MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING AND RULE HEARING – August 25, 2015
1205 Camino Carlos Rey, Santa Fe, NM 87507

Members Present:
Robert J. Torrez            Chair, Historian
Edwynn Burckle             Cabinet Secretary, General Services Department
Christina Espinoza          Designee for the Honorable Secretary of State
Roscoe Woods                Representative for the Honorable Attorney General
Sarita Nair                 Representative for the State Auditor
Lynne S. Rhys               Law Librarian, Supreme Court
Jeff Pappas                 Representative for Department of Cultural Affairs
Jennifer Salazar            General Counsel, Assistant Attorney General

Staff Present:
Linda Trujillo              State Records Administrator
Pete Chacon                 Information Technology, Chief Information Officer
Leo Lucero                  Director, Records Management Division, RMD
Jennifer Camp               Management Analyst, RMD
Tanya Vigil                 Management Analyst, RMD
Susan Montoya               Management Analyst, RMD
Melissa Salazar             Director, Archives and Historical Services
Felicia Lujan               Archives Bureau Chief
Dr. Rick Hendricks          State Historian
Matt Ortiz                  Administrative Law, Division Director
Joseph Lovato               Executive Secretary

Guests that signed in:
Michelle E. Dominguez       Cibola County
Natalie Grime               Cibola County
Diane Madrid                NMSU
Carl Baca                   NMSU
Justin Aeubel               PERA
Daniel A. Ivey Soto         NM Clerks
Rebecca L. Griego           LCS
David Coriz                 NMDOT
Mariane Romero              OSI
Susan Yaeger                CCS
Sonya Avarado               DPS
Amanda Lopez                DPS
Drew Johnson                DPS/IPRA
Adette DesGeorges           DOH
Christine Espinoza          SOS
Brittany Odell              SOS
Gabriel Baca                PERA
I. OPENING ACTIVITIES:
   A. Call to order
   The Chair called the meeting to order at 9:31 a.m.

   B. Approval of agenda
   The Chair entertained a MOTION to approve the agenda with the number for executive session corrected from IV to V. Ms. Rhys MOVED and Secretary Burckle SECONDED the motion; the motion PASSED unanimously.

II. Action Items:
   A. Approval of June 30, 2015 Meeting Minutes
   The Chair entertained a motion to approve the Minutes. Mr. Woods abstained from voting since he was not at the last Commission meeting. Mr. Pappas MOVED and Ms. Espinoza SECONDED the motion; the MOTION passed unanimously.

   B. Approval of Agency Budget
   Ms. Trujillo presented the proposed FY17 appropriation request for the agency’s general fund 17900. Ms. Trujillo explained the agency has three different budgets and that the general and revolving funds are recommended at the same amount as the current year budgets. The Chair entertained a MOTION to approve the proposed FY17 budget for fund 1790. Ms. Nair MOVED and Secretary Burckle SECONDED the motion; the motion PASSED unanimously.

   Ms. Trujillo then presented the proposed FY17 appropriation request for the agency’s revolving fund 37100. Ms. Trujillo asked the Commission members for advice in deciding to move one position from the revolving fund to the general fund. Secretary Burckle stated his advice would be to leave that position in the revolving fund. The Chair entertained a MOTION to approve the proposed FY17 budget for fund 37100. Mr. Pappas MOVED and Ms. Rhys SECONDED the motion; the motion PASSED unanimously.

   Ms. Trujillo then presented the proposed FY17 appropriation request for the agency’s federal funds which are included in fund 17900. The Chair entertained a MOTION to approve the proposed FY17 budget for Federal funds in 17900. Secretary Burckle MOVED and Ms. Espinoza SECONDED the motion; the motion PASSED unanimously.

   C. Management of Electronic Records: 1.13.4 NMAC
   Ms. Trujillo explained that rule 1.13.4 NMAC must be amended to conform with the proposed functional records retention and disposition schedule and to update language from an Attorney General’s opinion related to transitory records. She reminded the Commission that the rule is a joint rule adopted by both the Commission and the State Records Administrator. Ms. Trujillo asked the Commission to grant her authority to appoint Mr. Ortiz as a joint hearing officer for a rule hearing on September 22, 2015. She informed the Commission that the notice was published in the NM Register on August 14, 2015 informing the public that the State Records Administrator or designee would take public comment. The Chair entertained a MOTION to grant Ms. Trujillo authority to appoint Mr. Ortiz hearing officer for the Commission for the September 22, 2015 rule hearing on 1.13.4 NMAC. Secretary Burckle MOVED and Ms. Rhys SECONDED the motion; the motion PASSED unanimously. Ms. Trujillo clarified that Mr. Ortiz would be serving as a designee for the State Records Administrator and as a result of the previous motion would also be serving as a designee for the State Commission of Public Records. The Chair confirmed that this was correct.

The Chair called a ten minute recess. The Commission meeting recessed at 10:07 a.m. and reconvened at 10:19 a.m.
III. Rule Hearing:
   A. Repeal

Ms. Trujillo reminded the Commission that they had tabled the repeal of the following rules it the meeting on June 30, 2015.

