

**MINUTES OF THE
STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING
March 29, 2005**

The State Commission of Public Records convened at 9:02 a.m., Tuesday, March 29, 2005, at 1209 Camino Carlos Rey, Santa Fe, New Mexico.

MEMBERS PRESENT

Stanley Hordes, Ph.D., Chair
Deborah Moll

Historian
Designee for Edward J. Lopez, Jr., Secretary
General Services Department
Representing the Director, Museum of New Mexico
Designee for the Honorable Patricia Madrid,
Attorney General

Bergit Salazar
Zachary Shandler

ABSENT

The Honorable Domingo Martinez
The Honorable Rebecca Vigil-Giron
Thaddeus Bejnar
Roberta Joe

State Auditor
Secretary of State
Supreme Court Law Librarian
Assistant Attorney General (Staff)

STAFF PRESENT:

Sandra Jaramillo
Judi Hazlett
Darlene A. Torres
John Martinez
Angela Lucero
Daphne Arnaiz-DeLeon
Estevan Rael-Gálvez, Ph.D.
Andrew Mackowski

State Records Administrator
Deputy State Records Administrator
Administrative Assistant
Director, Administrative Law Division
Director, Records Management Division (RMD)
Director, Archives and Historical Services Division
State Historian
Human Resource Officer,
Administrative Services Division
Agency Analysis Bureau Chief, RMD
Records Management Analyst, RMD
Records Management Analyst, RMD
Records Management Analyst, RMD

Leo Lucero
Joseph Valdez
Ruben Rivera
Mark Friedland

GUESTS

Juan Rios
Tom Dunigan

Friends of NM History Foundation
Attorney General's Office

CALL TO ORDER

Chairman Hordes called the meeting to order at 9:02 a.m. The Chair formally welcomed Mr. Zachary Shandler, designated representative on the Commission for Attorney General Patricia Madrid.

APPROVAL OF THE AGENDA

Chairman Hordes asked Ms. Sandra Jaramillo if there were any changes to the agenda. Ms. Jaramillo indicated there were none. Chairman Hordes entertained a motion for the approval of the agenda. Ms. Deborah Moll so moved. Ms. Bergit Salazar seconded the motion. The agenda was approved.

APPROVAL OF THE MINUTES - DECEMBER 7, 2004

Chairman Hordes complimented staff on the minutes, stating they were well taken. The Chair entertained a motion for the approval of the minutes of December 7, 2004. Ms. Moll so moved. Ms. Salazar seconded the motion. The motion passed; the minutes were approved.

ACCEPTANCE OF THE AUDIT REPORT - FISCAL YEAR 2004

Ms. Jaramillo stated that the audit for Fiscal Year 2004 was conducted by the firm of Zlotnick, Laws and Sandoval and that it was submitted to the State Auditor's Office by the established deadline of December 8, 2004. She reported that the audit was examined by the State Auditor and released on January 20, 2005. Ms. Jaramillo informed the Commission that the audit was being presented for approval. She added that she was pleased to report that the 2004 audit was an unqualified audit with no findings. Ms. Jaramillo then introduced Mr. Richard Sandoval and Mr. Keith Sorensen of Zlotnick, Laws and Sandoval. Chairman Hordes welcomed Mr. Sandoval and Mr. Sorensen and asked if they had any comments. Mr. Sandoval stated that Ms. Jaramillo had provided a good summary of the results and added it was a clean audit. He also complimented staff on a great job. Chairman Hordes thanked Mr. Sandoval and Mr. Sorensen for their hard work. The Chair entertained a motion for acceptance of the audit report. Ms. Moll moved to accept, and Mr. Shandler seconded the motion. The motion passed. Chairman Hordes thanked Ms. Jaramillo, Ms. Hazlett, and agency staff. Ms. Hazlett stated she wished to recognize Ms. Maryann Baca, Fiscal Officer, for her work on the audit. Chairman Hordes asked Ms. Hazlett to extend the Commission's appreciation to Ms. Baca.

ACTION ITEMS

Ms. Jaramillo stated she wished to introduce new and promoted staff members to the Commission before proceeding to Action Items. She introduced Ms. Angela Lucero, Records Management Division Director, Andrew Mackowski, Human Resource Officer, Ms. Darlene Torres, Administrative Assistant and Mr. Ruben Rivera, Management Analyst.

Records Retention and Disposition Schedules

Ms. Jaramillo introduced Mr. Mark Friedland who presented the repeal and replacement of 1.18.305 NMAC, Executive Records and Retention Disposition Schedule (ERRDS) for the Office of the Attorney General. Mr. Friedland stated changes had been made to the schedule

provided in the Commissioner's meeting packet. He then distributed a corrected schedule. Mr. Friedland explained the changes and provided a description of the functions of the Office of the Attorney General. Chairman Hordes asked the Commissioners in particular Mr. Shandler who represents the Attorney General's Office, if they had any questions. Mr. Shandler thanked Mr. Friedland and Mr. Tom Dunigan from the Attorney General's Office for their work. Chairman Hordes then entertained a motion for approval. A motion to approve was made by Ms. Moll and seconded by Ms. Salazar. The motion passed.

Ms. Jaramillo stated Mr. Friedland would also present the next item, the repeal and replacement of 1.18.404 NMAC, ERRDS for the Board of Examiners for Architects. Mr. Friedland provided a description of the functions for the Board. Chairman Hordes entertained a motion for approval of both the repeal and the new replacement. Ms. Moll moved for approval. Mr. Shandler seconded the motion. The motion passed.

Mr. Friedland then presented the repeal and replacement 1.18.479 NMAC, ERRDS for Board of Veterinary Examiners. Mr. Friedland provided a description of Board functions. Chairman Hordes entertained a motion for approval. Ms. Moll moved for approval. Mr. Zachary seconded the motion. The motion passed.

Ms. Jaramillo introduced Mr. Joseph Valdez who presented the repeal and replacement 1.18.460 NMAC, ERRDS for the State Fair Commission. Mr. Shandler stated he was pleased to see that the retention for record series 1.18.460.26 NMAC, Property Files, was permanent and that he supported the recommended retention. Ms. Moll asked whether construction files were also maintained. Mr. Valdez responded that they could be found within the building files in record series 1.18.460.27, NMAC. Chairman Hordes entertained a motion for approval. Ms. Moll so moved. Mr. Shandler seconded the motion. The motion passed.

Ms. Jaramillo introduced Mr. Leo Lucero who presented the repeal and replacement for 1.18.690 NMAC, ERRDS for the Children Youth and Families Department (CFYD). Mr. Lucero provided a description of the CFYD functions. Chairman Hordes entertained a motion for approval. The motion to approve was made by Ms. Moll and seconded by Mr. Shandler. The motion passed.

Mr. Jaramillo stated Mr. Valdez would present the next item, an amendment to 1.18.505 NMAC ERRDS for the Cultural Affairs Department. Chairman Hordes entertained a motion for approval. The motion to approve was made by Ms. Moll and seconded by Ms. Salazar. The motion passed. Chairman Hordes commended Mr. Valdez and the Agency Analysis Bureau for all of the work done on updating the schedules. Ms. Jaramillo stated she also wished to recognize the internal review Committee consisting of Ms. Hazlett, Ms. Lucero, Ms. Arnaiz-DeLeon and Mr. Martinez. She stated that the committee does a thorough job of reviewing the schedules before they are presented to the Commission. Chairman Hordes thanked everyone.

Ms. Jaramillo informed the Commission that the Open Meetings Act required the Commission to determine annually what constituted "reasonable public notice." She stated that the Commission had adopted a rule on the Opening Meetings Act 1.13.1 NMAC and that the rule required the Commission to determine whether the provisions in the rule still constituted reasonable public notice. Mr. Shandler asked if there were any changes from the previous year's requirements.

Ms. Jaramillo indicated there were none. Mr. Shandler moved that the Commission approve the provisions for public notice in 1.13.1 NMAC. Ms. Moll seconded the motion. The motion passed.

Deed of Gifts Acceptance/Loan Agreement

Ms. Jaramillo introduced Ms. Arnaiz-DeLeon who presented the Commission for its approval a loan agreement between the Historic Santa Fe Foundation and the State Records Center and Archives for the Sylvia Loomis Papers. She stated that Ms. Loomis was involved in several Santa Fe civic organizations and served as secretary to Ms. Margretta S. Dietrich who was a trustee for the Laboratory of Anthropology and the School of American Research. Ms. Arnaiz-DeLeon also stated that the materials would complement the Margretta S. Dietrich Papers that are already in the custody of the agency. A 1903 yearbook from Bryn Mawr College was circulated among Commissioners as a sample of the type of materials in the collection.

Chairman Hordes asked the Commission if they had any questions. Mr. Shandler noted that lender's signature on page three was dated 2003. Ms. Arnaiz-DeLeon replied that when she received the signed loan agreements, she was under the impression that these boxes were only a partial shipment and had held the loan agreement waiting for the remaining boxes. She later learned that there were no other boxes. Chairman Hordes asked Mr. Shandler if there was a legal problem with a lender's signature that is dated two years prior to the agreement with this document or if a new signature page should be obtained. Mr. Arnaiz-DeLeon indicated that an updated signature would be obtained. Chairman Hordes entertained a motion for approval of the loan agreement. Mr. Shandler so moved and it was seconded by Ms. Moll. The motion passed.

Ms. Arnaiz-DeLeon then presented for approval the deed of gift for the Harry Wugalter Papers. Ms. Arnaiz-DeLeon informed the Commission that Mr. Harry Wugalter was instrumental in the development of 1970, an equalization funding formula for New Mexico public schools. A signed certificate of appreciation and photograph was circulated as samples of the types of materials in the collection. Chairman Hordes entertained a motion for acceptance of the deed of gift. Ms. Moll so moved and it was seconded by Mr. Shandler. The motion passed. Ms. Jaramillo added that the papers were a wonderful addition that complemented the Department of Education Collection.

OLD BUSINESS

Building Issues

Ms. Jaramillo informed the Commission that Mr. Bill Taylor, Director of the Property Control Division (PCD) of the General Services Department was unable to attend the meeting to provide the Commission with a report on outstanding building issues. Ms. Jaramillo stated that however, Mr. Taylor had provided her with an update. The first item, a drainage study for the West Complex conducted by Dandridge Corporation and Property Control was awaiting submittal of the final report. Property Control planned to increase the size of the retaining ponds along Camino Carlos Rey this spring. The second item was repair of the exterior south wall. She reported that Property Control had secured funding for repair of the wall and that M&E Engineering was incorporating this work into the project plan currently underway for the office renovation in the lower lobby. The PCD anticipated advertising bid quotes to repair the wall in three to four weeks. The third item, landscaping was on hold because there was no funding in

place. Property Control is trying to locate funding for this project. The fourth item, repair of the floor in mechanical room above Micrographics, was being addressed. Property Control was awaiting budget approval from the Department of Finance and Administration. Once the budget was approved the PCD would proceed. The fifth item, installation of coolers for the computer server room is on hold because PCD does not have funding for this project. Again, the PCD would try to secure funding. The sixth item, renovation of the office space for the State Historian was scheduled for bid in April. The contract for M&E Engineering to complete the drawings for the bid was delayed; therefore, Property Control could not make the April Board of Finance meeting and would have to wait until June. Deficiencies identified in the Fire Marshal's report submitted to Property Control in October, 2002 had been corrected. Chairman Hordes asked that a copy of the drainage study be provided to the Commission once Mr. Taylor made it available to Ms. Jaramillo.

Legislative Update

Ms. Jaramillo provided the Commission with a hard copy report on the 2005 Legislative session. She stated that House Bill 2, the General Appropriation Act of 2005 included the Legislative Finance Committee's recommendation and a general fund appropriation in the amount of \$22,400 in the personal services and employee benefits category for the purpose of reclassifying key positions pursuant to consultation with the State Personnel Office. Ms. Jaramillo stated that Senate Bill 190 included appropriations of \$10,000 for the New Mexico History scholars' program, \$40,000 for the New Mexico history web site and \$35,000 to continue the survey of State-owned property within former common lands of community land grants. She stated that the agency had also received capital outlay funds in the amount \$140,000 in part through the lobbying efforts of the Friends of History.

