

JIM GIBBONS
Governor
LARRY J. MOSLEY
Director
DENNIS A. PEREA
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 February 8, 2008

I. Call to Order

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

II. Roll Call and Confirmation of Quorum

Norma Delaney, 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: Dennis Perea, Administrator, Nevada Equal Rights Commission (NERC); Billie Bailey, Chief Compliance Investigator, NERC; Rose Marie Reynolds, Deputy Attorney General (DAG); Larry Mosley, Director, Department of Employment, Training & Rehabilitation (DETR); Ardell Galbreth, Deputy Director, DETR; Jesse Mosley, Compliance Investigator II, NERC; Michael Hedrick, Compliance Investigator II, NERC; Shelley Chinchilla, Compliance Investigator II, NERC; Lynn Duncan, Administrative Assistant I, (Reno) NERC; and Norma Delaney, Administrative Assistant III, NERC.

III. Verification of Posting

Norma Delaney verified that the agenda had been posted and that certificates of posting are on file.

IV. Introduction of Guests

Dennis Shipley, Chair, deferred this agenda item to Larry Mosley, Director of DETR.

Mr. Mosley introduced Ardell Galbreth, Deputy Director of DETR, and advised that NERC is under Mr. Galbreth's jurisdiction. He also introduced Dennis Perea as the new Administrator of NERC and advised that Mr. Perea comes with an abundance of credentials; that he was DETR's Chief Auditor and had the overall responsibility of DETR as a whole regarding the auditing all programs/financial review; and that Mr. Perea is extremely capable and his integrity is above reproach.

Mr. Shipley welcomed both Mr. Galbreth and Mr. Perea.

V. Discussion/Possible Action on the Approval of the October 29, 2007 Meeting Minutes of the Nevada Equal Rights Commission

Lee Plotkin, Commissioner, advised of minor corrections and with these changes, moved to approve the minutes. Nadia Jurani seconded the motion and it carried unanimously.

Mr. Shipley referenced that in the minutes (page 10, second paragraph) there was discussion about what NERC is doing in terms of public education and noticed that it was not on the agenda for this meeting and asked if someone is prepared to comment on this subject. Mr. Perea advised that he would address this matter.

VI. Discussion/Possible Action on Clarifying the Roles of the Commission, DETR, and DETR Director

Mr. Mosley advised that there was a conference call on January 18, 2008 and that the Commissioners should have received the minutes from that meeting in which the DAG addressed questions from the Commissioners, and deferred the discussion to Mr. Galbreth.

Mr. Plotkin apologized, as he was not able to participate in the conference call and stated he did not receive the minutes, but that he did receive a memorandum from DAG Rose Marie Reynolds dated December 20, 2007.

Mr. Galbreth advised that the minutes summarize questions that were asked regarding the different roles – the Administrator for NERC in comparison to the Commissioners' role. He added that the Director has authority delegated from the Governor in regards to the placement of the Administrator for this particular division, NERC; that as Commissioners, their role is to oversee and ensure that the processes in place meet the Nevada Revised Statutes (NRS), and added that more details will be provided as to the different rolls of the DETR Director and Commissioners.

Mr. Shipley asked whom Mr. Perea is accountable to, and was advised by Mr. Galbreth that Mr. Perea is accountable to both the Commissioners and the Director. Mr. Shipley asked that should there be a dispute between the Director of DETR and this Commission involving what the agency should be doing, how would this matter be resolved. Mr. Galbreth stated that if the Commissioners have concerns about the agency, the Director would be the contact; if there are concerns regarding performance on the part of the Administrator, it should be brought to his attention. Ms. Galbreth added that in regards to the agency, NERC should be performing according to the Work Sharing Agreement they have with the EEOC as well as NRS. He added that the Director will be the key person to ensure that this division is meeting all standards, and if issues arose regarding interpretation of statutes, the DAG would be contacted.

Mr. Mosley indicated that in regards to the memo issued by the DAG dated December 20, 2007, the memo responded to issues of who has the authority to appoint an Acting Administrator; why were the Commissioners not advised that the Administrator was incapacitated; to whom does the NERC Administrator report as the statutes say the Administrator is jointly responsible to the Governor and the Commission, not DETR. He advised that the DAG responded to these questions.

