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Governor
LARRY J. MOSLEY
Director
DEBORAH E. MADISON
Administrator



COMMISSIONERS
Dennis Shipley, Chair
Lee Plotkin
Aileen Martin
Nadia Jurani
Tiffany Young

Nevada Equal Rights Commission

MINUTES of the NEVADA EQUAL RIGHTS COMMISSIONERS'

MEETING on October 29, 2007

I. Call to Order

Dennis Shipley, Chair, called the meeting to order at 1:30 PM.

II. Roll Call and Confirmation of Quorum

Joyce Martines, Administrative Assistant III, called role and confirmed that a quorum was present.

Members Present: Dennis Shipley, Chair; Lee Plotkin; Aileen Martin; Nadia Jurani; Tiffany Young

Staff Present: David Newton, Deputy Attorney General; Deborah Madison, Administrator, NERC; Maureen Cole, Deputy Administrator, NERC; Michael Hedrick, Compliance Investigator II, NERC; Joyce Martines, AA III, NERC.

III. Verification of Posting

Joyce Martines verified that the agenda had been properly posted and that certificates of posting are on file.

The Chair indicated that agenda items would be taken out of order.

VI. Discussion/Possible Action on the Approval of the April 4, 2007 and June 11, 2007 Meeting Minutes of the Nevada Equal Rights Commission.

Ms. Jurani moved to approve both meetings' minutes. Mr. Plotkin seconded the motion and it carried unanimously. The Commissioners agreed they liked the new format of the minutes

VII. Administrator's Report

A. NERC Case Statistics – State Fiscal Year (SFY) End Deborah Madison, Administrator, discussed NERC's cases statistics for the end of state fiscal year 2007.

B. Budget SFY 07 and SFY 08. Ms Madison discussed the closing budget for state fiscal year 2007, and the current budget for state fiscal year 2008. There were no questions.

IV. Introduction of Guests

Ms. Madison introduced Olophious Perry, Director of the EEOC's Los Angeles District Office; Lucy Orta, Director of EEOC's Las Vegas Field Office, Dean Ishman, President of the NAACP branch in Las Vegas; and Larry J. Mosley, Director of the Department of Employment, Training and Rehabilitation.

V. Discussion/Possible Action Regarding Opportunities for Interagency Collaboration and Partnership

Mr. Mosley discussed the various roles played by DETR and the transformation he envisions in the Employment Security Division to develop a regional sector strategy initiative working with the US. Department of Labor. This is an initiative that has been implemented in other states to establish relationships and partnerships between business and industry sectors, education and government agencies. In Las Vegas, the target sectors will be gaming, health and government, looking at specifically where job opportunities and training functions are and developing strategies around those. The Director has met with the Chancellor for Higher Education, which will be a major partner. The Rehabilitation Division had received great marks in its performance indicators and that will continue non-stop. With regard to NERC, Mr. Mosley mentioned that he is the founder of the 100 Black Men of Las Vegas, a member of the NAACP, the first interim CEO of the Urban League, and that prior to coming into DETR, he was a 30-year executive at IBM. He and Dean Ishman have worked on numerous projects together. He is looking to develop a very active role with community based organizations from a community relations and community outreach perspective. He is looking at where public relations funds can be placed to promote outreach activities. He and Mr. Perry are developing a strong collaboration between EEOC and NERC staff regarding expectations, training and overall service. Looking at the overall role of the Department of Employment, Training and Rehabilitation, with an oversight responsibility for the Nevada Equal Rights Commission, he is looking at partnerships and collaboration in all of these areas.

Chairman Shipley congratulated Mr. Mosley on the 100 Black Men of Las Vegas and particularly the school and mentoring program. Mr. Mosley replied that he mentors every Friday and that it is a passion of his.

Mr. Plotkin asked what entity Mr. Mosley represented when he spoke of partnerships and collaboration. Mr. Mosley replied that the performance indicators guide and govern what is done to serve the public. He is looking at collaboration with EEOC in terms of training for the NERC staff, community outreach and even joint investigations. He stated he is a measurement person, so he is looking at the types of

claims that we are adhering to, how are we serving and educating the public. He noted that he and Mr. Perry were just discussing how EEOC could provide training for the NERC staff so it is doing the best possible job from a quality perspective.

