

**MINUTES OF THE
STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING
June 15, 2010**

The State Commission of Public Records convened at 9:30 a.m. on Tuesday, June 15, 2010 at 1209 Camino Carlos Rey, Santa Fe, New Mexico 87507.

Members Present

Stanley Hordes, Ph.D.	Chair, Historian
Arturo Jaramillo	Cabinet Secretary, General Services Department
Deborah Moll	Designee for Arturo Jaramillo, Secretary, General Services Department
Patricia Herrera	Designee for Honorable Mary Herrera, Secretary of State
Robert Mead	State Law Librarian
Elaine Lujan	Representative for Honorable Gary King, State Attorney General

Members Absent

Frances Levine, Ph.D.	Director, Museum of New Mexico
Honorable Hector Balderas	State Auditor

Staff Present

Sandra Jaramillo	State Records Administrator
Judi Hazlett	Deputy State Records Administrator
Antoinette L. Solano	Administrative Assistant
John Martinez	Director, Administrative Law Division
Jackie Garcia	Records Management Analyst, RMD
Leo Lucero	Chief, Agency Analysis Bureau, RMD
Cliff Serrano	Records Management Analyst, RMD
Melissa Salazar	Director, Archives and Historical Services Division
Rick Hendricks, Ph.D.	State Historian
Tania Maestas	Assistant Attorney General

Guests Present

Andy L. Aguilar	Architectural Research Consultants, Inc. (ARC)
John P. Petronis	ARC
Roxanne Knight	Legislative Council Service
Gabrielle S. Sandoval	Department of Health
Nick Guillen	Public Regulation Commission

CALL TO ORDER

The Chair called the meeting to order at 9:30 a.m.

APPROVAL OF AGENDA

The Chair entertained a motion to approve the agenda. Ms. Deborah Moll so moved and Ms. Patricia Herrera seconded the motion. The motion carried. The agenda was approved.

APPROVAL OF MINUTES – March 16, 2010

The Chair entertained a motion for approval of the minutes. Ms. Moll so moved and Mr. Robert Mead seconded the motion. The motion carried. The minutes were approved.

INTRODUCTIONS

Ms. Sandra Jaramillo introduced Dr. Rick Hendricks the new State Historian to the Commission. The Chair welcomed Dr. Hendricks.

FEASIBILITY STUDY: Findings and Recommendations

Ms. Jaramillo noted that the first item on the agenda was the Feasibility Study report submitted by the Architectural Research Consultants, Inc. (ARC). Ms. Jaramillo indicated that the feasibility study was conducted under the auspices of the Property Control Division (PCD) and funded through support from the Legislative Council Service. The purpose of the study was to determine records storage requirements for the SRCA based on projected growth for records in all formats. She then introduced Mr. John Petronis and Mr. Andy Aguilar representing ARC and Ms. Roxanne Knight from the Legislative Council Service. Mr. Petronis and Mr. Aguilar addressed the Commission and summarized the goals of the study and its findings and recommendations.

Mr. Petronis indicated the goals of the study were to:

- project long-term records and archives growth by type (paper, electronic, microfilm), by agency and general location in the Santa Fe, Albuquerque and Las Cruces metropolitan areas
- identify space requirements to meet projected demand;
- identify capacity of existing facilities to meet existing-and projected demands; and
- identify alternatives and strategies to meet needs in the Santa Fe, Albuquerque and Las Cruces metropolitan areas.

Findings reported by Mr. Petronis included the existing storage capacity for records (measured in cubic feet) maintained in the Albuquerque Records Center (36,140 cf), the Santa Fe Records Center (77,312 cf), and the State Archives (27,667 cf). He stated that the existing SRCA facilities are at about 85 percent capacity and will be full in six to seven years. Space for another two years can be made available by transferring records from the records centers to the archives however; this will only accelerate filling of the archives vault.

