

MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING – August 27, 2019
1205 Camino Carlos Rey, Santa Fe, NM 87505

Members Present

Matt Baca, Esq.	Attorney General, Designee
Brian Colón, Esq.	Chairman and State Auditor, Office of State Auditor
Paul Kippert	Designee, General Services Department
Dan Cordova	Interim Director, State Law Librarian
Anita Tellez, Esq.	Designee, Department of Cultural Affairs
John Kreienkamp, Esq.	Attorney General Council, Office of the Attorney General
Christine Espinoza	Designee, Secretary of the State

Staff Present

Georgette L. Chavez	Deputy State Records Administrator
Rick Hendricks, Ph. D	State Records Administrator,
Justin Herrera	Financial Specialist, Administrative Services Division (ASD)
Leo Lucero	Director, Records Management Division (RMD)
Peter Chacon	Director, Information Technology Management Division (ITMD)
James Kirby	Information Technology End User Support, ITMD
Thomas Shumaker, Ph.D.	Grants Administrator, Office of the State Historian (OSH)
Felicia Lujan	Director, State Archives of New Mexico (SANM)
Albert Martinez	Bureau Chief, RMD
Cassandra Baca	Records Management Analyst, RMD
Tanya Vigil	Bureau Chief, RMD
Samantha Anaya	Records Management Analyst, RMD
Dena Hunt	Archivist, SANM
Rob Martinez	State Historian, OSH
Ruben Rivera	Chief Financial Officer, ASD
Pamela Lujan y Vigil	Management Analyst, Administrative Law Division (ALD)

Public Present

Ashley Moya Martinez	Department of Health
Lauren Gallegos	Department of Health
Rhese Njulai	Department of Health
Antonio Corrales	Office of the State Auditor
David Wasson, Esq.	Administrative Office of the Courts
Camille Baca	Department of Finance and Administration
Star Lay	Department of Finance and Administration
Charlene Urban	

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Hon. Hector Balderas
Attorney General

Hon. Brian S. Colón
Chairman/State Auditor

Hon. Maggie Toulouse Oliver
Secretary of State

Debra Garcia y Griego
Department of Cultural Affairs

Kenneth Ortiz
General Services Department

Daniel Cordova
Interim Director, NM State Law Library

I. OPENING ACTIVITIES

A. Call to Order

Chairman Colón called the meeting to order at 10:00 a.m. A roll call was then called for all in attendance.

B. Approval of the Agenda

Chairman Colón entertained a **MOTION** to approve the agenda. Mr. Baca **MOVED**. Ms. Espinoza **SECONDED**; the motion **PASSED UNANIMOUSLY**.

C. Approval of the Minutes of the May 21, 2019 Regular Meeting and Rule Hearing

Chairman Colón entertained a **MOTION** to approve the minutes. Ms. Espinoza **MOVED**. Mr. Baca **SECONDED**. The motion **PASSED UNANIMOUSLY**.

II. ACTION ITEMS

A. Vote on Proposed Commission Rules

1. 1.13.11 NMAC Access to the Public Records, Research in the New Mexico Archives (CPR Rule)

The chairman provided the opportunity for public comments prior to beginning the action items. There were none. He asked if the Foundation for Open Government (FOG) had a representative in attendance, however, they did not. He noted that each commissioner received a copy of the proposed rule changes and the comments from the New Mexico Regulation and Licensing Department (RLD). Dr. Hendricks asked Mr. Kreienkamp to provide feedback regarding the proposed rule changes. Mr. Kreienkamp noted that the proposed rule 1.13.11 NMAC was already presented at the rule hearing in May 2019 and indicated that it was tabled at that time to allow legal counsel the opportunity to work with staff to revise the rule and accommodate FOG's concerns. He referenced his memo to the commission, which included his recommended changes to the rule. He stated that he took into consideration the comments submitted by the Regulation and Licensing Department and FOG and reviewed these objections and proposed changes. The chairman and members of the commission asked for clarification on the proposed changes. The chairman asked Mr. Kreienkamp to reiterate the proposed changes for tracking purposes. Mr. Kreienkamp proceeded to review the amendments. Ms. Tellez asked if the originating agency understands they are not responsible to respond to the IPRA request. The chairman and Mr. Kreienkamp provided clarification on the IPRA process. Dr. Hendricks indicated there has always been great cooperation and communication between originating agencies and SRCA when processing such requests. Mr. Baca discussed the merits of changing to the language in the rule pertaining to IPRA requests being fulfilled immediately, versus as soon as possible.