Mr. Plotkin asked if Mr. Mosley had had an opportunity to review the minutes of past minutes of Commission meetings because a question has been raised as to the autonomy of the Commission. NERC is created as a part of the executive branch and is answerable to the Commissioners and there is also DETR. Mr. Plotkin stated that speaking for himself, there is a blurring of the roles DETR, which is legislative and answerable to the legislature, and NERC, which is executive and answerable to the Commission. The question is whether DETR is usurping the day-to-day operations of NERC.

Mr. Mosley stated he had read the minutes and also the statutes. He stated it was clear that the Equal Rights Commission comes under the Governor and it is equally clear that the administrator of NERC has responsibility for the overall program. He would be more than happy to have NERC staff or the Attorney General's staff provide the Commission with those specifics.

Mr. Plotkin stated that on April 4, 2007, the Commissioners gave David Newton a "laundry list" of inquiries to look into because of the one word in the statute that attaches it to DETR is "within". What the Commission has seen is that the Director of DETR was directing the operations and budget of NERC.

Mr. Mosley stated that from what he has seen and from conversations with staff and the Attorney General's office that is correct. The Director of DETR has the oversight responsibility for NERC.

Mr. Plotkin asked about the status of the list of questions given to Mr. Newton on April 4. Mr. Newton replied he has passed it on to Rose Marie Reynolds but that he did not know where she is with it but that he would check with her.

Mr. Plotkin stated that it is great to explore a relationship with EEOC, but he is not sure if it is DETR that should be doing so on behalf of diversity and equal rights when there is a Nevada Equal Rights Commission.

Mr. Mosley stated his style is different than a lot of directors in that he is not interested in ego and games, but he is interested in collaboration and partnerships. He stated he is interested in working with the Commissioners to see what their ideas are and where they would like to take this ship. He stated the Governor had given him an overall responsibility for the each of the divisions in DETR, which also have boards and

commissions that he works closely with. He stated his bottom line is he wants to understand what he can do to work with the Commission from a collaborative perspective, to understand in what areas we can do a better job. It is incredibly important that we work closely with EEOC as it is a major funding source and it is also important that NERC meet its performance indicators. The Governor has required a 5% cut in general funds, which will affect NERC as it will every other agency. We need to take a look at what are the things we need to do. He stated he is very open to the Commissioners' views from a budgeting perspective on specific programs.

Chairman Shipley stated that the questions raised by Mr. Plotkin are conceptual in nature and based on what could be some potentially confusing statutory language. They are not based on conflicts between NERC and DETR, the legislative branch or the executive branch. It is just that the language in the statutes creates some confusion.

Mr. Mosley stated he would sit down with the Attorney General's office to make sure that the commission is provided with very clear answers to the questions asked.

Mr. Plotkin stated he would like to participate in the meeting to clarify once and for all the relationship and where certain boundaries are.

Chairman Shipley asked Mr. Perry what impact the new EEOC office in Las Vegas has had on NERC. Mr. Perry provided a brief overview of the operation of EEOC nationwide and how work-sharing agreements were created years ago to define the relationship between the federal and state or local agencies and also to define how a particular case moves through the system. The work sharing agreements also distribute federal funds to agencies who do work the federal workers would have done on a case. EEOC opened its Las Vegas office in August 2006 because it was more cost effective to have staff here than to pay for staff to travel back and forth to work on cases in southern Nevada. It was also felt that it was important to have a federal presence in Las Vegas. There was no intent to undermine NERC. There is plenty of work to be done in Las Vegas and he expects the volume of complaints to remain high and probably to increase over time. He and Director Mosley have been talking about the synergisms to be gained by having both EEOC and NERC staff in Las Vegas. They are trying to envision a partnership, what are the elements of that partnership. The goal is to determine what are the most cost effective ways we can use scarce resources for the betterment of the citizens of Nevada. The goal is to increase the likelihood that employees in Nevada will enjoy equal employment opportunities. Mr. Perry stated he has heard many Nevada workers and employers confuse employment at will with the coverage of the state and federal anti-discrimination laws. He feels there are many educational opportunities present and he is asking Mr. Mosley and Ms. Madison to consider early collaboration to identify strategies to reach employer groups, community

advocacy groups, and employee groups to let everyone understand what are the rules of the game and to increase knowledge of what their rights are.

Chairman Shipley asked if NERC's decrease in case closures was because people are going to EEOC rather than to NERC. Mr. Perry noted that you have to look at trends over time. In the past, NERC had a large pending inventory, which allowed it to close many cases. His feeling is NERC's receipts of new cases is increasing over time and that if education efforts are successful, receipts may go up for both agencies. Given the growth patterns of Nevada, he thinks revenue from EEOC should be going up, not down. He stated that compared to similarly sized cities, the number of complaints in Las Vegas is low. Education will likely increase the flow of complaints but even if it doesn't, he feels it is important to provide the information. The only question is how to set strategies to do that.

Ms. Young asked for clarification as to why NERC's closures are decreasing in view of Mr. Perry's comments. Ms. Madison stated that NERC did not meet the contracted number of closures and that thus revenues were less than anticipated.

Chairman Shipley pointed out that the state remedies are not as extensive as the federal remedies and that a bill in the legislature to increase the state remedies died in committee. He stated that given a choice, attorneys will steer their clients to file federal complaints to receive the better remedies.

Maureen Cole noted that both NERC's and EEOC's caseloads are increasing. NERC had a reduced staff most of the year and thus could not close enough cases to meet the contract goal. With the impending budget cuts, staffing will be a continuing concern with the agency.

Mr. Mosley stated that as a member of the Governor's cabinet, he and seven other members currently have the responsibility of approving all new hires. Last Thursday, he was able to get additional headcount for NERC. NERC has been operating with a deficit of two employees and he was able to get approval to fill one position. Through the training he has been discussing with Mr. Perry, he hopes NERC will be able to utilize some different techniques to process more cases in a much more efficient manner.

Ms. Cole noted that most employment cases are dual filed with both agencies so that the complainants' federal rights are preserved when the investigation is done by NERC. Chairman Shipley stated that in his experience the processing time is less at NERC than it is at EEOC. Mr. Perry stated that nationally EEOC's processing time is around 180 days but that has slipped some in recent years due to staffing and budget problems.

Ms. Madison stated that NERC's average charge age is around 110 days. Ms. Cole stated that the last performance indicator showed that 82% of NERC pending inventory is less than 180 days old.

Ms. Martin asked if EEOC is now requiring NERC to do a field investigation on cases and if, so is that a reason the closures are decreasing?

Ms. Madison stated that NERC and EEOC are discussing that issue but that more site visits are being performed. Mr. Mosley agreed that it is one of the requirements that he and Mr. Perry have been discussing. He also noted that there is a trend showing an increase in the unemployment rate is related to an increase in discrimination complaints. Unemployment is rising in Nevada and that, along with population growth, will result in an increase in complaints.

Ms. Martin asked about insurance coverage if investigators use their own vehicle for field audits or do they have access to a state vehicle? Ms. Madison advised that there is a state vehicle available in Las Vegas and that NERC is trying to manage the scheduling of onsite visits to maximize the use of the vehicle and staff time.

Ms. Martin asked if NERC was short investigators in the northern office. Ms. Cole confirmed there is one vacant position. Mr. Mosley stated he is fighting for approval to fill positions but that he did not think he would be able to get approval to fill the second vacancy for at least six months. He noted that DETR was able to meet the 5% cut without cutting staff, unlike some other state agencies. Ms. Martin asked if EEOC would be sending staff to the north to assist with investigations. Mr. Perry said that would be coordinated through the Los Angeles District office. Ms. Martin requested a breakdown of the case receipts and closures by county. There was general agreement that NERC can generate a report by county.

Mr. Plotkin stated that regardless of the outcome of case receipts and closures, NERC needs to reassess what we do and how we allocate budget. He noted that the Commission has recently tried to take a more focused role in NERC and that has led to some lack of clarity.. Mr. Perry stated that there are other ways the NERC and EEOC can do business besides the work-sharing contract. Nationally, EEOC is working with state and local agencies to "think outside the box" to find other ways to partner.

Mr. Mosley stated his is looking forward to developing personal relationships with the Commissioners and gaining from their guidance and experience, particularly in the legislative area. He reiterated that egos are not involved and that he does not care who leads the ship, he wanted to get it clear from the statute and go forward.

Chairman Shipley stated the Commission was looking forward to a long and successful relationship with EEOC and with Mr. Mosley.