Mr. Plotkin commented that if you read the final sentence of DAG Reynolds' memo, it says that additional or more specific questions she is suggesting deference to a formal AG opinion be applied.

Mr. Mosley stated that from what he has read in the minutes of past meetings, too much time has been spent regarding where is the delegation of authority. He stated at the very first meeting he attended as Director of DETR, whatever statute states, he is very comfortable with. He added that if there were other questions the Commissioners may have that are not addressed in the memo dated December 20, 2007, he would like the Commissioners to make those comments public and he would invite the NERC Administrator and DAG to respond. He stated that as it relates to where NERC falls, it falls under the Governor, and the Governor delegated that authority as to relates to the staffing and day-to-day operations of NERC under the jurisdiction of the Director.

Mr. Plotkin stated that the prior Director of DETR was usurping the authority of the Commission to direct the mission of the NERC, particularly in the area of the budget regarding unbudgeted/unspent funds on a marketing program that largely enhanced the visibility of DETR. He stated that this is a valid statement/question. He advised that there was a great deal of discussion

regarding the review of brochures that were ready to go to print at the request of the former Director, brochures which were not acceptable to the Commissioners. Mr. Plotkin stated that when you walk in the lobby of the DETR building there is a marketing campaign that includes NERC, but it has all the other elements of marketing DETR. Mr. Plotkin apologized if Mr. Mosley thinks the Commissioners spend too much time on this subject, but over the past five years he has been a Commissioner, too little time has been spent asking real questions.

Mr. Mosley responded that as it relates to budget, statute delegates that responsibility to the Director via the Governor. He stated he does not know what his predecessor has done, but what concerns him is when Mr. Plotkin speaks that the person has usurped the authority of the Commission and that under no circumstances will that happen under his jurisdiction. He added that the powers that are appointed to the Commission via state statute are the ones this office will abide by.

Mr. Plotkin stated that per statute, the Commission is not doing mediations, investigations, public information elements, holding hearings, and that being in a position appointed by the Governor, to what he valued as an honorable position, you have to question yourself as to the purpose of the Commission – is it to meet quarterly to hear spreadsheets being read to us or is it to impact the community in a positive way to bring diverse action together.

Mr. Mosley advised that the other Commissions he sits on as the Director, he has made it very clear that he does not see the role of any of the Commissions as “rubber stamps.” He stated he feels very strongly and is in concert that the Commissioners should have had a role in the marketing campaign for community outreach.

Mr. Galbreth added that he can look into cost allocation to see if there are any NERC brochures that have DETR/other DETR divisions referenced and, if so, to ensure that those divisions have contributed to the cost so that NERC/one particular division is not bearing the entire cost. Mr. Galbreth also added that both Director Mosley and himself believe that communication is vital and that Mr. Perea will ensure that the Commissioners are informed regarding programs/systems as to how services are delivered to the citizens in this state.

Mr. Plotkin commented that he is more encouraged by the openness since Mr. Mosley, at the last meeting, expressed his position; stated that it has been five years of DETR informing the Commission of what DETR is doing on the Commission's behalf, without input by the Commission; stated that if there is frustration in his voice, it is because he is frustrated.

Mr. Shipley stated that Director Mosley has commented a number of times regarding "partnership" and he (Mr. Shipley) is confident that the Commissioners can take Mr. Mosley at his word; regarding instances of disagreement/conflict, it will be resolved and if necessary, the DAG will be brought in; that in regards to the budget, once prepared and ready to submit for approval, it becomes a daily operational matter and it is not within the Commissioners' purview to review what Mr. Perea is doing with the monies, but if there are left over funds for marketing/other purposes, it is also a daily operation decision and they are not obligated to get involved unless there are issues that come to their attention that need to be dealt with.

Mr. Mosley stated he is really looking forward to working with this Commission; that with his 30 years at IBM, he has been allowed to work within communities for improvement and working to enhance the types of disenfranchisement in housing/jobs. He added that as the previous CEO of the Urban League, this is a fundamental priority/passion to support the Commission.

