



TENNESSEE HUMAN RIGHTS COMMISSION
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October 13, 2023
Board of Commissioners' Meeting Minutes

Commissioners Present:

Commissioner Crider
Commissioner Kelly
Commissioner Pérez
Commissioner Rosales
Commissioner Upton

WebEx:

Tremecca Doss, General Counsel
Cheryl Cole
Michelle Petrey, Training Officer II
Michelle Rios
Vee Weatus
Laura Bell

Staff Present:

Muriel Nolen, Executive Director
Veronica McGraw, Deputy Director
Lynn Cothren, Operations Manager/Special Assistant
Jacob Aparicio, Communications Director
William Wade, Associate General Counsel
Allen Staley, Fiscal Officer
Seth Lankford
Katherine Swartwood
McKayla Green
Julie Woodhead

Call to Order

Executive Director, Muriel Nolen, called the meeting to Order at 9:01 a.m. CST. Five (5) Commissioners were present at roll call. The meeting began with a Moment of Silence.

Executive Director opened the meeting with a request for the Commissioners to approve the minutes for the meeting on July 21, 2023. Commissioner Crider expressed concern for language listed in paragraph 4 and page 3. It was determined that the information listed would be removed due to not being accurate. Commissioner Kelly moved to approve the amended Minutes. Commissioner Upton seconded the motion. There was no discussion and the motion passed.

A list of proposed meeting dates were presented based on previous years' schedules. The Executive Director noted that the November 2024 date needed to be moved to 11/22/24. Commissioner Crider noted that one proposed date fell on Good Friday (3/29/24). It was proposed that it be moved to 3/22/24. Traditionally, Board meetings are held every other month starting in January. The next projected meeting for this year is November 17 at 9:00am. Commissioner Upton moved to approve the amended proposed dates. Commissioner Pérez

seconded. There was no discussion or opposition. The Commissioners all voted to accept the motion regarding future meeting dates.

Regarding an upcoming virtual meeting, Commissioner Upton asked General Counsel Doss to define “necessity”. General Counsel Doss’s response was that “Necessity is to be determined by the Commissioners.”

Executive Director’s Report

Executive Director, Muriel Nolen, identified that the report covers July 1 through August 31, 2023. Regarding the Fiscal Year (FY) 2023 Budgetary items, she reported that the Commission has completed its Budget Report. Preparations are under way for FY 25 budget request. There are no plans to ask for an increase until additional information is gathered. Commissioner Kelly asked for clarification on the current budget. Executive Director Nolen did specify that which there are outstanding positions that will be filled. Following an inquiry by Commissioner Kelly, the Executive Director advised that unused budgetary funds are returned to the state of Tennessee.

Allen Staley provided a summary on the Budget Process. It starts in the Fall when instructions are provided for the upcoming year’s requests. The Fiscal Year is July 1 through June 30. The 2025 Fiscal Year was due and submitted by September 11, 2023. The F&A Office will work with the Governor’s office to create recommendations that are presented to the Legislature in the spring. Following recommendations there will be Legislative Hearings which will ultimately decide on the budget. Commissioner Kelly inquired as to who in the department creates the budget. Executive Director responded that the Deputy Director and the Executive Director are who primarily draft the proposed budget for the department. She stated that there are budget instructions that are utilized when an agency wants to request a Cost Increase. Mr. Staley stated that if there is a Cost Increase Request, a corresponding reduction must be presented as well. Mr. Staley stated that there is generally no change in budget numbers. Commissioner Upton asked that the Executive Director comment on where priorities are for the current budget. The Executive Director stated that her strategy is to monitor technology and travel to best maintain an overall balance. Mr. Staley referenced resources online such as the Governor’s recommended budget to rely on for analysis of the proposed budget. He commented that it is his understanding that a Budget Committee may be required. Commissioner Crider suggested that Commissioner Kelly consider heading the Budget Committee at a future time that is to be determined. The Executive Director concluded that there are several processes that are required by the state for any alterations to the Department’s budget. Commissioner Kelly referred to the Fiscal Year 23 report. Mr. Staley confirmed that the report in reference is the final report. Mr. Kelly asked for clarification of what was budgeted and what was spent. The Human Rights Commission used 80% of its budget in Fiscal Year 23. Commissioner Rosales inquired about grants that were used. Mr. Staley explained that grants aren’t typically highlighted but the Human Rights Commission’s report listed it as a “closing item”. Executive Director clarified that the funds listed on the report represent reserved funds or savings that have been made available if needed.