Chairman Colón entertained a **MOTION** to approve the rule 1.13.11 NMAC, Access to Public Records as amended and presented in the memo and the two additions that were added openly discussed. Ms. Tellez **MOVED**. Mr. Baca **SECONDED**. The motions **PASSED UNANIMOUSLY**.

B. Fiscal Year 2021 Budget Appropriation Request

Chief Financial Officer Ruben Rivera provided the commission with a document that summarized the FY21 appropriation request. Chairman Colón explained that due to budget deadlines and the proximity of those deadlines to the commission meeting, the documents were unable to be included in the packet. Mr. Rivera provided a summary of the changes to the current budget. Mr. Rivera noted that the 200 category request for FY21 had increased over FY20 in order to fill all vacant positions in the agency. The chairman asked if SRCA would be able to fill all vacant positions if SRCA were to be awarded the amount requested. Mr. Rivera answered in the affirmative. Mr.

Rivera went on to state that the budget amount in the 300 category included only one fixed rate, which pertained to annual audit, however, this budget also pays for the off-campus hosting of the agency's websites. Mr. Rivera then reviewed the 400 category budget, which is to be utilized for fixed costs, including the rent for the Albuquerque Records Center. He emphasized that the FY21 appropriation request reflected the shift of fixed costs from the revolving fund to the general fund. Mr. Rivera also reviewed the revolving fund budget with the commission. Mr. Baca then asked where the monies came from that are currently in the revolving fund. Mr. Rivera explained that the funds are generated from the publication of rules in the *New Mexico Register*, sales of boxes, and copies. Mr. Baca also asked if Mr. Rivera has had any good feedback from DFA representatives regarding the shifting of budget to the general fund. Mr. Rivera stated that he has not received positive feedback.

Chairman Colón entertained a **MOTION** to approve the fiscal year 2021 budget appropriation request. Mr. Cordova **MOVED**. Ms. Espinoza **SECONDED**. The motion **PASSED UNANIMOUSLY**.

C. Request decision, pursuant to subsection C of 1.24.25.9 NMAC, by Commission to initiate the rulemaking process for New Mexico Administrative Code, to amend Title 1, Chapter 13, Part 30 to remove language that is no longer necessary, and amend Title 1, Chapter 21, Part 2 to update retention schedules to meet statutory requirements and to create a new classification for records

Ms. Tanya Vigil stated the following;

“Good Morning, chairman and members of the commission. I am Tanya Vigil, agency analysis bureau chief, we would like to request to start the rulemaking process as prescribed in Section 9 of 1.24.25 NMAC. We are planning on amending Sections 519 (Public Records Requests), and 612 (Case Files - Lower Courts (Civil)); and adding section 708 (Veterinarian Client/Patient Files) of 1.21.2 NMAC. We are also planning on amending section 11 of 1.13.30 NMAC. These rules will be posted for comment and heard at the next commission meeting.”

The chairman then reminded the commission that this is to only initiate the rulemaking process and this allows the team to start moving on this particular item. Chairman Colón entertained a **MOTION** to approve the opportunity to move forward to initiate the rulemaking process for NMAC 1.24.25.9. Mr. Baca **MOVED**. Ms. Espinoza **SECONDED**. The motion **PASSED UNANIMOUSLY**.

III. DIRECTORS REPORT

Dr. Hendricks first introduced new archivist Dena Hunt to the commission. Dr. Hendricks reported the agency 7 vacancies out of 37 positions, placing the vacancy rate at 18.9. Dr. Hendricks also reviewed the vacant positions and pointed out the positions that are currently unfunded.

NEW AGENCY WEBSITES

Mr. Pete Chacon provided a visual presentation of the new website and highlighted the websites ability to include podcasts, audio recordings, photos, flip books, and links to YouTube videos. Mr. Chacon also stated the new website included lectures by New Mexico State Historian Robert Martínez. Mr. Chacon explained that the website was created to include accessibility on mobile and tablet devices.

Georgette Chavez provided a summary of the following information pertaining to building issues and projects.