Ms. Jaramillo also provided a brief description of the Senate and House bills that the agency followed, including the status of Senate Bill 92, sponsored by Senator Michael Sanchez on behalf of the agency. She reported that Senate Bill 92 was passed by the Senate and the House and was awaiting action by Governor Bill Richardson. Ms. Jaramillo asked Mr. John Martinez Administrative Law Division Director, to provide a brief summary report on the bills introduced in both the House and the Senate pertaining to the promulgation and filing of rules by state agencies. Mr. Martinez reported that House Bill 869 enacted the Small Business Regulatory Relief Act and created the Small Business Regulatory Advisory Commission, which is to review rules and make recommendations to agencies, and requires certain rules to be provided to the Commission for review, and also mandates State agencies to review existing rules for their impact on small business. The bill further provides for periodic review of rules. The bill passed and was awaiting action by the Governor.

A related bill, House Bill 970, also enacted the Small Business Regulatory Relief Act and created an advisory committee. It also requires agencies to complete economic impact statements and regulatory flexibility analyses prior to adopting rules that would adversely impact small businesses, requires all state agencies to review existing rules for their impact on small business, and requires all agencies to review new rules every five years. The bill is also awaiting action by the Governor. The Chair then thanked Mr. Martinez for his report.

Ms. Jaramillo thanked Mr. Juan Rios and the Friends of History for their lobbying efforts on behalf of the Office of the State Historian and the agency. Chairman Hordes also expressed the Commission's appreciation to Mr. Rios and commended him for his dedication to the mission of

the agency. In return, Mr. Rios thanked the Commissioners. Ms. Salazar stated she would like to serve as an advocate for the agency; however, advocacy on behalf of the State Records Center and Archives was sometimes in conflict with her duties as Deputy for the Cultural Affairs Department. Chairman Hordes indicated this conflict was a built-in problem that the Commission has faced since 1959. Chairman Hordes directed Ms. Jaramillo to place the topic of how the Commission as constituted could better serve as an advocate on the agenda for discussion at the next Commission meeting.

DIRECTOR'S REPORT

Ms. Jaramillo referred Commissioners to her report provided in the Commission packets. She also reported that the Historical Records Advisory Board had received notification in January of a grant award from the National Historical Publication and Records Commission. The grant in the amount of \$19,799.00 is for the period of January 1, 2005 through December, 2006 and will support the activities of the Board and part of the Grant Administrator's salary.

Ms. Jaramillo also reported on the status of the Electronic Document Management System (EDMS) Project sponsored by the State Records Center and Archives (SRCA) in conjunction with the Taxation and Revenue Department and the Human Services Department. The goal of the project is to develop an EDMS model application, including uniform processes and techniques that can be applied throughout State government to manage the state's electronic records. The first phase of the project includes an assessment of the existing electronic records environment in state government. Optimos Inc. was contracted to conduct the assessment of twenty state agencies selected by the SRCA. A letter explaining the project was sent to Cabinet Secretaries and agency CIO's on February 7, 2005. The plan is to examine how agencies address issues such as electronic records storage, retention and business flow processes.

Ms. Jaramillo reported to the Commission that the agency intend to amend three rules. The first 1.13.2 NMAC, pertaining to fees, would be reviewed and amended to ensure that the fees stipulated are still in line with the actual costs plus five percent and to determine if any fees should be eliminated or others added. The agency also will propose several changes to fees affecting records management services. State agencies and political subdivisions that continue to store inactive records beyond the established retention period would be charged a fee. The exception would be those records that are involved in on-going litigation. The SRCA will also propose to provide political subdivisions storage space for microfilm at a set fee. Ms. Jaramillo reported that the microfilm vault is intended for use by State agencies; however, the agency is receiving requests for storage from local governments and universities. Additional fees will be proposed for on-demand microfilming services.

Ms. Jaramillo informed the Commission that 1.13.10 NMAC, Records Custody and Access, would also be repealed and replaced with a new rule to include new language defining the conditions for storage and imposition of the fees referenced in the fee schedule. Further, amendments to 1.13.20 NMAC, Storage of Electronic Media, will be proposed to ensure that it complies with current NMAC style and format requirements. Ms. Jaramillo stated that the agency would notice all three rules and hold a public hearing on the proposed changes sometime in late Spring.

Chairman Hordes thanked Ms. Jaramillo for her report and also thanked staff for their hard work.

SCHEDULING OF NEXT MEETING

Chairman Hordes scheduled the next Commission meeting for Tuesday, June 21, 2005 at 9:00am

ADJOURNMENT

Chairman Hordes entertained a motion for adjournment. Ms. Moll so moved. Ms. Salazar seconded the motion. The motion passed. The meeting was adjourned at 10:30 a.m.