1.15.1 NMAC GRRDS, General Provisions
1.15.2 NMAC GRRDS, General Administrative Records
1.15.3 NMAC GRRDS, General Administrative Records (for Use by Local Government and Educational Institutions)
1.15.4 NMAC GRRDS, General Financial
1.15.5 NMAC GRRDS, General Financial Schedule (Interpretive)
1.15.6 NMAC GRRDS, General Personnel Records
1.15.7 NMAC GRRDS, General Personnel (Interpretive)
1.15.8 NMAC GRRDS, General Medical Records
1.15.9 NMAC GRRDS, General Hospital and Medical Center Records
1.16.111 NMAC LRRDS, Legislative Council Service
1.16.112 NMAC LRRDS, Legislative Finance Committee
1.16.117 NMAC LRRDS, Legislative School Study Committee
1.16.119 NMAC LRRDS, Legislative Maintenance
1.17.205 NMAC JRRDS, Supreme Court Law Library
1.17.210 NMAC JRRDS, Judicial Standards Commission
1.17.215 NMAC JRRDS, Court of Appeals
1.17.216 NMAC JRRDS, Supreme Court
1.17.218 NMAC JRRDS, New Mexico Magistrate Courts
1.17.219 NMAC JRRDS, Board Governing the Recording of Judicial Proceedings
1.17.220 NMAC JRRDS, Administrative Office of the Courts
1.17.230 NMAC JRRDS, New Mexico District Courts
1.17.244 NMAC JRRDS, Bernalillo County Metropolitan Court
1.17.264 NMAC JRRDS, Administrative Office of the District Attorneys and the District Offices
1.18.305 NMAC ERRDS, Office of the Attorney General
1.18.308 NMAC ERRDS, Office of the State Auditor
1.18.333 NMAC ERRDS, Taxation and Revenue Department
1.18.337 NMAC ERRDS, State Investment Council
1.18.341 NMAC ERRDS, Department of Finance and Administration
1.18.342 NMAC ERRDS, Public School Insurance Authority
1.18.343 NMAC ERRDS, Retiree Health Care Authority
1.18.350 NMAC ERRDS, General Services Department
1.18.352 NMAC ERRDS, Educational Retirement Board
1.18.355 NMAC ERRDS, Public Defender Department
1.18.356 NMAC ERRDS, NM Office of the Governor
1.18.360 NMAC ERRDS, Lieutenant Governor's Office
1.18.361 NMAC ERRDS, Office of the Chief Information Officer
1.18.366 NMAC ERRDS, Public Employees Retirement Association
1.18.369 NMAC ERRDS, Commission of Public Records
1.18.370 NMAC ERRDS, Secretary of State
1.18.378 NMAC ERRDS, State Personnel Office
1.18.379 NMAC ERRDS, Public Employee Labor Relations Board
1.18.394 NMAC ERRDS, Office of the State Treasurer
1.18.404 NMAC ERRDS, Board of Examiners for Architects
1.18.418 NMAC ERRDS, Tourism Department
1.18.419 NMAC ERRDS, Economic Development Department
1.18.420 NMAC ERRDS, Regulation and Licensing Department
1.18.430 NMAC ERRDS, Public Regulation Commission
1.18.440 NMAC ERRDS, Office of Superintendent of Insurance
1.18.446 NMAC ERRDS, Board of Medical Examiners
1.18.449 NMAC ERRDS, Board of Nursing
1.18.460 NMAC ERRDS, State Fair Commission
1.18.464 NMAC ERRDS, State Board of Licensure for Professional Engineers and Surveyors
1.18.465 NMAC ERRDS, Gaming Control Board
Ms. Trujillo recommended not repealing the following rules because there had not been sufficient communication with the counties and municipalities who would be impacted by the repeal.

1.15.3 NMAC  GRRDS, General Administrative Records (for Use by Local Government and Educational Institutions)
1.15.5 NMAC  GRRDS, General Financial Schedule (Interpretive)
Ms. Trujillo stated that the Records Management division staff had held multiple roundtable discussions and met with some agencies individually. Ms. Trujillo presented the Commission with a side by side comparison of changes that had been made from the first published rule to the rule being considered and explained that all changes had been reviewed by Jennifer Salazar from the Office of the Attorney General. Ms. Salazar’s advice was that changes in language could only be made if they changes were logical outgrowths on the originally proposed rule. Ms. Trujillo also stated there were a few more amendments that would be presented to the Commission to be considered and advised the Commission that only changes that were logical outgrowths of the original rule were being proposed. Ms. Trujillo asked that Mr. Lucero present the amendments to the Commission. Mr. Lucero asked Ms. Montoya to put the amendments up on the screen so the members of the public as well as the Commission members could see the requested amendments. Mr. Lucero presented all changes to the Commission.

The Chair asked Ms. Salazar if the Commission should act on the amendments as well as the rule all as one action. Ms. Salazar stated she believed the State Records Administrator would make a recommendation on all that was to be acted on and the Commission then could take act on the recommendation. The Chair opened the floor for persons from the public to speak on the rule being repealed, replaced and amended.