RADON UPDATE

In May 2019, SRCA management met with Secretary Kenneth Ortiz, FMD Director Anna Silva, and New Mexico Environment Department OSHA Compliance Assistance Specialist Jay Stimmel to identify cracks in the utility tunnel and archives vaults. Possible remedies were discussed, and Mr. Stimmel offered to provide a report to GSD with his suggestions. In the meantime, SRCA and Mr. Stimmel have met with Phil Humphrey of BASF Construction Chemicals to obtain possible solutions. Mr. Stimmel is working on several other projects and will provide his recommendations as soon as possible.

BUILDING PROJECTS

Sapphire Fire Suppression System

GSD and SRCA have been working with Johnson Controls on the replacement of fire alarms and heat sensors throughout the building. In addition, the contractor is installing a Sapphire fire suppression system that will service the archives inner vault and will be completed at the end of September, 2019.

HVAC System

The final HVAC system design drawings are now complete. Trane is in the process of putting together quotes from the electrical and mechanical contractors. This project is anticipated to be completed by the end of October, 2019.

Re-Roofing of the Santa Fe Records Center and Shelving for State Archives of New Mexico

During the 2019 regular session, the legislature appropriated \$953,000 in CBRF funding to SRCA building projects. The funds will be utilized to re-roof the Santa Fe Records Center and provide additional shelving for the archives main and inner vaults. Any unused funds will be utilized to purchase shelving extensions to maximize the space that is currently available. Both projects will be completed by the end of this calendar year.

Additional Projects

In June, vinyl flooring was added to areas of the Santa Fe Records Center to repair the chipping cement which created a safety hazard for employees. In addition, new seals were added to the bay doors to keep water and dirt out of the area.

The conveyor belts and rollers for the records centers had never been maintained or replaced. This maintenance was completed at the end of the fiscal year 2019, which greatly improved the speed and efficiency with which boxes are moved.

The green energy project will commence in the Carruthers building in September 2019, to include installation of low-flow toilets and LED lighting.

Dr. Hendricks noted the division highlights for the commissions review at a later time.

DIVISION HIGHLIGHTS

ALD

During the fourth quarter of FY19, all rule updates to the *New Mexico Administrative Code* were published within thirty days. The average number of days between the rule effective date, and its online availability was five days. In addition, sixty-six rulemaking actions, thirty-two notices of rulemaking and seven other matters related to administrative law were filed and published by the established deadlines.

RMD

During the fourth quarter of FY19, the Records Management Division provided nine records management and information trainings. The division also pulled and processed six hundred and sixty-six boxes within twenty-four business hours. Also, seventeen thousand, nine hundred and four units of public records that met their legal retention were validated and processed.

ITMD

During the fourth quarter, the Information Technology Management Division (ITMD) responded to forty-seven agency website updates within one day. ITMD also responded to eighty-two helpdesk requests within the two hour timeframe.

In addition, ITMD provided desktop installation and maintenance support to the CERR application.

SANM

During the fourth quarter of FY19, the State Archives of New Mexico entered two thousand, one hundred and thirty-eight descriptive records into HERITAGE. There were one thousand, six hundred, and seventy-seven for files pertaining to driving while intoxicated and domestic violence cases in the Bernalillo Metropolitan Court Records (Collection No. 1999-029). SANM registered one hundred and seventy-eight new patrons, recorded four hundred and seventeen on-site visits, and provided assistance on one hundred and fifteen remote requests.

During the fourth quarter of FY19, the State Archives of New Mexico secured Buffalo Thunder Resort and Santa Fe ComicCon as event sponsors for 2019 archives month event.

OSH

In support of the Cultural Properties Review Committee, the deputy state historian attended the Cultural Properties Review Committee meeting on June 7, 2019.

The Office of State Historian received 214 research inquires. All received responses within two business days and were provided full responses within 14 business days.

The OSH staff also provided educational activities which included lectures on "A History of the Inquisition," "A Very Brief History of Hispanic Music in New Mexico," and "Literature of World War I." During the fourth quarter, the grants administrator prepared all of the logistics for the NMHRAB Spring Workshop, held on May 5, 2019. Dr. Shumaker also completed the FY 2019 NMHRAB re-grant program close-out, which included processing all of the final reports and invoices submitted by the FY 2019 award recipients. In addition, the grants administrator sent out award notification letters to the FY 2020 awardees.

