

**MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING - June 25, 2013**

The State Commission of Public Records convened at 9:33 a.m. on Tuesday, June 25, 2013 at 1209 Camino Carlos Rey, Santa Fe, New Mexico 87507.

Members Present

Stanley Hordes, Ph.D.	Chair, Historian
Edwynn Burckle	Cabinet Secretary, General Services Department
Dianna J. Duran	Honorable Secretary of State
Patricia Herrera	Representative for Honorable Dianna J. Duran, Secretary of State
Robert Mead, J.D.	State Law Librarian
Jim Noel	Representative for Honorable Hector Balderas, State Auditor
Frances Levine, Ph.D.	Director, Museum of New Mexico
Tania Maestas	Assistant Attorney General

Members Not Present

Mark Reynolds	Representative for Honorable Gary King, Attorney General
---------------	--

Guests

Devon Skeelee	Department of Cultural Affairs/State Library Director
Ken Ortiz	Representative Secretary of State
Robert J. Torrez	Historian
Pam Nicosin	General Services Department/Property Control Division
Mariano Romero	Public Regulation Commission
Nick Guillen	Public Regulation Commission
Danielle Romero	Bernalillo County
Steven Gregg	Bernalillo County
Lloyd Leyba	Bernalillo County

Staff Present

John Hyrum Martinez , C.A.	State Records Administrator
Linda Trujillo, Esq.	Deputy State Records Administrator
Antoinette L. Solano	Administrative Assistant
Ruben Rivera	Fiscal Officer
Pete Chacon	Information Technology, Chief Information Officer
Jackie Garcia	Agency Analysis, Bureau Chief, RMD
Pete Gurule	Management Analyst, RMD
Jennifer Camp	Management Analyst, RMD
Rick Hendricks, Ph.D.	State Historian
Rob Martinez	Assistant State Historian
Melissa Salazar, C.A.	Director, Archives and Historical Services Division
Leo Lucero	Director, Records Management Division, RMD
Art Bransford	Director, Administrative Law Division

I. CALL TO ORDER

The Chair called the meeting to order at 9:33 a.m.

**MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING - June 25, 2013**

II. APPROVAL OF AGENDA

The chair entertained a **MOTION** to approve the agenda. Dr. Levine **MOVED** and Ms. Herrera **SECONDED** the motion. The motion **PASSED** unanimously.

III. APPROVAL OF MINUTES – March 19, 2013

The Chair entertained a **MOTION** to approve the minutes of the March 19, 2013 meeting. Mr. Mead **MOVED** and Ms. Herrera **SECONDED** the motion. The Chair asked if there were any additions, corrections or further discussion; hearing none, the Chair called for a vote. The motion **PASSED** unanimously.

The Chair introduced Mr. Robert Torrez who was recently appointed by the Governor to serve on the State Commission of Public Records in the capacity of Historian. He extended his appreciation for taking on the responsibility of the position.

IV. BUILDING EXPANSION- Pamela Nicosin, GSD

Mr. Martinez reported that \$600,000 was appropriated in the last Legislative session to develop architectural engineering plans to expand the Santa Fe Record Center and the Archives vault. He introduced Ms. Pamela Nicosin from General Services Department (GSD) to explain the process. Ms. Nicosin reiterated that there was \$600,000 to expand the Archives and the Santa Fe Records Center. The funds are currently being budgeted by the Property Control division and could be available as early as next week.

She reported that the first phase of the project would be identifying a project manager. Next, an RFP will be created to select an architect or an architectural engineering firm; this could take about 6 months. Once an Architect is selected, the Architect will contact the stakeholders and determine what changes are needed before the expansion begins.

Ms. Nicosin discussed the schematics of the expansion, detailed the three different phases and stated that information will be given to the appropriate individuals for review before the start of the project. Ms. Nicosin advised the Commission to complete an ICIP request for construction funds. There was discussion about whether the request could be modified and if the square footage is accurate. Ms. Nicosin said she would research the questions. The Chair asked if there was a deadline for the request. Ms. Nicosin stated it was June 28, 2013. The Chair thanked the team effort in initializing and beginning the project.

Secretary Burckle advised the Commission that in the 2013 Legislative Session a bill was passed that consolidated the Property Control Division and the Building Services of the General Services Division. The new division, called the Facilities Management Division, will start up on July 1, 2013 with Ms. Nicosin serving as the acting Deputy Division Director.

There was discussion on storage space at the Albuquerque Record Center. Mr. Martinez stated that the SRCA was advised not to request funding to expand the Albuquerque Records Center. Dr. Levine requested that an ICIP request be prepared for the Albuquerque Records Center as well. Mr. Martinez stated that a request would be prepared.

**MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING - June 25, 2013**

V. ACTION ITEMS

A. 1.13.1 NMAC OPEN MEETINGS ACT REASONABLE NOTICE

Mr. Martinez stated the next item on the agenda was to consider repeal of 1.13.1 NMAC Open Meetings Act Reasonable Notice and adoption of an Open Meetings Act Resolution. Mr. Martinez reported that he had consulted with the agency's attorney who said it was unnecessary to define reasonable notice in rule and that most agencies annually adopt a resolution. The resolution text was taken from the rule and placed in a format that is suggested by the Attorney General's office. One important change, due to an amendment to the Open Meetings Act, is that agendas must be available 72 hours prior to Commission Meetings.

Mr. Martinez clarified that there were two actions, (1) to repeal *1.13.1 NMAC* (2) adopt the resolution. The Chair entertained a **MOTION** to repeal *1.13.1 NMAC*, Mr. Mead **MOVED** and Ms. Herrera **SECONDED** the motion. The motion **PASSED** unanimously.

The Chair then entertained a **MOTION** to adopt the Open Meetings Act Resolution. Mr. Mead **MOVED** and Secretary Burckle **SECONDED** the motion. The Chair asked Ms. Maestas if she wanted to make any comments. Ms. Maestas stated the adoption of a resolution was the appropriate action. The motion **PASSED** unanimously.

**B. Records Retention and Disposition Schedules
Amendment**

1.18.370 NMAC, Executive Records Retention and Disposition (ERRDS) Secretary of State

Mr. Martinez stated that the next item for consideration was an amendment to 1.18.370 NMAC, which would be presented by Ms. Garcia. Ms. Garcia informed the Commission that the amendments were to the existing Executive Retention and Disposition schedule for *1.18.370 NMAC ERRDS, Secretary of State*. Ms. Garcia informed the Commission that the changes were made to comply with current standards and format styles.

The Chair entertained a **MOTION** for approval of the amendments. Secretary Duran **MOVED** and Mr. Mead **SECONDED** the motion. The motion **PASSED** unanimously.

1.18.420 NMAC, ERRDS, Regulation and Licensing

Mr. Martinez stated that the next item was a proposed amendment to *1.18.420 NMAC, ERRDS, Regulation and Licensing Department* and would also be presented by Ms. Garcia. Ms. Garcia informed the Commission that the amendments were to *1.18.420 NMAC ERRDS, Regulation and Licensing Department*. She said that the changes were made to conform to current standards and format style. Ms. Garcia further explained that her division was going through each board one by one because the prior schedules had a record series for each record and the amendments are consolidating each series. Mr. Mead asked about length of retention and Ms. Garcia stated that retention is determined by the significance of the particular license.

The Chair entertained a **MOTION** to approve the amendments. Secretary Duran **MOVED** and Dr. Levine **SECONDED** the motion. The motion **PASSED** unanimously.

**MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING - June 25, 2013**

1.18.430 NMAC ERRDS, Public Regulation Commission

Mr. Martinez stated the next proposed amendment was to *1.18.430 NMAC*, the records retention and disposition schedule for the Public Regulation Commission and Ms. Garcia would present the amendment. Ms. Garcia stated that this amendment would be to *1.18.430 NMAC ERRDS, Public Regulation Commission*. She introduced Mr. Nick Gullien and Mr. Mariano Romero from the Public Regulation Commission. Ms. Garcia stated that the changes were due to House bill 45 and House Bill 46, which had been passed during the 2013 legislative session, and takes the Insurance Division out of the Public Regulation Commission (PRC). The record series is proposed to be removed from the PRC schedule and incorporated into the Secretary of State's schedule. The Chair asked if there were any substantive changes or if the language is just moving from one record series to another. Ms. Garcia stated that the only change was to the Instructions section.

The Chair entertained a **MOTION** for approval of the amendment. Ms. Levine **MOVED** and Secretary Burckle **SECONDED** the motion. The Chair asked for any further discussion; Mr. Guillen thanked Ms. Garcia for her assistance with the schedule. The motion **PASSED** unanimously.

1.18.440 NMAC ERRDS, Office of Superintendent of Insurance

Mr. Martinez stated that the next proposed amendment was to *1.18.440 NMAC ERRDS, Office of Superintendent of Insurance*. He said he wanted to clarify that this was a new rule that was being proposed because the OSI is a new agency. Ms. Garcia stated that this was a new schedule and the record series are being place in the new schedule.

The Chair entertained a **MOTION** to approve. Ms. Levine **MOVED** and Secretary Duran **SECONDED** the motion. The motion **PASSED** unanimously.

1.18.630 NMAC ERRDS, Human Services Department

Mr. Martinez stated that the next item for consideration was an amendment to 1.18.630 NMAC ERRDS, Human Services Department and Ms. Garcia would present the amendment. Ms. Garcia stated that the amendments were to the existing Executive Records and Disposition schedule for *1.18.630 NMAC ERRDS, Human Services Department* to conform to current standards and format styles.

