



TENNESSEE HUMAN RIGHTS COMMISSION
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October 17, 2008
Board of Commissioner's Meeting
Minutes

Commissioner's Present:

Commissioner Cocke (Phone)
Commissioner Davis
Commissioner Garrett
Commissioner Hakeem
Commissioner Hewitt
Commissioner Jones (Phone)
Commissioner Miller
Commissioner Osborne
Commissioner Pride (Phone)
Commissioner Walker
Chairman Wiggins
Commissioner Wurzburg (Phone)

Commissioner's Absent:

Commissioner Blalock
Commissioner Pierce
Commissioner Starling

Staff Present:

Beverly Watts, Executive Director
Tiffany Baker Cox, Deputy Director
James Davis, Housing Director
Kelly Sheeman, Assistant Counsel
Esperanza Soriano, Communications Director
Lisa Lancaster, Executive Director's Assistant

Guests:

Carol White (SSS)

CALL TO ORDER

Chairman Wiggins called the meeting to order at 9:05 a.m. Roll call was taken. Commissioner Osborne gave the invocation. Minutes of the July 18, 2008 meeting were reviewed. Commissioner Osborne made a motion to approve the minutes. Commissioner Hakeem seconded the motion. A vote was taken and passed.

EXECUTIVE DIRECTOR'S REPORT

Executive Director Watts reported that currently there are 2 staff openings in the agency. One in Intake and one housing investigator and both positions are in the process of being reclassified. Chairman Wiggins questioned if the budget problems were scaring potential employees away? Director Watts did not think so, noting that the registers are full of possible candidates.

Director Watts commended the employment staff for their hard work in completing enough cases to meet the EEOC contract on September 30, 2008 and the housing staff who closed more cases than ever for their contract ended on June 30, 2008. She also noted that HUD has sent a new contract for our review and if enacted, THRC would no longer be paid for Administrative Closures without resolution which could impact HUD revenue for the coming year.

The Executive Staff Retreat was conducted the end of August and the All Staff Retreat was September 11 and both were facilitated by Edythe Nash. Excellent reviews were received from staff. Those results are being review to determine how best to implement the noted changes.

The Sunset hearing was held on August 12 and Commissioner's Cocke, Pierce, Osborne and Starling attended along with Executive Staff and Executive Director Watts. The State Auditors release the Special Investigation Report which was sent to Commissioner's electronically. We also responded to the February 2007 Performance Audit. Commissioner's Pierce and Cocke spoke to the Government Ops Sub-committee at the hearing who then recommended that THRC be granted 2 years. It was noted that it would be necessary for THRC to attend another hearing possibly before the full Government Operations committee. Executive Director Watts has been in contact with Senator Harper and Rep. Brown who indicated that they were pleased with the results of the hearing and that THRC should continue to do what we are doing.

Executive Director Watts noted that normally 2 weeks notice are given for hearings and the Board will be notified as soon as the hearings are scheduled. We have received some media inquiries and materials which are included in your packet for review.

Executive Director Watts made outreach presentations at Vanderbilt University Law School. Carol Swain, is a member of the U.S. Commission on Civil Rights and instructor of the class which is doing a research project for the Commission about Housing and what is going on there. Background information was provided to students. Also a specific presentation about Housing testing was given the next day. Also the Black Student Law Association invited the Executive Director to speak about Predatory Lending and its effects on the community. Sub-Prime lending was identified as a bigger piece of the current economic crisis.

Executive Director Watts has been researching the budget to learn how the public finds out about THRC and how to best spend outreach funds.

Chairman Wiggins requested that Executive Director Watts provide an update on the Investigator Madu matter. The Comptroller's office and the Attorney General's Office is looking to prosecute Mr. Madu and have requested from THRC an overview of expenses

incurred by THRC to complete the audit and investigation to date. The best estimate right now is approximately \$35,000 and a couple of questions have not been answered. Carol White, Shared Services Solutions is also assisting with information concerning volunteer time which is estimated at \$19.57 per hour and possible theft of salary inquiries. The Budget and Audit committee has been included in this discussion and will assist in preparing and reviewing the estimate. If they choose to prosecute restitution may be possible.

It was noted that 3 complainants have called who saw the media articles and made inquiries about their cases. None of them were closed this year nor were they audited for the special audit done by legal and the Comptroller's office. Correspondence was sent to each of them advising them of their options.