Mr. Plotkin commented that when it comes to legislation, it was discovered in the 2007 session that there was legislation on behalf of NERC and items of behalf of DETR and that both party items were represented by the former Director of DETR; that this is where the former DAG, David Newton, stated there can be an inherent conflict of interest, and there was under a public accommodation bill. Mr. Plotkin asked Mr. Mosley what would he do if at the 2009 legislative session should there be a conflict. Mr. Mosley responded that he would not say anything prior to speaking with the AG's office; he again stated that communication is essential and probably would have dismissed the challenges

Mr. Plotkin asked Mr. Mosley if he sees the role of the Administrator of NERC to advocate on behalf of bills proposed by NERC, based on NERC's mission in statute, that may not necessarily be in concert with DETR. Mr. Mosley responded by advising Mr. Plotkin that that is the job of the Administrator to be the advocate. Mr. Plotkin advised Mr. Mosley that he is smiling out of gratification because that is an attitude he has not witnessed over the previous five years and thanked Mr. Mosley.

Mr. Mosley stated he would not have appointed Mr. Perea if he did not believe that Mr. Perea had the passion to advocate on behalf of NERC and, most importantly, the citizens that desperately need the Equal Rights Commission. He advised that Mr. Galbreth and himself had a meeting with executive at a large hotel/casino and when they reviewed the same brochures that were under discussion earlier, comments were made to him that this

employer hopes they do not have to come before the NERC due to his staff messing up, and that he (Mr. Mosley) took that as a very positive statement and it also shows respect for NERC.

VII. Administrator's Report

A. Newly Assigned Deputy Attorney General, Rose Marie Reynolds

Mr. Perea stated he has not worked very long with the DAG and asked Billie Bailey, Chief Compliance Investigator/Supervisor, to make the introductions.

Ms. Reynolds stated that she has met the Commissioners when the pamphlets were being reviewed, but had not been formally introduced.

B. NERC Case Statistics

Mr. Perea advised that in regards to case statistics, NERC has not performed well; there have been serious issues in dealing with EEOC and what EEOC considers a "quality" investigation and what they would accept for payment; stated that the EEOC has a new state/local coordinator, Sara Aguirre, who appears to have a more reasonable approach to the Work Sharing Agreement and that NERC has not had any rejections as of yet; advised that NERC has to make every attempt to double the closures in the next months to meet contract and that cases are now getting into the system to be submitted as closures.

C. Budget – State Fiscal Year 2008 to Date

Subject was not addressed.

D. State General Fund Budget Reductions

Mr. Perea stated that he met with the Director regarding the hiring of investigators and that through discussion with Marty Ramirez, Chief of Financial Management, he was advised there are funds available and that NERC will have an intermittent position through the end of the federal fiscal year, September 20, 2008, to help clear up some of the caseload

Mr. Perea advised that overtime has been authorized to allow the investigative staff to close as many cases as possible to meet contract. Ms. Jurani asked if the overtime would be more expensive than making the intermittent person into a permanent position, as overtime and benefits would be more. Mr. Galbreth added that while it may be more monetarily, NERC has a time frame to meet the EEOC contract and the only way to do that is to put hands on cases now. Mr. Mosley added that the number of closures submitted have a direct impact on the amount of federal funding NERC receives; priority must be in closing cases; in approving an intermittent position it reduces

recruitment time and also gives the Administrator an opportunity to see if this individual works well and possibly keep within the NERC organization.

E. Reformatting of Performance Indicators

Mr. Perea stated that he is not in agreement with the performance indicators as it is not a true indication of how NERC is functioning/performing, but that NERC is meeting all Performance Indicators. He advised that the format has been changed to follow the format DETR uses.

In regards to Performance Indicator 1, he advised that while NERC is performing at 100%, NERC would be performing better if at 80% regarding the intake process. He stated the NERC is pooling resources into the intake process, but the cases are being "bottlenecked" at mediation and investigation.

He advised that he is looking at ways to improve/explain when cases out of NERC's control (mailing/approval from attorneys), so that the reporting will contain better information.

