

**MINUTES OF THE
STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING
APRIL 10, 2007**

The State Commission of Public Records convened at 9:00 a.m., Tuesday, April 10, 2007 at 1209 Camino Carlos Rey, Santa Fe, New Mexico.

MEMBERS PRESENT

Mr. Stanley Hordes, Ph.D., Chair
Mr. Arturo Jaramillo

Historian
Secretary, General Services
Department (GSD).

Ms. Deborah Moll

Designee for Mr. Arturo Jaramillo,
Secretary, GSD.

Mr. Robert Mead

Law Librarian, Supreme Court Law
Library

Ms. Patricia Herrera

Representing the Honorable Mary
Herrera, Secretary of State

The Honorable Gary King
Mr. Antonio Corrales

Attorney General
Representing the Honorable Hector
Balderas, State Auditor

MEMBERS ABSENT

Ms. Bergit Salazar

Representing the Director, Museum of
New Mexico, Cultural Affairs Department

STAFF PRESENT

Ms. Sandra Jaramillo
Ms. Judi Hazlett
Ms. Gail Packard
Mr. John Martinez

State Records Administrator
Deputy State Records Administrator
Administrative Secretary
Director, Administrative Law
Division

Ms. Angela Lucero
Ms. Daphne Arnaiz-DeLeon

Director, Records Management Division (RMD)
Director, Archives and Historical Services
Division

Mr. Leo Lucero
Mr. Joseph V. Valdez, II
Mr. Ruben Rivera
Ms. Jackie Garcia
Ms. Piper Cappuccio
Ms. Valerie Lucero
Mr. Estevan Rael-Galvez, Ph. D.

Agency Analysis Bureau Chief, RMD
Agency Analysis Analyst, RMD
Agency Analysis Analyst, RMD
Agency Analysis Analyst, RMD
Agency Analysis Analyst, RMD
Agency Analysis Analyst, RMD
State Historian

Mr. Alvin R. Garcia

Assistant Attorney General

GUESTS PRESENT

Mr. Robert Rivera

Certified Public Accountant

Mr. Larry Miller
Mr. Leo Barraza
Ms. Tyra Sandoval

Property Control Division, GSD
Los Alamos County Assessor
Taxation and Revenue Department/Property Tax
Division
Second Judicial District Courts

Ms. Rachel Saiz

I. CALL TO ORDER

Chairman Hordes called the meeting to order at 9:00 a.m. and welcomed the new office holders and designees. He voiced appreciation for their attendance and participation.

II. APPROVAL OF THE AGENDA

Chairman Hordes entertained a motion for the approval of the agenda but suggested an adjustment to the agenda under the action items to accommodate the representatives from the New Mexico District Court and the Los Alamos County Assessor's Office. Mr. Mead so moved. Ms. Herrera and Ms. Moll both seconded the motion. Chairman Hordes asked if there were any changes to or discussion of the agenda. The agenda was approved, and Chairman Hordes stated, *let the record show that the vote was unanimous in the affirmative and that there were no abstentions.*

III. APPROVAL OF THE MINUTES – DECEMBER 5, 2006

Chairman Hordes entertained a motion for the approval of the minutes of the meeting of December 5, 2006. Ms. Moll so moved. Mr. Mead seconded the motion. Chairman Hordes asked if there were any changes to or discussion of the minutes. There were none, and the motion to accept the minutes was approved. Chairman Hordes stated, *let the record show that the vote was unanimous in the affirmative and that there were no abstentions.*

IV. ACCEPTANCE OF THE AUDIT REPORT – FISCAL YEAR 2006

Ms. Jaramillo stated that the FY 2006 audit was submitted to the State Auditor by the established deadline of December 6, 2006. The audit was examined by the State Auditor and released on February 17, 2007. She stated that she was pleased to report that the FY 2006 audit was unqualified and then introduced Mr. Robert Rivera, CPA, to present the audit for the Commission's approval. Copies of the audit report were provided the members.

Mr. Rivera reported that it was important that the Commission hear directly from the auditor to emphasize what actually takes place. The auditor examines the financial statements and the results of operations such as revenue and expenditures. Auditors are required to adhere to certain standards; they will look at internal controls and established rules as well as compliance with certain legal and contractual provisions.

Mr. Rivera reported that the audit was unqualified and that there no findings.

Chairman Hordes thanked Mr. Rivera and commended the Administration on an excellent year and asked if there were any comments. He then entertained a motion to accept the FY 2006 Audit Report. Ms. Moll so moved. Mr. Mead seconded the motion. The Chair asked of there was any discussion; there was none. The motion to accept the audit for Fiscal Year 2006 was approved, and Chairman Hordes stated, *let the record show that the vote was unanimous in the affirmative and that there were no abstentions.*

Ms Jaramillo asked that, before the Commission proceeded to the next item, she have the opportunity to introduce Ms. Gail Packard, the Secretary for the Archives and Historical Services Division, who was filling in to take minutes and the two new management analysts, Ms. Piper Cappuccio and Ms. Valerie Lucero. Chairman Hordes welcomed them.

V. ACTION ITEMS

Records Retention and Disposition Schedules Amendments

1.17.230 NMAC - JRRDS, New Mexico District Courts

Ms. Jaramillo introduced Mr. Valdez to present the first item - an amendment to the Judicial Records Retention and Disposition Schedules (JRRDS) for the New Mexico District Courts. The proposed amendment to 1.17.230.213 NMAC was requested by staff of the Second and Eleventh Judicial Districts. The intent of the amendment was to capture program records for new pretrial services.

The last changes to the JRRDS for the New Mexico District Courts were filed on January 17, 2003. The amendment before the Commission, Mr. Valdez reported, was reviewed by staff from the Second and Eleventh District Courts and the State Records Center and Archives' Internal Review Committee.

Chairman Hordes asked for discussion or questions. Ms. Jaramillo asked the Commission to adopt the amendment. Mr. Mead so moved, and Ms. Herrera seconded the motion. The motion was approved. Chairman Hordes stated, *let the record show that the vote was unanimous in the affirmative and that there were no abstentions.*

1.19.2 NMAC - LGRRDS, Office of the County Assessor

Mr. Valdez also presented the next item, proposed amendments to the Local Government Records Retention and Disposition Schedules (LGRRDS) for the Office of the County Assessor. The amendments to Sections 7 and 103-127 of the existing schedule were requested by staff from a number of County Assessor Offices.

The last changes to the schedule for the Office of the County Assessor were filed on March 24, 2006. The current amendments were reviewed by the State Records Center and Archives' Internal Review Committee and the membership of the New Mexico Association of Counties' Assessor Affiliates, which unanimously voted in favor of similar amendments at its January 24, 2007 Winter Conference held in Santa Fe, NM.

Mr. Leo Barraza and Ms. Tyra Sandoval, representatives from the County Assessor Offices, were present for discussion and questions. Mr. Barraza brought a concern on the evaluation protest item to the Commission's attention, and Mr. Mead inquired about statutory regulations. Ms. