

MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING – August 28, 2018
1205 Camino Carlos Rey, Santa Fe, NM 87505

Members Present

Robert J. Tórréz	Chairman and Historian
Bobbi Shearer	Designee, Office of State Auditor
Jennifer Saavedra	Designee, Office of the Attorney General
Rebecca Abbo	Designee, General Services Department
Stephanie Wilson	Interim Supreme Court Law Librarian
Christina Espinosa	Designee, Secretary of State
Jeff Papas	Designee, Department of Cultural Affairs

Staff Present

Melissa T. Salazar	State Records Administrator
Georgette L. Chavez	Deputy State Records Administrator
Rick Hendricks	State Historian, Office of the State Historian (OSH)
Ruben Rivera	Chief Financial Officer, Administrative Services Division (ASD)
Justin Herrera	Financial Specialist, ASD
Leo Lucero	Director, Records Management Division (RMD)
Tanya Vigil	Management Analyst, RMD
Thomas Shumaker	Grants Administrator, OSH
Susan Montoya	Agency Analyst Bureau Chief, RMD
Jonathan Roybal	Management Analyst, RMD
Peter Chacon	Director, Information Technology Management Division (ITMD)
James Kirby	Information Technology End User Support, ITMD
Felicia Lujan	Director, State Archives of New Mexico (SANM)
Gail Packard	Business Operations Specialist, SANM
Lynne Newton	Archivist, State Archives of New Mexico
Crystal Wooldridge	Records Center Manager, RMD
Matt Ortiz	Director, Administrative Law Division (ALD)
Marcus Flores	Archivist, RMD
Norma Perez	Management Analyst, RMD

Public Present

Heather Velasquez	Administrative Office of the Courts
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Robert J. Tórréz
Historian/Chair

Hon. Hector Balderas
Attorney General

Hon. Wayne Johnson
State Auditor

Hon. Maggie Toulouse Oliver
Secretary of State

Veronica Gonzales
Department of Cultural Affairs

Ned Fuller
General Services Department

Stephanie Wilson
Acting Supreme Court Law Librarian

I. OPENING ACTIVITIES

A. Call to Order

Chairman Tórréz called the meeting to order at 10:04 a.m.

B. Approval of the Revised Agenda

Chairman Tórréz entertained a **MOTION** to approve the revised agenda. Ms. Abbo **MOVED**, and Ms. Shearer **SECONDED**; the motion **PASSED UNANIMOUSLY**.

C. Approval of the minutes of the May 22, 2018, Regular Meeting

Chairman Tórréz entertained a **MOTION** to approve the minutes, Ms. Shearer **MOVED**, and Ms. Espinosa **SECONDED**; the motion **PASSED UNANIMOUSLY**.

II. PRESENTATIONS

A. Staff Introductions and Staff Recognition

Leo Lucero introduced the new management analysts, Norma Perez who previously worked for the Air Quality Bureau at the Environment Department and Genzyme Genetics.

Melissa Salazar presented a certificate of recognition to the following individual for extraordinary service to the agency: Felicia Lujan nominated by Gail Packard.

Matt Ortiz of Administrative Law Division recognized Mark Gruber and spoke about Mr. Gruber's accomplishments in state government and within the agency. He stressed how much Mark will be missed as he is set to retire at the end of September. Ms. Salazar also recognized Mr. Gruber's efforts on the annual report.

B. Administrative Law Website Demonstration

Matt Ortiz thoroughly reviewed the new Administrative Law website with the commissioners and audience. Mr. Ortiz gave thanks to the I.T. team and the State Archives of New Mexico for their assistance. Mr. Ortiz demonstrated the differences between the old website and the new website. He stressed the importance of being able to view the NMAC and the New Mexico Register simultaneously on the new website, versus navigating between two different websites to have access. He also explained how the new website offers a better, cleaner search engine to allow better results when searching a topic. Mr. Tórréz asked if all the updates to the new website were done in-house or done through a hired outside company. Mr. Ortiz answered that it was all completed in-house. Ms. Shearer inquired about the time frame to commence phase two. Mr. Ortiz answered that it depends on budget. Chairman Tórréz asked if the project was an unfunded mandate, and Ms. Salazar confirmed. She explained how the monies

were moved from the 200 category to the 400 category to pay for the website update in FY18.

C. Five-Year Strategic Plan, Fiscal Years 2019-2023

Ms. Salazar stated that the division directors and upper management met in April and May of 2018 to review and amend the five year strategic plan for the years 2019-2023. Ms. Salazar stated that the strategic plan included a list of values which included:

1. Honesty
2. Excellence
3. Accountability
4. Respect
5. Teamwork
6. Safety

Ms. Salazar also outlined the three principle goals.

1. Manage, preserve and provide access to records and information.
2. Enhance effectiveness of the agency.
3. Build positive awareness of the agencies services and resources.

Ms. Salazar also stated that the agency completed 95% of the forty performance measures for FY18, and read those items for the commission. Ms. Salazar also reviewed the performance measures that were not met due to a lack of funding for additional staff members.

Ms. Salazar stated that each division at SRCA, share the same goals, but each division has its own performance measures. She went on to say that the strategic plan, lists the statutes, rules, and federal regulations that govern what we do at the State Records Center and Archives. Chairman Tórréz instructed Ms. Salazar to refrain from immediately posting the strategic plan to the agency website in order to provide the commissioners an opportunity to provide comments. Ms. Bobbie Shearer asked if the D.U.I and domestic violence cases are a statutory mandate. Ms. Salazar stated that the laws have changed so that sentencing is now based on the number of convictions. All case files are considered permanent records which would make these cases statutory mandate. Chairman Tórréz asked if these files are digitized. Ms. Salazar answered that the district courts and Bernalillo County have started digitizing their records, however, not all the case files have been digitized. In some cases, only a portion of the file has been digitized. She also described the archival process to provide access to these files.

III. ACTION ITEMS

A. Vote on Proposed Rule

Chairman Torrez asked if on Rule 1.13.12 NMAC was going to be considered. Ms. Salazar explained that Rule 1.13.12 NMAC was discussed at the last commission meeting and was passed unanimously by the commission.

Action item was Rule 1.21.2 NMAC, Retention and Disposition of Public Records.

Ms. Susan Montoya introduced herself and read the following concise explanatory statement for 1.21.2 NMAC, Retention and Disposition of Public Records.

“Section 7 is being amended to clarify the definition of a trigger event. Section 9 is being amended to remove language referencing the judicial branch and add language indicating that records transferred to the state archives will be reviewed for final disposition. Section 428 is being amended to modify the retention period. And section 620 is being added to provide a classification for court proceedings records. For additional information including the rule promulgation authority, effective date of the rule and date of the adoption of the rule, please see the transmittal form in your packet. The proposed amendment was noticed on April 10, 2018, and was tabled at the May 22nd commission meeting to allow for additional time for comment. We did receive 2 comments on this rule. One was a written comment in the support of the amendment and one written comment suggesting minor modification. We are in agreement with the suggested alterations to the retention language of Section 620 and upon consultation with our legal counsel; we’ve determined that incorporating this language is logical outgrowth of the rule promulgation process. This amendment has been reviewed by the state records administrator and the State Records Center and Archives internal review committee and is respectfully submitted for your review and approval.”

Chairman Tórréz entertained a **MOTION** to approve the rule changes to 1.21.2 NMAC, Retention and Disposition of Public Records. Ms. Wilson **MOVED**, and Ms. Shearer **SECONDED**; the motion **PASSED UNANIMOUSLY**.

Chairman Tórréz proceeded with the proposed amendment to 1.13.30 NMAC, Disposition of Public Records and Non-Records.