Chairman Wiggins noted his pleasure at the THRC Executive Director's response being published in the Sunday Editorial Opinion Section of the Tennessean newspaper.

Commissioner Osborne requested that Chairman Wiggins note for the record that Commissioners Garrett, Walker and Hewitt have arrived in person to participate in the meeting.

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

LAW & LEGISLATION COMMITTEE REPORT

Chair of the Law and Legislation Committee, Stacy Garrett, reported on the meeting that was held on September 15, 2008 to review changes to the statute that would change the word handicapped to disabled. The committee unanimously approved the recommendation presented by General Counsel Rose and Chair Garrett noted that the full board will need to approve the recommendation by roll call vote. Commissioner Osborne made a motion to accept the committee's recommendation and it was seconded by Commissioner Miller. Roll call vote was taken and Commissioners Cocke, Davis, Garrett, Hakeem, Hewitt, Jones, Miller, Osborne, Walker, Wiggins and Wurzburg voted to accept the motion.

Commissioner Hewitt made a motion to accept the committee's report and Commissioner Walker seconded the motion. A vote was taken and passed.

BUDGET & AUDIT COMMITTEE REPORT

Chair Hakeem reported that the committee met on August 7, 2008 to review the agency's response to the February 2007 Performance Audit and again on October 9, 2008 to review the 2009 and 2010 Budgets. The report was then turned over to Executive Director Watts who noted that Carol White, Director of Shared Services Solutions was also present to assist with questions if needed.

The board members were directed to the summary page behind the minutes. Executive Director Watts informed the board that because no staff members accepted the Governor's Voluntary Buyout Package a vacant position was eliminated which leaves 29 positions. FY 2009 total Budget request was \$2,354,400. \$42,700 was saved in salary and benefits by this position being cut and \$43,300 will be cut from travel, printing and other expenses to attain a savings of \$86,000. Revenues are still slow coming in and additional cuts may be

necessary. Some federal money is available for Housing and may be used for additional Outreach and Education activities.

The FY 2010 Budget request was for \$2,345,800 with revenues at the same levels as the previous year and a \$25,000 reversion. The 3% additional proposed reductions will be from travel, professional services, supplies and Nashville rental which total \$48,000.

A budget hearing will be held on November 5, 2008 for the FY 2010 and FY 2009. The question was asked about when do we get money from EEOC and HUD and the answer was when they tell us we can voucher for it.

Executive Director Watts asked the question "How do people find out about us?" and the research shows that since January of this year only 19 people say they heard about us on TV and only 12 by Radio. Most reported they heard about us from friends, attorneys, EEOC and the employment office. These results indicate that possible cuts to the budget could be in the area of advertising on TV and Radio.

We have had a discussion with NAACP to work with their redress committees, who receive a lot of complaints that may be referred to THRC for investigation. This may also happen with other agencies. Commissioner Hewitt suggested that THRC be represented at the Tennessee Bar Association, Tennessee Association for Justice, and Napier Ludy Bar will have an Annual Conference in Memphis in the second week of June 2009 which would be an excellent target for our agency attorneys.

Commissioner Wurzburg and Cocke also noted that THRC materials could be available at a booth at the convention and Commissioner Hewitt as a member of the Board of Governors of THA will look into a waiver for any fees.

Executive Director Watts wants to expand the Commissioners contact in communities by information sharing events and providing agency materials to community leaders. We will utilize staff closest to the event to assist and provide talking points. She asked the Board members to share their ideas with her for future events.

Commissioner Cocke suggested that THRC develop a brochure specifically for attorneys that could be distributed at these meetings. The Employment Law Seminar will be hosted by THRC again March 18, 2009.

Also, staff will be cross trained to investigate cases in order to assist when complaints are coming in at a high rate as they do when the economy is bad. The projected time to see this trend is about three to four months.

We will also be looking at no cost radio spots, the website and similar things that can further our mission of outreach. Chairman Wiggins asked if the November 5th meeting on the Budget was a wish list meeting. Executive Director Watts noted that she would be sharing information about our contracts with EEOC and HUD and what our inventory is and what staffing looks like and probably some questions concerning Sunset issues.

Commissioner Wurzburg noted that she was a member of the Budget and Audit Committee and was absent because of a religious holiday and she asked that in the future

those holidays be taken into consideration when scheduling meetings. Commissioner Hakeem thanked the Shared Services Solutions staff of Carol White and Allen Staley for their assistance during the committee meetings.

Chairman Wiggins noted that all businesses have to watch their spending and take appropriate actions to stretch their spending dollars where they can. Commissioner Hewitt made a motion to accept the Budget and Audit Committee report. Commissioner Davis seconded the motion. A vote was taken and passed.

EMPLOYMENT CASE REPORT

Deputy Director Tiffany Baker Cox reported that her report covers the period from July 1 to September 30. There were 278 inquiries received and 175 were accepted. 153 charges were closed. The average case processing age was 258 days. 4 cases were settled for \$31,000 in benefits to complainants. The top three bases for complaints were Title VII at 75%, ADEA 7% and ADA 4%. There were no cause findings and 21% of cases were administratively closed with 9 settlements resulting in \$135,078 in benefits to complainants.

Numbers are down from the previous year. Total case inventory stands at 493. Because we still have two investigators in training the average charge age is up from the previous year but is expected to go down. The receipt of benefits from mediations is up substantially from 07 as we have resumed the mediation program.

We continue to reduce the number of aged cases as a goal; we now have 3 mediators available to mediate cases and three mediators that should be ready by November leaving one to complete their training; three investigators have completed EEOC training and plans are in the making for in house training in the future for all investigators; possible seminar for small businesses in the future. Also plans are being made to cross train investigators and other staff to investigate both housing and employment cases which will take about 6 to 12 months to complete.

Commissioner Osborne asked about what the expectations of complainants should be based on a standard of 4 to 5 % of cases ending with a no cause determination. Executive Director Watts noted that the mediation program brings complainants and respondents together to talk and often results in more settlements.

Chairman Wiggins noted that mediation is beneficial to all parties involved and is implemented whenever available to resolve issues and saves time and money for all involved.

Commissioner Osborne noted that the agency should do strategic planning to improve the structure of the agency. Executive Director Watts noted that a part of the agency's strategic planning was to observe that the agency did not have adequate mediators on staff. That observation resulted in the training of five new mediators at the beginning of the year to fill this void. The agency now has 9 mediators. Commissioner Wurzburg was thanked for assisting those trained to complete their observations process and she volunteered her services as an instructor to assist with further training of mediators.

Commissioner Hakeem noted that the agency is conscious of our short comings and are attempting to right them. Commissioner Hewitt noted that mediation is now mandated in all

lawsuits filed. Commissioner Cocke pointed out that the THRC Employment Law Seminar could assist with Public Relations as well as Outreach and Education for employers.

Commissioner Hewitt questioned if employers could be given a certificate of support from THRC. Executive Director Watts noted that it is something that the agency might not want to implement due to control issues. Commissioner Cocke suggested that certificates of attendance at seminars and other outreach events that could indicate training in Human Rights issues.

Executive Director Watts suggested that the Board's Strategic Planning Committee might need to be activated in the near future to assist with these issues.

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

HOUSING CASE REPORT

Our new Housing Director, James Davis introduced himself to the Board and gave a quick rundown of his employment with the City of Knoxville. The report covers the period July 1 through September 30, 2008 during which time 48 inquiries were received and 42 of those were accepted as complaints. 38 cases were closed with race-Somalia being the top basis followed by Physical disability, National Origin, Mental disability, Familial Status, race-black and race-white.

During the period, 36 cases were closed as no cause, 2 were conciliated with \$5,000 in benefits and the average case age was 146 days. Improvements were noted in the number of cases closed, average case age and settlements received from the same time period last year.

Chairman Wiggins asked what Director Davis attributed those improvements to. He answered that negotiation skills of the conciliators and the upcoming audit of investigators inventory expected in the first quarter of 2009. The audit will consist of 3 open cases and 2 closed cases from each investigator. Also the 90 day check list has been revised and continuing goals include training for staff; reducing aged cases by 50%; and closing 120 cases for the year.

Continued Outreach and Education across the state in collaboration with other agencies such as the NAACP and Urban League and like agencies is also a priority. Customer Service continues to be a priority and will be an important goal for the year. Staff turnover has been an issue over the last year and one investigator position is still open. Commission based complaints will be investigated as we have in the past. Also HUD has proposed a payment increase for the coming contract period. More news on that as it is available.

Commissioner Hakeem questioned the continuing education of investigators. Executive Director Watts noted that in house training takes place with both Employment and Housing Investigators all year long in addition to EEOC and HUD training for the investigative staff.

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

LEGAL AND CAUSE CASE REPORT

Associate Counsel Kelly Sheeman reported that legal reviewed and closed 98 cases and the inventory contained 3 cause cases. 57 investigative plans were reviewed by legal on the front end to assist investigators with their investigations. 2 reconsiderations were conducted leaving 3 in inventory and 52 cases were sent back for corrections. Of the closed cases 7 were THRC only, 14 administrative closures and 5 conciliation/settlements.

36 housing cases were closed and 1 was caused and 12 investigative plans were reviewed. There were no THRC only cases closed, 11 administrative closures and 2 conciliations.

The bail bonding company not accepting Hispanic customers case has been set for mediation with an outside mediator. The hostile work environment in a sports bar case has also been assigned to an outside mediator. The harassment & retaliation case filed by an African American employee is in settlement talks. If talks are not successful it will be docketed for a hearing by the end of the month. The disparate treatment based on race case has been scheduled for mediation and the failure to hire case settled for \$21,600 and training.

The housing cases include the trailer park case of familial status is in conciliation with the respondent as the complainants have not responded. The failure to rent case based on the pond on the property and fear that the children would get hurt is set for hearing on November 20, 2008 in Knoxville, TN. The familial status case of the family expecting a third child settled for \$5,000 and training for the landlord.

Commissioner Davis asked what the process is when complainants have disappeared or become uncommunicative. Ms. Sheeman noted that the Commission can settle these cases under those circumstances. Commissioner Wurzburg asked what happens with in house mediations that are unsuccessful. Deputy Director Cox said that mediators do not receive the case files. They only receive a copy of the complaint and the position statement from the respondent and after an unsuccessful attempt at mediation, all mediation notes are shredded and the case is assigned for investigation and care is taken to ensure that the case is not assigned to the investigator/mediator who mediated the case.

Commissioner Wurzburg also noted that Rule 31 requires pro-bono mediations and questioned if the agency has utilized that resource. Deputy Director Cox noted that we currently use an outside Attorney/Mediator, Mark Travis with whom we have a confidentiality agreement and is currently working on 2 cause cases for us.

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

OUTREACH AND EDUCATION

Esperanza Soriano, Communications Director, reported on the activities for July through September of 2008. During the period THRC participated in 23 events, reaching 3,500 citizens and handing out 2,100 brochures and promotional items and noted that this is an increase of 10 events more than the same time period from the previous year. Some of these events included the EEOC, West Tennessee Legal Services, TN Labor Management, Mexican Consulate and Community Nashville.

Director Soriano noted that Special Projects Coordinator, Francisco Guzman, was also acting as a Housing Investigator with an inventory of 10 cases in which he has closed 6. He has also responded to 143 Hispanic telephone inquiries. Commissioner Hakeem asked about the Hispanic community in the Chattanooga area and THRC's presence there. Director Soriano noted that the new plan for outreach and education includes possible collaboration with Radio and TV and the plan will be submitted to the Executive Director soon.

In response to the Employment Law Seminar, THRC has had requests to facilitate training for the Department of Human Services and Asurion Company. She reported that 23 media articles have been included for the Commissioners to review concerning the release of the Comptrollers Special Investigation of former Investigator Leonard Madu.

Communications has provided THRC coffee mugs for all present today.

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

Chairman Wiggins noted that he would appoint the Nominating committee and send notification to the Board members via mail.

Commissioner Osborne thanked the staff and Board for their willingness to respond to requests for information from Board Members. Commissioner Hakeem made a motion to have the Chairman send a letter of appreciation to the THRC staff from the Board for the fine work they do. The motion was seconded by Commissioner Osborne. A vote was taken and passed.

Chairman Wiggins thanked the commission and staff for the work they do. They are touching lives and the staff is doing good work and we are making a difference in the lives of someone.

Chairman Wiggins wished Happy Birthday to Commissioner Stacey Garrett and adjourned the meeting at 11:00 a.m.