The Chair entertained a **MOTION** to approve. Secretary Duran **MOVED** and Secretary Burckle **SECONDED**. The Chair asked if there were any further discussion; Mr. Mead asked a about the procedure of transfer to archives for these particular records. Ms. Garcia stated that this is a federal issue; however, they are stored by the State Record Center and Archives. Ms. Melissa Salazar replied that these records would be beneficial to have in the archives. The motion **PASSED** unanimously.

1.18.665 NMAC ERRDS, Department of Health

Mr. Martinez stated that the next proposed amendment would be to 1.18.665 NMAC ERRDS, Department of Health and would be presented by Ms. Lopez. Ms. Lopez stated that the amendments were to the existing Executive Records and Disposition schedule for *1.18.665 NMAC ERRDS, Department of Health* and the changes were made to conform to current

**MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING - June 25, 2013**

standards and format styles. She introduced Mr. Chris Woodward who is an attorney for the Department of Health. The Chair asked if he had any comments; he said no.

The Chair entertained a **MOTION** to approve the amendments. Secretary Duran **MOVED** and Dr. Levine **SECONDED** the motion. The Chair asked if there should be more verbiage in reference to confidentiality related to the Medical Cannabis program. Mr. Martinez reported that after reviewing the statutes, and requesting counsel from the Office of the Attorney General, the agency does not have authority to determine confidentiality so specific reference to confidentiality was being removed from all records retention schedules.

He explained that the Public Records Act is mute when it comes to confidentiality of records and it was a safer approach to just have a friendly reminder to state agencies that some records may be confidential. He said that it would be the responsibility of the agency that creates the records to deem them confidential or not. Mr. Mead stated that it is best not to cite specific confidentiality laws in the records retention schedules in case one of the laws is not included in the list.

Ms. Tania Maestas replied that she was in full support of the rule because this particular language had been used for all new amendments stating that some records may be confidential and each particular agency must determine which records are confidential. The motion **PASSED** unanimously.

1.19.2 NMAC LGRRDS, Office of the County Assessor

Mr. Martinez informed the Commission that Ms. Garcia would present the amendment of *1.19.2 NMAC LGRRDS, Local Government Records and Disposition Schedules, Office of the County Assessor*. Ms. Garcia stated that the amendments were to the existing Local Government and Disposition schedule for the County Assessor. These changes were done to update the standard formatting of this particular schedule.

The Chair entertained a **MOTION** to approve. Secretary Duran **MOVED** and Mr. Mead **SECONDED** the motion. Secretary Duran asked if *1.19.23 NMAC* applies to all county officials or just the County Assessor. Ms. Garcia replied that this particular schedule applies specifically to County Assessors.

The issue of what authority the State Records Administrator has to provide advice to Counties regarding records retention was discussed. The discussion began to run long and was deferred to IV. New Business, County Records. The motion **PASSED** unanimously.

1.19.4 NMAC LGRRDS, Board of County Commissioners, County Managers.

Mr. Martinez stated that the next proposed amendment was to *1.19.4 NMAC LGRRDS, Board of County Commissioners, County Managers* and would be presented by Ms. Garcia. Ms. Garcia stated the changes were to update sections and add sections to conform to standard formatting.

The Chair entertained a **MOTION** to approve. Secretary Duran **MOVED** and Mr. Mead **SECONDED** the motion. The Chair asked if there was any further discussion. Members of the Commission asked for clarification of the authority of the State Records Administrator and the

**MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING - June 25, 2013**

need for rules that cover all county entities. Ms. Maestas explained that Section 14-3-18 NMSA 1978, authorizes the administrator to advise and assist county and municipal officials in the formulation of programs for the disposition of public records maintained in county and municipal offices. There was a further discussion on the advisory nature of the local government rules. Members of the Commission requested the rule be amended to include reference to Section 14-3-18 NMSA 1978, that provides, "The administrator may advise and assist county and municipal officials in the formulation of programs for the disposition of public records maintained in county and municipal offices".

The Chair called for a hand vote, four (4) in favor (Hordes, Mead, Noel, Levine), two (2) opposed (Burckle, Duran). The **MOTION PASSED**. Secretary Burckle and Secretary of State Duran both stated for the record that they voted against amending the rule because they preferred the amendment be tabled until the Commission had a complete legal analysis and recommendation.

There was some confusion if the motion included the requested amendment to include a citation to Section 14-3-18 NMSA 1978, so the vote was taken again noting that it would include the amended text. The Chair called for a hand vote, four (4) in favor (Hordes, Mead, Noel, Levine), two (2) opposed (Burckle, Duran). The **AMENDED MOTION PASSED**. Secretary Burckle and Secretary of State Duran both stated that, as before, they voted against amending the rule because they preferred the amendment be tabled until the Commission had a complete legal analysis and recommendation.