Ms. Crystal Wooldridge read the following concise explanatory statement;

“Section 7 is being amended to clarify the definition of a trigger event. This amendment has been reviewed by the state records administrator and the State Records Center and Archives internal review committee. This amendment is respectfully submitted for your review and approval.”

Chairman Tórréz entertained a **MOTION** to approve the rule changes to 1.13.30 NMAC, Disposition of Public Records and Non-Records. Ms. Espinoza

MOVED, and Ms. Wilson **SECONDED**; the motion **PASSED UNANIMOUSLY**.

A. Review and Approval of Fiscal Year 2020 Budget Appropriation Request

Ruben Rivera, CFO, provided a spreadsheet to the commissioners that demonstrated a breakdown of the FY20 general and revolving fund budgets by account. Mr. Rivera summarized requested funds for fixed costs, including personal services and benefits. Mr. Rivera explained that the increase in the request from FY19 was to fill nine vacant positions at midpoint to fully staff the agency at 37 positions. Chairman Tórréz asked if we received any mandates from DFA or the Legislative Council limiting the amount we can request for the increase. Ms. Chavez stated that DFA requested that the appropriation request be submitted at a flat amount, however, our base budget increase request of \$273,500 will help fill and pay for six positions that have not been funded in the past and the remaining three positions would be funded from funds of the original amount requested. Ms. Shearer asked if the flat budget request is not approved, must the nine vacant positions still be maintained by the agency. Ms. Salazar stated it depends on how much funding the agency receives in the 400 category. Mr. Rivera reviewed the 300 category budget, which includes funds for the audit and matching funds for the NMHRAB grant. Ms. Salazar explained that in the past, the agency utilized Dr. Shumaker's salary in the general fund for the required 25% match amount. Mr. Pappas asked if the agency ever considered increasing that amount of the budget authority. Ms. Salazar answered that funding would be moved depending on the applicants. Non-profits can only be paid out of the 300 category, and state and local governments can only be paid out of the 400 category. Mr. Rivera then summarized the budget in the 400 category, including transportation pool, travel and I.T equipment. Ms. Wilson asked if there was an I.T. plan currently in place. Ms. Salazar confirmed that that there is a plan and explained that budget is usually moved from the 200 category to keep up with the current I.T. plan. Additional discussions took place in regards to the travel budget and FY19 revenue.

Chairman Tórréz entertained a **MOTION** to approve the approval of fiscal year 2020 budget appropriation request. Ms. Wilson **MOVED**; Mr. Pappas **SECONDED**; the motion **PASSED UNANIMOUSLY**.

B. Attorney General Opinion Request

Ms. Salazar requested permission from the commission to move forward with an attorney general opinion request. The request is for an official opinion on whether the State Archives of New Mexico (SANM), and its holdings, are exempt from the Inspection of Public Records Act (IPRA). This would determine how the agency would process these requests in the future. Ms. Salazar stated, in the past, the agency has received contradicting written and verbal advice in regards to this matter. The attorney general opinion request could clarify how the agency can proceed with these types of requests. Ms. Salazar stated that she believed that the SANM holdings do fall under IPRA. Additional discussions took place regarding verbal advice, written advice, and official opinions from the attorney

general's office. Felicia Lujan noted that SANM is currently in compliance with all requests. Chairman Tórréz suggested that the agency continue functioning under the 2011 written advice of the attorney general that SANM is subject to IPRA.

Chairman Tórréz entertained a **MOTION** to submit a request to the New Mexico Attorney General's Office under his and Ms. Salazar's signature. Ms. Shearer **MOVED**; Ms. Espinosa **SECONDED**; the motion **PASSED UNANIMOUSLY**.

C. Destruction of Letter and CD per recommendation of U.S. Homeland Security and F.B.I.

Ms. Salazar proposed a request to the commission to destroy a letter and a C.D. that was received in the mail in July, 2018, from China. The letter stated that the C.D. had confidential and sensitive information, including the names of U.S. tenured professors. Ms. Salazar noted that she contacted the U.S. Homeland Security and the F.B.I. for instruction. She submitted the letter to them electronically for their review and they recommended that our agency destroy the letter and the C.D. Per this recommendation, she requested permission from the commission to destroy both before the one year retention is met. Ms. Salazar also explained that she would submit an official request of disposition to ensure the commission that the C.D. and letter would be destroyed.