Ms. Madrid from New Mexico State University gave her support of the new rule. Ms. Madrid stated how much appreciation she had for the effort the staff had given and the changes that were being made. Ms. Madrid stated the new rule would be very helpful.

Mr. Baca from PERA was next to speak. Mr. Baca stated that he, nor any of his staff, had attended a round table discussion, but he is concerned that the proposed rule would have a negative effect on PERA. Mr. Baca stated he was not sure of the effect it would have on the budget process for their records management system and that PERA was already in compliance with the current rule. He further stated that the PERA IT system is already programmed to delete records that have meet the current retention period and was not sure the new rule would be followed by PERA due to not being able to reprogram the current processes that could potentially cost upwards of a million dollars. Ms. Trujillo stated this rule would not be effective until October 1, 2015 and the State Records Administrator as well as the Records Management staff would be willing to sit down and figure out what would need to be determined in order to make sure the rule works for PERA. Ms. Trujillo than stated that she anticipated there would be some changes to the retention schedules at the November Commission meeting. Specifically, she anticipated some changes from the Secretary of State and a few other agencies that are still scheduled to meet with staff. Ms. Trujillo stated the staff would make themselves available to meet with PERA. Ms. Trujillo stated she did have some concern that there is a computer system that is programmed to automatically delete records, as Mr. Baca stated, without going through the Commission adopted approval process.

Senator Ivey-Soto spoke next and told the Commission how pleased he was that the State Records Administrator and staff have been very receptive to feedback.
The Chair asked if there were any additional questions from the Commission. Mr. Woods asked for clarification from Ms. Salazar, the Commission's advising attorney, if all the changes to the rule from the original publication and the amendments presented to the Commission at this meeting were in fact logical outgrowths. Ms. Salazar confirmed that she had reviewed the changes with the staff and her opinion was that all changes were logical outgrowths and could be considered for adoption by the Commission.

The Chair then asked Ms. Trujillo for a recommendation. Ms. Trujillo recommended repealing all the rules stated on the notice and agenda, with the exception of:

- 1.15.3 NMAC GRRDS, General Administrative Records (for Use by Local Government and Educational Institutions)
- 1.15.5 NMAC GRRDS, General Financial Schedule (Interpretive)
- 1.15.7 NMAC GRRDS, General Personnel (Interpretive)
- 1.19.2 NMAC LGRRDS, Office of the County Assessor
- 1.19.3 NMAC LGRRDS, Office of the County Clerk
- 1.19.4 NMAC LGRRDS, Board of County Commissioners County Managers
- 1.19.5 NMAC LGRRDS, Office of the County Sheriff
- 1.19.6 NMAC LGRRDS, Office of the County Treasurer
- 1.19.7 NMAC LGRRDS, Southern Sandoval County Arroyo Flood Control Authority (SSCAFCA)
- 1.19.8 NMAC LGRRDS, New Mexico Municipalities
- 1.19.9 NMAC LGRRDS, New Mexico Municipal Courts
- 1.19.10 NMAC LGRRDS, Middle Rio Grande Conservancy District
- 1.19.11 NMAC LGRRDS, Soil and Water Conservation Districts and Watershed Districts

And that the Commission adopt 1.21.2 NMAC, FRRDS, Public Records with the changes and amendments presented by Leo Lucero.

The Chair entertained a MOTION to approve the recommendation of the State Records Administrator, Secretary Burckle MOVED and Mr. Pappas SECONDED the motion; the motion PASSED unanimously.

IV. Director's Report

Ms. Trujillo presented the Commission with the director's report. (See attached)

V. Executive Session:

The Chair will entertain a motion to enter into Executive Session.
Ms. Espinoza MOVED that the Commission enter into Executive Session to discuss the State Records Administrator's Annual review, pursuant to Section 10-15-1(H)(2) of the Open Meetings Act. Ms. Nair SECONDED the motion; the Chair asked for a roll call vote. Ms. Trujillo called for a vote;

Robert J. Torrez yes
Edwynn Burckle yes
Christina Espinoza yes
Roscoe Woods yes
Sarita Nair yes
Lynne S. Rhys yes
Jeff Pappas yes

The Motion passed unanimously. The Chair stated the record was to show that the Commission entered into Executive Session at 11:36AM and the recorder would now be turned off. All non-Commission members must leave the room.
The Chair called the Commission back to open session at 12:00 p.m. The Chair stated that the only matter discussed in Executive Session was limited to the State Records Administrator’s evaluation. The Chair advised the audience that the Commission would be keeping Ms. Trujillo as State Records Administrator.

VI. Scheduling of Next Commission Meeting:

The Chair set the next Commission meeting for November 17, 2015.

VII. Adjournment

The Chair entertained a MOTION to ADJOURN. Ms. Nair MOVED and Ms. Espinoza SECONDED the motion; the motion PASSED unanimously.

The meeting adjourned at 12:03 p.m.

Submitted by: [Signature]
Linda M. Trujillo, State Records Administrator

11/17/15
Date

Attested by: [Signature]
Robert J. Torrez, Commission Chair

11/17/15
Date

Minutes approved on: 11/17/15