IV. NEW BUSINESS

A. County Records

Mr. Martinez began the discussion stating that he had questions regarding the authority of the Commission and the State Records Administrators over retention and disposition of county records. He asked for guidance from the Commission on how to proceed with county records. Mr. Mead asked if the Commission and State Records Administrator have authority over retention and disposition of Municipality records. Mr. Martinez stated that Section 14-1-8 NMSA 1978 only requires counties to give the Administrator the first right of refusal prior to destroying public records. There is no similar statute relating to municipalities.

He also stated that Ms. Lisa Johnston, a member of the Historical Records Advisory Board (HRAB) from Artesia, has been assisting the agency by encouraging cities to adopt a retention schedule for the managing of their records. The counties however are in between. He explained that some counties have adopted the records retention schedule.

The Chair suggested forming a Committee that would review all the issues pertaining to county records and report to the Commission at the next regular meeting. He appointed Mr. Mead as the Chair and Mr. Noel and Secretary Duran. The Committee would be allowed to determine the scope of the issue and decide whether it would just look at county records or open it to other local government records.

**MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING - June 25, 2013**

B. FY 2012 Annual Report

Mr. Martinez handed out the FY 12 annual report. He explained the process of putting the report together and said it included information about different records stored in the archives. Also in the report are the performance measures that are established for each division.

C. FY 2014 Strategic Plan

Mr. Martinez stated that in lieu of having a strategic planning meeting each division director submitted updated measures for the new fiscal year. Once the measures were submitted, Mr. Martinez discussed the measures with the division directors and came to agreement on final measures for the year. He said no changes were made to the basic strategic plan. The Chair said he thought the strategic plan was a five-year plan and only performance measures would be changed annually. Mr. Martinez said that was correct. He further explained that the report was established as a working document for the agency. Mr. Martinez also stated that he had directed each division director to review the statutory responsibilities of the agency and limit the performance measures to the statutory obligations and a few major projects such as the implementation of the Central Electronic Records Repository (CERR). Secretary Burckle asked who the agency's Legislative Finance Committee (LFC) analyst and if the agency was in touch with them for assistance in establishing responsibilities and priorities. Mr. Martinez said the agency regularly communicated with Randall Soderquist who is the agency LFC analyst.

VII. OLD BUSINESS

A. Building Security System

Mr. Martinez stated that General Service Department (GSD) had recently begun to make needed upgrades to the security system. Specifically, new security panels would be installed throughout the building. Also new cameras were installed around the building which brings the total number to 39. The new system will increase the scope of recording the grounds surrounding the building. The new cameras have wide field images that are digitally recorded. He reported that cameras were installed in the Genealogy room and the Southwest room of the Library and that the Library and the SRCA were in concurrence with all the updates.

VIII. DIRECTOR'S REPORT

Mr. Martinez reported the following:

Three positions have been filled since the last meeting. New employees are: Meghan Bayer, Grants Administrator for the NMHRAB; Sonya Watts-Bachicha, Financial Specialist; and Amanda Lopez moved from Records Management to Administrative Law. The Chair asked how the agency's relationship with State Personnel has been. Mr. Martinez replied that it had improved, but the listings were still taking some time to fill.

The State Historian has been traveling around the State for a number of speaking engagements. Ms. Emily Brock, an Archivist, attended the Society of Southwest Archivists conference and other staff will be attending various conferences in the next few months for development and training.

The SRCA was a host to the Manuscript Society which held its annual meeting in Santa Fe during April. Dr. Levine had put him in contact with Mr. Alfred Lemmon who planned the

MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING - June 25, 2013

function; there were about 53 in attendance. Dr. Levine, who also hosted the Society at the New Mexico History Museum, said that it was a wonderful experience.

Mr. Martinez spoke at the Genealogical Society of Hispanic America and at the ARMA conference on management training. He was asked to attend a meeting in St. Louis, Missouri for the Heritage Emergency Partnership which is a national effort to get emergency managers together with cultural property personnel. He has been in contact with Homeland security as well to work together on emergency management.

He invited the Commission to a Reception in honor of Chair Hordes for his many years of service to the agency and New Mexico, which will take place after the meeting. Chair Hordes thanked all the staff of the agency for their support over the years.

IX. SCHEDULING OF NEXT MEETING

The Chair asked if August 27, 2013 is an acceptable time for the next Commission meeting. Hearing no conflicts; the Chair scheduled the next meeting for August 27, 2013.

X. ADJOURNMENT

The Chair entertained a **MOTION** to adjourn. Mr. Mead **MOVED** and Secretary Burckle **SECONDED** the motion. The motion **PASSED** unanimously. The meeting adjourned at 11:41 a.m.