Chairman Tórréz entertained a **MOTION** to authorize the state records administrator to destroy the letter and C.D received in the mail from China. Ms. Wilson **MOVED**; Ms. Espinosa **SECONDED**; the motion **PASSED UNANIMOUSLY**.

Chairman Tórréz called recess at 11:27 a.m. and stated we will continue at 11:37 a.m.

Chairman Tórréz called the regular meeting of Commission of Public Records back in session at 11:37 a.m.

D. State Records Administrator Retirement and Filling Position

Chairman Tórréz explained Ms. Salazar is retiring and that her last day in the office is September 21, 2018. The chairman explained that the agency received nine applications and he has asked Andy Mackowski to prepare application packets so they can be reviewed by the committee which consists of the chairman, Stephanie Wilson, and Rebecca Abbo. After careful consideration, he will call a special meeting to give a recommendation for the position. Chairman Tórréz also explained that there has been a recommendation to discuss the possibility to hire an interim administrator until an individual could be hired for the position permanently. He stated that if the position is filled immediately, with a permanent individual, they may be forced to leave that position depending on what the new Governor decides early next year.

Chairman Tórréz made a recommendation to grant Ms. Salazar three weeks of administrative leave. He noted the numerous reasons for this recommendation, including her excellent leadership during times of crises. He also explained that Ms. Salazar did not receive a raise when she was appointed to the position of state records administrator by the commission. Additional discussions took place in regards to the proper procedures in regards to administrative leave. Ms. Chavez indicated that she would work with Andy Mackowski and SPO to take the appropriate steps in regards to this matter.

Chairman Tórréz entertained a **MOTION** to request from the SPO director to grant Melissa Salazar 15 days of administrative leave, as needed. Ms. Espinosa **MOVED**; Ms. Abbo **SECONDED**; the motion **PASSED UNANIMOUSLY**.

IV. NEW BUSINESS

A. Building Flooding

Ms. Chavez provided the building flooding report as follows.

“Mr. Chair and Members of the Commission, I’d like to point out the packet sitting in front of you. I will be referring to these photos throughout my presentation.

On July 23rd the Carruther’s Building sustained flood damage due to the severe rain storms in the Santa Fe area. The poor drainage system for this campus allowed water to enter under doors which caused damage to the walls and flooring in the commission room, upstairs lobby, and hallways. The Santa Fe Records Center sustained the most damage, however, all records remained dry. Since the records center was once an armory, rain water seeped through improperly sealed doors and bay doors. When restoration crews began cutting through the drywall, they discovered an 8 foot nest which was created by rodents that entered through significant sized holes in the walls. To correct these issues, the restoration crews:

1. Conducted tests throughout the building to reveal any humidity trapped within the walls.
2. Cut and removed drywall.
3. Placed fans and dehumidifiers to dry out those areas.
4. Erected and isolation tent to protect the records and staff.
5. Utilized a mold control spray to prevent the growth of black mold.
6. Utilized a spray to encapsulate existing rust.
7. Removed the rodent nest.
8. Disinfected the area to kill any disease carried by rodents.

9. Filled the holes in the records center walls with steel wool, wire mesh, foam and caulking.
10. As a preventative measure, sandbags have been placed by SRCA staff around the exposed areas in the records center and outside entrances that are prone to flooding.

The re-construction process should start soon and we are waiting to hear on a definite date from GSD. Please note that GSD could only address the immediate issues that I just outlined due to limited funds provided by the insurance. Preventative measures to address issues such as campus drainage, landscape slopes, roof leaks, wall cracks, and additional leaks along the records center wall will need to be discussed with GSD for further action.