Mr. Petronis indicated that an additional 5,300 gross square feet (gsf) are needed (3,400 for records storage and 1,900 for the archives vault) by the year 2020 to meet projected demand. Projected demand for storage is based on the historic trend analysis conducted by ARC.

Annual growth based on a 12-year period for the records centers is two percent and 6.9 percent for the archives.

Mr. Petronis reported that a number of factors influence demand for record storage. Factors that tend to decrease demand include agency's lack of understanding for records management, gradual adoption and implementation of electronic content management systems by state agencies, and insufficient resources to implement records management programs. Factors that may tend to increase demand include growth in state government and the provision of additional storage options available to state agencies - that is, if storage facilities were made available in the southern or southeastern regions of the state, demand for storage by agencies located in those regions would increase.

The projected demand for storage will likely be concentrated in the south, southeast and western regions of the state since facilities do not exist in these regions. Architectural Research Consultants, Inc reported that if the state constructs additional records centers, the cost in the southern region, for new construction without land would be \$1.21 million and for the southeastern region, \$2.1 million, without land. Any additional facility would also carry added operations costs for shelving and personnel to staff the records centers. Mr. Petronis also stated that no significant operational savings were found to offset capital expenditures for new facilities; his firm found no data for significant state agency leases tied directly to records storage costs in commercial storage units or facilities. He also noted that the cost of the existing Albuquerque lease is less than the cost to build a new facility.

The ARC summary of findings also asked the question, *Why provide funds for additional SRCA facilities?* The answers provided by ARC include: (1) additional storage capacity promotes public access to records; (2) the SRCA's ability to preserve important documents will increase; and (3) the liability risk to the state will decrease by allowing records to be stored in a secure and safe environment in which agencies can quickly retrieve records when responding to Inspection of Public Records Act requests and E-discovery.

Recommendations for addressing the need for additional records storage space included several options:

- increase training of state agencies so that only appropriate records are sent for storage;
- invest in an electronic records management systems; and
- serve state agencies as a priority and local governments as space permits.

The study identified both mid-term and long-term solutions as shown below.

Mid-term solutions:

- improve storage efficiency within existing facilities by investing in additional high capacity storage shelving; and
- lease additional space in Albuquerque;

Mid to long-term solutions:

- investigate creating an additional record storage space in Santa Fe;
- consider creating additional records centers in other parts of the state;

- investigate lease of existing facilities to test demand prior to constructing new facilities; and
- maintain one central archive in Santa Fe and expand the archives vault located at the Santa Fe facility.

Mr. Petronis thanked the Commission members for the opportunity to present their findings. The Chair thanked Mr. Petronis and asked the Commission if they had any questions.

Mr. Mead stated he wished to play devils advocate by asking if it was more cost effective to build a new facility or to digitize all state agency record holdings. Mr. Petronis stated that there were no findings to accommodate the digitizing of records. Ms. Jaramillo stated there could be cost savings to the state if records that are currently being created with a retention period of 15 years or less were stored in electronic format. However, it would be extremely costly to the state to retro-scan records that already exist in paper format.

She said that, with rapidly changing technologies, records held in electronic format must be converted or migrated as the operating systems and software used to create and maintain them change. The cost for maintaining records in electronic format include not only the storage medium and resources to back-up files for disaster recovery but also the resources to migrate or convert records as technology changes. Due to technological obsolescence, the SRCA requires all records created in PDF or TIFF format with a retention period of greater than 50 years be converted to microfilm.

Secretary Arturo Jaramillo stated that the Risk Management Division of General Services Department (GSD) had recently implemented an Enterprise Content Management System and that it was working very efficiently with the digitization of many of the older records. He recommended that the SRCA review the project. He asked Mr. Petronis if ARC had looked at the study done by the state to acquire land held by the College of Santa Fe as an option. Mr. Petronis stated that the study did look at land at the college, but further studies would have to take place in order to make a recommendation. Secretary Jaramillo also asked if the agency was willing to look at how space was being utilized at its Santa Fe facility. Ms. Jaramillo replied that the SRCA was currently working with the PCD to conduct such a study.

The Chair asked Mr. Petronis and Ms. Jaramillo if they were aware of any appropriate facilities that were available to lease in the south and southeastern regions of New Mexico. Ms. Jaramillo replied that she was not aware of any facilities. Mr. Petronis replied that ARC had not done an analysis of available lease space. Secretary Jaramillo stated that the PCD determined whether there were state buildings available in the regions; however, the dollar amounts required to modify the buildings in order to meet SRCA building and environmental control requirements would also have to be determined. He stated that before a decision could be made, the state would need to look at its available assets and determine whether it would make sense economically to renovate existing state buildings, lease new space or construct a new facility.

Mr. Mead asked if ARC had an estimate on the cost of shelving should the agency decide to move forward on the recommendation to improve storage efficiency within existing facilities by investing in additional storage shelving and leasing additional space in Albuquerque. Mr.

Petronis replied that he did not have the information with him. Ms. Jaramillo informed the Commission that the estimated cost for purchasing and installing additional shelving in Albuquerque was around \$400,000. The cost for leasing additional space in Albuquerque adjacent to the current facility would provide the agency with an additional 20,000 square feet and would increase the lease by \$5,000 each month. The total monthly rent with increased lease space would be \$11,500.

The Chair then asked Ms. Jaramillo if the funding became available for leasing additional space in Albuquerque how long she thought it would take to implement that solution. Ms. Jaramillo replied that if the funding were made available for leasing additional space in Albuquerque as well as for the purchase of high-density shelving, it would take two to three years before the solution could be implemented. The design, manufacturing and installation of the shelving could take as long as two years.

The Chair entertained a motion to ask the ARC group to recommend to the Capital Building Planning Commission (CBPC) that the feasibility study be included in the Master Plan for Albuquerque as well as in any strategic decisions that are made by the CBPC for the south and southeast regions. Mr. Mead so moved and Ms. Herrera seconded the motion. The motion passed unanimously, with no abstentions.

NOTE: Secretary Jaramillo had to leave; Ms. Deborah Moll remained as his designee for the remainder of the meeting.

ACTION ITEMS

A. Annual Reasonable Notice Review and Determination 1.13.1 NMAC

Ms. Jaramillo informed the Commission that the Open Meetings Act required the Commission to determine annually what constituted “reasonable public notice.” She indicated that the Commission adopted 1.13.1 NMAC to establish and provide public disclosure of the process and procedures for conducting the meetings of the Commission of Public Records. The Commission must determine whether notice requirements as outlined in 1.13.1.9 NMAC still constitute reasonable notice. The Chair entertained a motion to reaffirm the provisions for public notice. Ms. Moll so moved and Mr. Mead seconded the motion. The motion passed unanimously, with no abstentions.

B. Records Retention and Disposition Schedules

1.18.430 NMAC, Executive Records Retention and Disposition Schedule (ERRDS), Public Regulation Commission (PRC)

Ms. Jaramillo stated that the first schedule for the Commission's consideration was an amendment to 1.18.430 NMAC, *ERRDS, Public Regulation Commission*, which Ms. Jackie Garcia would present. Ms. Garcia informed the Commission that the amendment was made at the request of the PRC. The amendment added a new record series, *1.18.430.45 NMAC, Quarterly and Annual Financial Statements*, to the existing schedule. She introduced Mr. Nick Guillen representing the PRC. The Chair welcomed Mr. Guillen. The Chair entertained a motion to accept the amendment. Ms. Moll so moved and Ms. Herrera seconded the motion. The motion passed unanimously, with no abstentions.

1.18.665 NMAC, ERRDS, Department of Health

Ms. Jaramillo informed the Commission that Ms. Garcia would present the repeal and replacement of 1.18.665 NMAC, *ERRDS, Department of Health*. Ms. Garcia introduced Ms. Gabrielle Sandoval, legal counsel representing the Department of Health (DOH). The Chair welcomed Ms. Sandoval. Ms. Garcia stated that an amendment to the ERRDS, for the Department of Health was made at the request of the DOH. Upon her review of the schedule, it was determined that the schedule required format restructuring to provide the DOH with a more efficient tool. She noted that the replacement schedule included the addition of new record series: 1.18.665.101 NMAC, *Long-Term Care and Medical Care Licensed Only Facility File*; 1.18.665.103 NMAC, *Long-Term Care and Medical Care Certification File*; 1.18.665.104 NMAC, *Facility Electronic Licensing and Information Exchange System (FELIX)*; 1.18.665.1651 NMAC, *Children's Medical Services Client Case Files*; and 1.18.665.1652 NMAC, *Family, Infant, Toddler Early Intervention Client Case Files*. Ms. Garcia stated that she would be reviewing all of the records series identified in the schedule with DOH staff and that she would be amending the schedule quarterly if changes to retention or addition of new records series were warranted.

Ms. Maestas suggested that the acronym for the facility electronic licensing and information exchange system (FELIX) in 1.18.665.104 NMAC be included in the Abbreviations and Acronyms section of the schedule. The Chair entertained a motion for the repeal and replacement of 1.18.665 NMAC, *ERRDS, Department of Health*. Ms. Moll so moved, Ms. Herrera seconded the motion. The Chair asked if there was any discussion. Mr. Mead asked Ms. Sandoval, legal counsel for the DOH, if *Substantiated Complaint Surveys*, identified in *Subsection 4* of 1.18.665.101 NMAC, were discoverable items under litigation and, if yes, was the retention period of 10 years long enough to cover the statute of limitations. Ms. Sandoval replied that substantiated complaint files were discoverable and that ten years was a sufficient retention period. The Chair asked if there was further discussion, seeing none, the Chair called for a vote to approve the repeal and replacement of 1.18.665 NMAC. The motion passed unanimously, with no abstentions.

C. Acceptance of Deed of Gift

Ms. Jaramillo indicated that Ms. Melissa Salazar would present the deed of gift for the Dr. Jesse Green Research Collection. Ms. Salazar stated that the collection consisted of approximately six linear feet of materials related to Dr. Green's research on Franklin Hamilton Cushing. Mr. Cushing was a pioneer anthropologist who lived with and studied the Zuni Community for approximately five years in the late 1880's. Dr. Green is the author of two books: *Zuni Selected Writing of Franklin Hamilton Cushing* (University of Nebraska Press, 1979), and *The Correspondence and Journals of Frank Hamilton Cushing* (University of New Mexico Press, 1990). The collection consists of photocopies of materials gathered from archives and libraries around the United States. The Chair asked how the collection arrived in the possession of the Archives. Ms. Salazar replied that Dr. Green had contacted the Office of the State Historian and Ms. Jaramillo. Ms. Jaramillo indicated to Dr. Green that the agency was interested in the collection. Ms. Jaramillo recommended that the Commission accept the deed of gift.

The Chair entertained a motion for approval of the deed of gift. Mr. Mead so moved and Ms. Herrera seconded the motion. The motion passed unanimously, with no abstentions.

New Business

Administrative Procedures Task Force, John Martinez

Ms. Jaramillo introduced Mr. John Martinez, Director of the Administrative Law Division. Ms. Jaramillo stated that she had asked Mr. Martinez to brief the Commission on the work of the Administrative Procedures Task Force on which Mr. Martinez was serving. Mr. Martinez explained that Lieutenant Governor, Diane Denish had created the Task Force in an effort to review the current rulemaking and adjudicatory processes in the State of New Mexico; the administrative procedures in place in other states; and the proposed Model State Administrative Procedure Act (APA). The Task Force has seventeen members, including Senators Tim Keller and Clinton Harden and representatives from the office of the Lieutenant Governor, as well as the following state agencies; Regulation and Licensing Department, State Records Center and Archives, New Mexico Environment Department, Energy, Minerals and Natural Resources Department, Administrative Offices of the Courts, and Office of the Attorney General.

Mr. Martinez reported that the Task Force had met several times and that members had discussed a process for reviewing the proposed Model APA. The APA provides states with guidance for adopting procedures to promulgate administrative regulations and for adjudicating disputes before administrative bodies. He stated that the Task Force would first look at rulemaking process and then tackle adjudication. Mr. Martinez indicated he did not know whether the Task Force would be recommending changes to the State Rules Act that is administered by the State Records Administrator or propose a new rulemaking act. It is anticipated that the Task Force will have made recommendations for any new legislation or changes to existing laws by January 2011.

El Hilo de la Memoria Exhibit, New Mexico History Museum, Rick Hendricks

Ms. Jaramillo stated that the next item on the agenda related to *El Hilo de la Memoria* traveling exhibit, which the New Mexico History Museum is sponsoring. She indicated that Dr. Levine, Director of the Museum, asked if the SRCA was interested in participating in public programs in support of the exhibit. She stated that Dr. Rick Hendricks, State Historian, had been asked to coordinate the SRCA's participation in the programming. Dr. Hendricks explained that *El Hilo de la Memoria* exhibit consisted of one hundred and forty rare documents, illustrations and maps detailing Spain's early presence in North America. The documents span the period between Ponce de Leon's first contacts in Florida through New Mexico's incorporation as a U.S. Territory. The exhibit will be on display from October 17 through January 9, 2011 at the New Mexico History Museum.

The SRCA will participate by exhibiting documents in the custody of the SRCA, which complement *El Hilo* documents. The proposed date of the SRCA exhibit is October 31, 2010. He stated that he and Ms. Salazar, director of the Archives and Historical Services Division, would select the SRCA documents for exhibit. He will also be giving a lecture on the exhibit. The Chair thanked Dr. Hendricks for his presentation.

Director's Report

Ms. Jaramillo reported that the Director's Report included in the Commission's meeting packets contained a summary of vacant agency positions. She stated that the most recent vacancy came because of the transfer of Ms. Angela Lucero, Records Management Division Director, to the Motor Vehicle Division of the Taxation and Revenue Department. Ms. Jaramillo indicated that the agency planned to ask for an exception to fill the position before September 1, 2010.

She explained that the agency had received approval to fill the vacant IT database administrator position and that the position had been advertised through State Personnel. The anticipated hire date was August 7, 2010. She stated that the agency was in need of the IT support due to the number of IT projects and programs maintained by the agency. Among these projects is implementation of the new records center inventory application (TRIM/HP software), which will allow the agency to manage the location and retention of 90,000 boxes of records and over 150,000 microform records. She reiterated that the software is essential and its implementation target date is July 2010.

She stated that the PeDALS research project for digital preservation, the Archives online catalog system (HERITAGE) and the State Historian's Digital History website require IT support. Ms. Jaramillo concluded her report by asking if the Commission had any questions. Hearing none, the Chair thanked Ms. Jaramillo for her report.

SCHEDULING OF NEXT MEETING

The Chair asked the Commission members to check their calendars for agreement on the next Commission meeting date. He suggested Tuesday, August 24, 2010 at 9:30 am. He asked Ms. Jaramillo if this time and date were acceptable. She replied, yes, that it would give the agency more time to put together the FY 12 appropriation request for the Commission's review and approval. The Commissioners concurred, with the proposed date and the August meeting date was scheduled.

ADJOURNMENT

The Chair entertained a motion for adjournment. Mr. Mead so moved and Ms. Herrera seconded the motion. The meeting adjourned at 11:12 a.m.