In regards to Performance Indicator 3, Mr. Perea stated while intakes being received over the internet are increasing, the internet site does not allow much room for a potential Charging Party to complete their statements, which in turn slows down the process as they are being asked to rewrite/complete the forms. He advised that the system needs to be improved through IDP for an accurate internet system, but currently it is not there.

Ms. Bailey added that when NERC receives an intake over the internet, there is limited space for a person to relate multiple issues that happened to them; and often times staff would have to call and ask the party to resubmit/get further information, and Mr. Perea is trying to get the system updates so effort is not having to be duplicated.

In regards to Performance Indicator 5, Mr. Perea advised that due to NERC being behind in submitting closures to meet contract, unless training classes will improve the quality or production, training is being put on hold as staff needs to be focusing on producing work. He added that being in a new supervisory position, there are mandatory classes that he has to attend which will be reported and make up the difference of staff not attending.

E. Personnel Issues/Staffing

Ms. Bailey advised that NERC has hired two new investigators who will be starting on February 11, 2008; one is from ESD and the other is retired from the federal government and has a background in employment law and is familiar with Title VII, ADA, ADEA. She added that these two individuals

are bringing experience that NERC has not had before, so they should be able to contribute to contract quickly.

G. EEOC Contract for Federal Fiscal Year 2008

Mr. Perea advised that NERC did not meet contract for 2008, and that NERC currently did not have a signed contract with the EEOC, but is working at closing cases based on the number from the prior contract, 864 cases. He advised that Mr. Perry, EEOC Director in Los Angeles, CA, said that NERC would not get any more than the 864, but when the contract amount is received he will advise the Commissioners. Mr. Perea stated he will be attending the EEOC/FEPA Training Conference from February 25-27 and will speak with Mr. Perry.

H. 2008 Nevada Equal Rights Commission Meeting Schedule

Mr. Perea advised that there have not been many meetings scheduled in Northern Nevada for quite some time and he is hoping the next meeting could be held up north as NERC is in good shape for in-state travel. He added that he will be traveling to the Reno NERC office on February 19-20, and that the funds for this trip are from a previous cancelled trip, but that he will be monitoring in-state travel funds. Mr. Shipley agreed that it would be advisable to have a meeting up north at least once a year.

Mr. Plotkin stated that at the last meeting the subject of meeting after business hours was brought up where the general public would have the option of attending; stated that the time for the meetings in the past had been to start at 5:30 pm, but that the former Director of DETR changed that time to accommodate his schedule. Mr. Plotkin addressed Michael Hedrick, Compliance Investigator II with the NERC, and asked if he was the individual who brought the subject up.

Mr. Hedrick stated he was, and that the meetings were previously held at the North Las Vegas Library and started at 5:30 p.m., and not only did it give the opportunity for the public to attend, but it also gave staff members the opportunity to attend; that being in the middle of the work day it is very difficult to attend, especially when there is a "crunch" regarding work production.

Mr. Shipley asked if there were any objections to the starting time being changed to 5:30 p.m. Ms. Jurani asked if staff would be paid overtime as they would be staying after working hours. Mr. Mosley responded that Mr. Perea and Mr. Galbreth would not incur overtime as they are in unclassified positions; that staff who are classified would incur overtime; and advised the Chair that the decision as to starting time is his decision, not the Director's.

Ms. Bailey added that in the past, flex time was offered so that staff members could attend the meetings.

Mr. Plotkin added that a few years ago, there was also an educational element; that while there was never a lot of public attendance at the North Las Vegas Library, is another way of serving the Commissioners' statutory dictate regarding outreach training. Mr. Mosley stated that the budget should be checked before scheduling the meeting in Reno.

VIII. Public Comments

Michael Hedrick introduced another NERC Investigator, Shelley Chinchilla, who advised that she has been with the Commission approximately one year.

Aileen Martin, Commissioner, asked if the dates listed, specifically on Mondays, are set, to which Mr. Shipley responded they were not.

Mr. Mosley advised that he has asked the Administrators to call two days in advance of meeting dates to confirm attendance and to ensure there is a quorum.

IX. Adjournment

Mr. Shipley adjourned the meeting at 2:40 p.m.

| Respectfully Submitted

Lee Plotkin
Commissioner/Secretary