VII. Administrator's Report (cont'd)

C. Newly Assigned Deputy Attorney General, Rose Marie Reynolds. Deborah Madison proceeded and stated it generally begins with the assigned deputy. Mr. Newton stated that contacts directly with the Attorney General are generally made by a department director after consultation with assigned deputy. Mr. Mosley stated he would rely on DAG Reynolds' opinion as to the responses to the Commissioners' questions and that he did not anticipate any conflicts between the two DAGs assigned to NERC. He stated that the information will be e-mailed to the Commissioners and they can communicate any concerns they had about the decision and he has not problems finding that out.

D. Revised Brochures for SFY 08. Ms. Madison stated that NERC will try to have additional brochures printed this year. She noted that NERC had received a \$5800 grant for public outreach and education. Ms. Jurani suggested that some of the money might be used for public education especially among the Asian community. Ms. Madison mentioned that NERC had also earned about \$35, 000 for work done during the IMS conversion. Some of those funds can also be used for outreach. Mr. Mosley stated that he had recently hired a person who had worked as the Diversity Manager at UNLV. She has overall responsibility for outreach and education across all the DETR divisions. She is working with the Native American Chamber, the Latin Chamber the Black Chamber, the NAACP and other groups to provide public information regarding all of the DETR components. He mentioned that prior to coming to DETR, he had served as the Director of Equity and Inclusion at the community College of southern Nevada. Education and community outreach is a big part of what we are going to be doing and the new staff will be working across the agency. The Asian community is a very much a part of what we will be doing and the Asian Chamber is a part of it.

Ms. Martin asked if there is a single group that speaks for the many Asian groups. Ms. Jurani stated that the Asian community is so diverse that there is no single spokesperson. Mr. Mosley requested the Commissioners to provide Ms. Madison with a list of the community groups they would like included in the outreach efforts.

Mr. Plotkin stated that the revision of the brochures galvanized in his mind the blurring of authority between NERC and DETR. He did not feel that the draft versions approved by the former DETR director were as well put together as NERC should have published and the final version had very, very little of what this Commission voted on unanimously as changes. He stated his understanding was that the former director decided to use a budget surplus to print the brochures without any input from the

Commission. Mr. Mosley stated he would get the demarcation line squared away and that in the future the Commission will be involved in all decisions about public relations and marketing. It is just a matter of everyone knowing what the ground rules are. Chairman Shipley stated that after a long and laborious meeting in June, the brochures came out well and they were pleased. Ms. Madison noted that NERC's brochures are in keeping with DETR's overall marketing strategy. Each division has its own color and in fact NERC is the only division that states it is a division of DETR.

E. Revisions to Performance Indicators and Commissioners' Report for SFY 08.

Ms. Madison explained the revisions to the performance indicators for SFY 08 now only count the time the intake is in NERC's hands and not the time a charge is being reviewed by the charging party or an attorney. On the Commissioners' Report now contains year-to-date totals for charges received, closures, and settlements. The print is also a bit larger than previously. Mr. Mosley indicated that he has implemented a strategic agenda that every administrator and manager will be held to. It includes three simple components: one, internal and external customer satisfaction with a strong underscore of respect; two, current work performance standards and appraisals for every employee; and three, meeting and exceeding performance indicators.

F. Personnel Issues – Staffing. Ms. Madison advised that two investigator positions have been

vacant since June but that NERC now has authority to fill one of the positions. Ms. Jurani asked why the second position was not filled if the position was still in place. Mr. Mosley stated that no vacancies can be filled with out Cabinet-level review and approval. Mr. Plotkin asked why the positions had not been filled prior to the hiring freeze. Ms. Madison stated that NERC was waiting to see what the outcome for the 2007 EEOC contract and the potential revenue from the 2008 contract. Ms. Jurani stated that if the positions were budgeted and if the persons had not left, their salaries would have been paid, so she was unclear as to why the positions were left vacant. Ms. Madison stated that DETR's CFO advised NERC to wait to fill the positions until the financial picture was more certain. Mr. Mosley stated that filling the positions earlier could have resulted in a deficit so it was decided to wait until the revenues were known. Unfortunately, that information came at about the same time as the hiring freeze. Mr. Plotkin asked if the vacant positions were part of the budget surplus that NERC experienced last fiscal year. Ms. Cole stated that both employees were paid through June 30, 2007, which was the end of the fiscal year. There were no salary savings from those positions in previous fiscal year. Mr. Plotkin stated that since the Commission only meets four times a year, often the Commissioners are unaware of important developments in the agency until the next meeting. He requested more regular updates, even via e-mail, about things that are going on in NERC. Chairman Shipley stated he did not believe that the Commission should be involved in the day-to-

day operations, as that was the purview of the Administrator. Mr. Mosley state he as an open door policy and that Commissioners are welcome to contact him at any time. Chairman Shipley stated he had no objection to meeting more frequently if needed in legislative years.

