to the public at rulemaking hearings in East, West and Middle Tennessee and when this is complete they will be sent to the Secretary of States office for approval and will probably go into effect by the end of the year.

The rulemaking process steps are: approval by the board, 50 day waiting period before the hearings, the public hearings where the public can comment and the agency will have 10 days to respond the comments. Then the rules will be submitted to the Attorney Generals office and then be heard by the Government Ops Committee of the legislature.

Title VI has received 100 complaints and reviewed them during this reporting period and they are then referred to other agencies. Plans are in the works for a statewide training session for Title VI Coordinators of state agencies.

Commissioner Starling asked if there were any existing rules from the previous commission. There was some guidance but no rules. Complaints must be filed within 180 days for them to be valid.

Mr. Thomas presented the education and discussion segment of the board meeting with a PowerPoint presentation about the Title VI Compliance Program.

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

Julie Fornay and Brian Fessler from the Church of Scientology were our guests and introduced themselves.

Announcements were made about the IAHOA Conference in Mobile AL August 28-Sep. 2 where Asst Attorney General for Civil Rights Tom Perez will present; the HUD Policy Conference may be at Opryland in July; the Fair Housing Matters Conference is on April 7th in Nashville; The ECHO event is in Knoxville on the 23rd of April and the Fair Housing of Greater Memphis is on April 30 event in Memphis.

The Executive Director is set to have knee surgery on the 7th of April.

The East TN Listening session will be on May 6th at the Green McAdoo Cultural Center in Clinton, TN from 5 – 7 pm. The Center was built by the city in memory of events of the Clinton 12 and is a historical center and NPT did a very good story. Several Commissioners agreed to help with advertisement for the session.

The meeting was closed at 11:30 am.