The Executive Director referred to the Department’s “Org Chart” in regard to Human Resources. There are two outstanding vacancies, in Title VI. For the first time, the Enforcement areas are being fully staffed.

Regarding the HUD and EEOC work share agreement, our case requirements ended June 30 for this year (HUD). Housing closed 127 dual filed cases. Under the HUD agreement, we are only required to close 60. General Counsel Doss and Deputy Director traveled to east Tennessee to conduct reviews and performance assessment with the Housing unit. Those results should be available by November. Those results will impact the amount of funds received by the Federal partner, HUD. Commissioner Upton requested that once the results are available the Commissioners have access for review.

The Executive Director stated that the Deputy Director will speak on the employment efforts as part of her report. She stated that the reporting period for the EEOC ended in September. Both HUD and EEOC require the attendance of Leadership conferences. The Executive Director and Deputy Director were able to participate in person.

Executive Director Nolen stated that in terms of Education and Outreach, The Title VI unit conducted a “two-day” statewide Title VI training in August. Executive Director Nolen, Deputy Director McGraw and Operations Manager Lynn Cothren attended the International Association of Official Human Rights Agencies (IAOHRA) Conference. Executive Director concluded her report. She inquired if the Commissioners wanted to discuss the creation of Committees at that time. Commissioner Crider requested the topic be held until a future meeting. It was noted that a Chair would need to be elected as well as a Vice Chair and Secretary. Commissioner Kelly moved to have the establishment of Committees on the agenda for November. It was clarified that each committee would include 3 individuals. Commissioner Kelly noted that it would be a goal to maintain balance amongst the Committees of the Commission. The Executive Director asked General Counsel Doss and Associate General Counsel, Will Wade, to state if there are any other points to be noted. They responded that there were not any at this time. Operations Manager Lynn Cothren stated that it would be worth considering a slate of officers to be designated for the ballot in November as that has been the tradition in the past. Commissioner Kelly commented that he believes that it is paramount that the Committees be established at the November meeting with prepared slates. Commissioner Kelly stated that he believes they should arrive at the November meeting with a prepared slate. Commissioner Rosales requested that the Commissioners discuss via email prior to the November meeting to establish a slate. It was clarified that deliberation should not occur and that the slate should be prepared two weeks prior to the meeting. The Chair would then facilitate the establishment of Committees. It was commented that it should be a consideration that there not be any committees to ensure streamlined communication. Commissioner Crider commented that they could evaluate and amend the By-Laws according to how to they feel will work best for them.

Commissioner Rosales asked for clarification regarding Commissioner appointments. Executive Director Nolen stated that there is 1 more Commissioner anticipated to be from the East area; there is 1 more Commissioner anticipated to be from the Middle area; and 2 more Commissioners anticipated to be from the West area.

Commissioner Rosales moved to accept the Executive Director’s report. Commissioner Upton seconded the motion. There was no discussion and the motion passed by all Commissioners.

Deputy Director Enforcement Report

This report was presented by Deputy Director, Veronica McGraw. The reporting period is July 1, 2023 through August 31, 2023.

The Employment unit received 191 inquires, the Middle Tennessee area received the highest percentage of complaints of discrimination in employment. A total of 5 were prepared for investigation. A total of 55 cases were closed which included one (1) Mediation.

The Housing unit received 212 inquires, Davidson County received the highest number of complaints of housing discrimination followed by Shelby county. A total of 22 were prepared for investigation. A total of 11 were closed which included two (2) Conciliations totaling \$1850.41 in monetary benefits. The unit is fully staffed with a team of seven (7) full time investigators.

The Agency has hired a Training Officer II, earlier this year to ensure that the agency is compliant with all mandated training requirements of Human Resources. Staff has reported a total of 347 hours of training, leadership, and professional development hours.

Commissioner Kelly asked for clarification to better understand the numbers reported. It was explained that there is a constant number of files that are active, and closings are case specific which would mean there is not a straight count of open versus closed cases. There is a continual "Case Load". There are requirements that dictate if submissions meet jurisdictional requirements. In some cases, inquiries that do not meet those requirements aren't considered for investigation. Commissioner Pérez asked for clarification on "jurisdiction". She asked if those individuals receive additional resources. It was stated that those individuals are provided with alternate resources.

Commissioner Kelly moved to accept the Enforcement Report. Commissioner Upton seconded. There was no discussion and the motion passed.

Title VI

General Counsel Doss presented the report. The reporting period is July 1, 2023 through August 31, 2023. The Fiscal Year 22/23 State Agency Implementation Plans (IPs) was open for submission on October 2, 2023, per a new developed cloud reporting website that is automated with respect to the processing of complaints. As of August 31, the Title VI unit received 60 inquiries. A total of 10 were jurisdictional and were assigned to their respective state agencies for investigation. The remainder were referred to their respective agency or were administratively closed. There are currently six (6) open cases. Four (4) of the open cases were assigned to the Department of Corrections; one (1) assigned to the Department of Human Services and one (1) assigned to the Department of Safety and Homeland Security. There were 22 requests for technical assistance. Topics of technical assistance include Limited English Proficiency assistance and training requests, Implementation Plan Process update questions. At the Title VI Annual Training session, conducted on August 9 and 10, a total of 122 attendees on the first date and 125 on the second.

Commissioner Upton moved to accept. Commissioner Rosales seconded. There was no

discussion and the motion passed amongst all Commissioners.

Legal

General Counsel Doss presented the report. It was announced that Associate General Counsel, Will Wade, would be presenting information during the report. The reporting period is July 1, 2023 through August 31, 2023. It sets forth the statistics for Employment, Housing and Public Accommodation cases that are handled by the Legal Division with respect to pending litigation. She requested any questions related to the report.

Commissioner Kelly asked about the total number of No Cause cases were listed with reviewed. General Counsel Doss clarified that the numbers are not directly related but are inclusive. General Counsel Doss stated that the numbers represent cases in a variety of stages. She then proceeded to explain the complaint process and the investigative plan.

Commissioner Pérez moved to accept. Commissioner Kelly seconded. There was no discussion and the motion passed amongst all Commissioners.

Executive Director, Nolen, referred to an agenda item regarding the Informational Meeting that included a form for a “Request for Commission files”. It is on the future agenda to provide an update. It is currently being researched how to successfully make that information available. The files may be available in a Cloud system. General Counsel Doss reported that research is still being conducted to determine the best way to facilitate that plan.

Board’s Pre-Cause Approval of Cases

Associate General Counsel, Will Wade, explained the process for approving pre-cause cases. He stated that as a recap from the meeting in the summer, there are three options. The first is that the Board review all pre-cause cases; the second is that the Board adopt a hybridized plan in which the board reviews a random number of pre-causes, and the Director reviews the remainder; the third is that the Executive Director solely review the pre-cause cases. In the third option, the board wouldn’t review initially. The Board may review cause cases after they go through the Administrative Law Process. Upon Commission review, the Board may either affirm, reverse, or remand an Initial Order back to an Administrative Law Judge for further proceedings.

It was noted that in the 2020 Piat case, an Administrative Law Judge held that THRC did not have subject-matter jurisdiction in the case because the Commission Board had not approved the initial cause finding. Subject-matter jurisdiction can be attacked at any time by an Administrative Law Judge or a Respondent. Mr. Wade stated that based on the Administrative Law Judge’s ruling, any case in which a cause finding was issued by the Executive Director could be summarily dismissed. He proceeded to explain that having the Board review pre-cause cases would protect cases from undergoing summary dismissal as happened in the Piat case.

Commissioner Upton moved to adopt the first proposed “approval method”. Commissioner Kelly seconded the motion. There was no discussion and the motion passed amongst all Commissioners.

It was announced that the Commissioners will need to be ready to discuss two cases on

November 17. Executive Director, Muriel Nolen, introduced Will Wade and General Counsel, Tremecca Doss, to speak on what the Commissioners should expect between now and the meeting that has been scheduled for November 17. The cases will be deliberated on at a Public Meeting. It was stated that the parties involved in the two cases will not be listed but will remain anonymous. Commissioner Pérez asked if they would be sufficiently informed of the details for each prior to the meeting. It was stated that they anticipate sending the information to the Commissioners two weeks prior. Associate Counsel, Will Wade, asked that the Commissioners refrain from discussing any information that may be considered “Public Forum” discussion.

A ten-minute break was taken with a request to return at 10:42.

Executive Director Nolen suggested that it may be useful to have a guest speaker at the next meeting who can speak to how boards and committees work, essentially an overview of how boards and commissions work with ethical considerations.

Communications Report

Communications Director, Jacob Aparicio, reported that during the period of July 1, through August 31, 2023, the THRC participated in 14 events with a total outreach to 14,151 people. Outreach efforts included attendance at events and speaking engagements, in the state of Tennessee and outside of Tennessee. Events hosted included the annual Title VI Compliance Training for agencies across the state. The Communications unit worked closely with the Training unit and the Title VI unit for the Title VI Training.

Commissioner Kelly asked about an event that occurred in Knoxville in June. He inquired as to what process is used to determine where events occur. Communications Director Aparicio stated that it is on a rotating basis. In addition, the activities of the Federal partners are taken into consideration as well as the demand of the various areas of Tennessee. West Tennessee is being considered for an upcoming Fair Housing event with HUD. There are recurring events that THRC participate on an annual basis. THRC will participate in events outside of that list on an “as needed” basis.

The Executive Director explained that our Federal partners express persuasive suggestions as to where some events occur. Commissioner Upton asked about reaching out to more rural areas. Director Aparicio stated that we rely on our Federal and local partners to attend events by setting up booths or tables at local events. We also rely on “word of mouth” and having partners share THRC resources. It is common for members of the staff to attend events with organizations that have a presence in those communities such as legal aid societies.

Commissioner Kelly moved to accept the report. Commissioner Pérez seconded the motion. There was no discussion and the motion passed amongst all Commissioners.

The Executive Director referred to the Annual Report in the packets that they previous received. There are two annual reports that must go to publication, The THRC Annual Report and the Title VI Annual Report.

Commissioner Rosales moved to accept. Commissioner Pérez seconded the motion. Deputy Director stated that the report is typically published by November of the year that it represents. Commissioner Upton asked that it be held and placed on the agenda for November 17. Director Aparicio stated that he will follow up with the Commissioners with copies of the THRC Annual Report and Title VI Annual Report.

Commissioner Kelly had a question about content on page 10. Additionally, he requested that the vote of the Annual Report be postponed to the November meeting. Commissioner Crider abstained his vote. Communications Director assured that he will forward updated electronic copies to each of the Commissioners. Both the THRC Annual Report and Title VI Annual Report will be on the November 17th agenda for review of approval.

Public Comments-Announcements

Executive Director Nolen announced that the meeting was now available for public comment. She stated that since there are no attendees in the Public Forum, they will continue.

She announced that the next meeting will be held on November 17, 2023, at 9:00am at the same location. The agenda will include the review of two (2) Pre-Cause Cases; reviews of the THRC Annual Report and Title VI Annual report; and nominations and vote for Commissioner office positions and determination of the Committees.

It was commented that Director Sims with the EEOC had previously requested that the Employment Law Seminar be presented in West Tennessee. Commissioner Upton asked that a similar presentation occur in East Tennessee. Director Nolen stated that it would need to be reviewed for consideration.

Executive Director Nolen adjourned at 11:15 a.m. with no motions being made.