At this time, I would also like to recognize the RMD and records center staff for all their hard work in keeping our records safe during this time. If they would please stand: Leo Lucero, Crystal Wooldridge, Tanya Vigil, Cameron O'Rear, Susan Montoya, Jonathan Roybal, and Norma Perez. These individuals worked closely with GSD and restoration crews. They were here after hours to move boxes and sandbags. They were also here on weekends to check on fans and dehumidifiers. So, thank you again for all your hard work. I would also like to thank GSD. They have been very helpful though out this process and we thank them for their assistance.

Mr. Chair and Members of the Commission, during the weekend of August 3rd, we also had an outside drain pipe burst within the walls of the Albuquerque Records Center building. This caused minimal flooding and no damage to the records occurred. MW management worked with the plumber to replace the pipe and close the wall within a week. The project is now complete.

Mr. Chair Members of the Commission, I'm happy to take any questions at this time."

B. Building Security Issues

Ms. Salazar explained that she requested to view the camera footage from this building in June, 2018. She was informed by the General Services Department that the cameras had been turned off since December 29, 2017. Ms. Salazar said that due to the consistent building security issues, such as trash can fires, prostitution, and drug deals, we must be diligent in ensuring that the cameras are not turned off. Ms. Salazar also went on to state that SRCA will continue to work with GSD to find a process and solution on how to monitor the cameras and to how make sure they are operational at all times. Ms. Salazar also explained that

there is a major concern with badging which allows employees in and out of the building. Ms. Salazar said she has noticed that contractors have access to parts of the building that should be accessible to employees only.

Ms. Abbo notified the commission, that going forward, there will be a security guard on campus from 7:30 a.m. to 5:30 p.m. who will walk from the Toney Anaya building to the Garrey Carruthers Building throughout the day. She also went on to state a security guard will now patrol the campus during the night from 5:30 p.m. to 7:30 a.m. Ms. Abbo stated not only will the security guard patrol the campus, but will continuously perform door checks. GSD is conducting research to determine the cause of the malfunction of the cameras and will provide a reason once the troubleshooting is complete.

Pete Chacon also stated the wiring for the cameras are located in the closet near the I.T. Department. He and his staff have reported the malfunction to GSD numerous times, but were told that situation would be corrected by the contractors. When the I.T. Department contacted the contractors, they communicated that the problem would be handled by GSD. Mr. Chacon stressed there has to be a better communication when it concerns building security issues.

V. OLD BUSINESS

A. ICIP Request

Ms. Salazar provided copies of the submitted ICIP request. She explained that the priority for the next fiscal year is requesting \$537,000.00 for a mechanical engineer to study the HVAC system at the Garrey Carruthers Building and to design plans, address deficits, and construct mechanical systems for renovations and expansion. She reported that the funds will also be used to hire an architect to design plans to renovate existing space into a controlled archive vault, an archives reference room, a genealogy room and an expanded archives center. She also stated those funds pay 1% of an arts budget as well. Ms. Salazar explained that the HVAC system we currently have is a 20 year old system and continuously has problems in maintaining a controlled environment. This has a major negative affect on the documents that are archived within that area. Ms. Salazar explained that SANM is affiliated with the National Archives and Records Administration. Through a Memorandum of Understanding, SANM was granted custody of the Spanish Archives of New Mexico, Series I. which can be terminated based on the problems with the HVAC system. Ms. Salazar stated that this is a 5 year plan, and in 2021, the agency will request \$1,883,000.00 to renovate and construct the HVAC mechanical system and also will request \$729,000.00 to re-roof a portion of this building which is over 50 years old. In 2022, \$8,124,000 will be requested for a records center expansion to increase storage capability in Santa Fe Records Center.

Chairman Tórréz entertained a **MOTION** to approve the ICIP Request for 2021 and 2022 as submitted; Ms. Shearer **MOVED**; Ms. Saavedra **SECONDED**. The motion **PASSED UNANIMOUSLY**.