G. Legislative Update. Chairman Shipley noted that “died in committee” seemed to be the

fate of most of bills affecting NERC. Ms. Cole stated that for the next session, the Commissioners may want to think about what kinds of measures they would support and then present those to Director Mosley and his legislative liaisons. In the last session it appeared that there was not good communication among the legislators, the Commission and DETR, because bills popped up and took everyone by surprise. That is an area where more collaborative effort may help. Whether any of the measures introduced in 2007 will resurface in 2009 depends on whether legislators and the department have an interest in bringing them forward. Mr. Newton noted that AB 442, which would have expanded the authority of the Commission, died because it was withdrawn by its sponsor. The assemblyman stated that he intended to bring it back at the next session. Ms. Cole stated that she had offered the assistance of the Commission, NERC, and DETR to Assemblyman Parks in drafting a bill for 2009 and that he seemed receptive to that idea.

H. New Travel/Per Diem Rates. Ms. Madison indicated that the new rates went into effect

July 1, 2007. She also indicated that there would probably less travel because of the small travel budget and because of the availability of video conferencing.

VII. Public Comments

Mr. Newton clarified that the Attorney General’s Opinion requested in 2005 was requested by the former DETR Director and not by the NERC Administrator.

Dean Ishman, President, NAACP, stated he was looking forward to the collaboration between EEOC and NERC. He said he hoped they would focus on the retaliation problem. He stated that he sees many cases of retaliation in complaints made to his organization and he hoped that would be some way to stop it from ruining people’s lives. It is one of the biggest discriminatory acts committed in the workplace and needs to get a strong focus.

There was general discussion about the difficulties individuals face when bringing a discrimination complaint or filing another type of workplace grievance. The Commissioners and guests agreed that it was an area the needs to be looked into and addressed.

Ms. Martin inquired if the NAACP is working with any of the other minority groups such as those mentioned earlier by Commissioner Jurani? Do the groups get together because there is always unity in numbers? Mr. Ishman said there is an effort among the Asian, Black, Hispanic and Native American communities to work collaboratively but that they have not focused on equal rights. Mr. Plotkin pointed out that the statutory roles the Nevada Equal Rights Commission plays are public education, to bring various groups together, and to identify public issues. He stated he feels this is part of NERC's mission that is underserved.

Chairman Shipley requested that the next agenda contain an item about what NERC is doing in terms of public education and what more could it be doing to accomplish this purpose. Mr. Mosley stated he wanted it to be an action time and that he would offer the services of DETR's training officer and public information officer to assist in the project.

Ms. Madison noted that it is imperative that everyone works together as the nation becomes more multi-cultural, multi-lingual and multi-racial. She asked if the Commissioners know of resources, which could assist NERC with interpreter services, to let her know.

Michael Hedrick, NERC Compliance Investigator, inquired if the Commission's meeting time might be changed to later in the day so as to permit more people to attend. He noted that previously, the meetings were scheduled for 5 pm, which is more convenient for those who work during the day. Chairman Shipley stated that the Commission has no objection to holding meetings at 5 or 5:50 pm and asked the NERC staff should look into available meeting rooms at that time. Commissioners Martin and Young agreed that video or telephone conference meetings would be acceptable to them.

VIII. Schedule Next Meeting (location/time) and Agenda Items

Ms. Cole inquired if the Commission would care to schedule all of the meetings in 2008 early in the year in an effort to prevent calendar conflicts and perhaps allow the meetings to be held more regularly. Chairman Shipley directed NERC staff to tentatively schedule the quarterly meetings for 2008. Chairman Shipley requested NERC staff to provide him with a list of the appointment dates for each of the Commissioners.

IX. Adjournment

Ms. Jurani moved to adjourn the meeting. Ms. Young seconded the motion and it carried unanimously. The meeting adjourned at 3:42. PM.

Submitted for Approval

Lee Plotkin
Commissioner/Secretary

Date