B. State Personnel Consolidation Update.

Ms. Salazar stated the construction is currently underway and contractors have demolished the southwest room and have moved the Southwest Collection and microfilm upstairs to the second floor. Ms. Salazar went on to explain that since all the shelving has been moved to the upstairs library, access has been impeded to the Administrative Law Department. She stated the GSD moved the signage to provide direction to the department. Ms. Salazar stated SPO consolidation contractors are contacting Ms. Chavez or herself to ask questions, instead of contacting someone from SPO or GSD. She also stated that since construction commenced, it was agreed that the genealogy room would remain open, however, the agency was recently notified that the room would need to be closed for a few days due to the construction. It was also requested that crews stay through the night to work, however, the state records administrator denied this due to the equipment and materials that are in that area which need to be protected. Chairman Tórréz asked if there is a projected move in date for SPO. Ms. Abbo answered by November 19th.

VI. Directors Report

Ms. Salazar presented the Director's Report as follows.

The agency has 9 vacancies out of 37 positions. This places our vacancy rate at 24.32 percent.

Vacant Positions Posted/Pending

- State Records Administrator - Advertised
- RMD: Staff (Records Center Bureau Chief) - Advertised
- SANM: Staff (Archives Bureau Chief) - vacant 10-22-16
- RMD: Information & Records Clerk-O - vacant 7-13-18

New Hires/Promotion

- Norma Perez – hired 7-14-18 - RMD: Management Analyst-O Agency Analysis
- Cameron O'Rear – promotion 7-14-18 RMD: Information & Records Clerk-A

Vacant Positions

- ASD: Exec Sec & ADM Asst-A, vacant 1-28-17
 - SANM: Staff (Archives Bureau Chief), posted
 - SANM: Archivist-A, vacant 7-29-2017
 - SANM: Archivist-A, vacant 11-1-2017
-

- SANM: Secretary EX-O, vacant 2-25-17
- RMD: Management Analyst-O, vacant 12-31-16
- RMD: Management Analyst-O Agency Analysis, vacant 11-4-17
- RMD: Staff (Records Center Bureau Chief) vacant 6-8-18
- RMD: Information & Records Clerk-O – vacant 7-13-18

BUDGET

FY 2018 Budget Close Out

As of August 1, 2018, our general fund balance in the 400 category was \$40,989; the balance in the 300 category was \$4,240; and the 200 category balance was \$20,748.

FY 2019 Budget

As of August 1, 2018, our general fund balance in the 400 category was \$39,600; the balance in the 300 category was \$30,618; and the 200 category balance was \$2,251,667.

Ms. Salazar reviewed the Radon Measurement Results Report with the commissioners. She noted the higher readings on the first floor which require remediation and the possible related health concerns. Ms. Salazar informed the commission that she requested that the Environment Department review this report and provide advice on how to move forward. In addition, Ms. Salazar stressed the importance of the safety of the staff. Mr. Pappas asked what the next step would be regarding this concern. Ms. Abbo answered stating there will be a meeting that would take place with professionals that work in the Environment Department and wait for their advice and guidance as to how to move forward. Ms. Felicia Lujan gave a recommendation of additional testing be provided by an outside company depending on funding. Ms. Shearer requested copies of the test results for the commission to view as well. At the end of the discussion, Mr. Pappas requested that this become an agenda item for the next meeting under old business.

VII. SCHEDULING OF NEXT MEETING

Chairman Tórréz stated the next meeting is scheduled November 27, 2018

VIII. ADJOURNMENT

Chairman Tórréz entertained a MOTION to adjourn. Ms. Abbo **MOVED**; Ms. Espinosa **SECONDED**; the motion **PASSED UNANIMOUSLY**.

Submitted by: Georgette L. Chavez
Georgette L. Chavez, Interim State Records Administrator

11/27/18
Date

Attested by: Robert J. Torrez
Robert J. Torrez, Commission Chair

11/27/18
Date

Minutes approved on: 11/27/18

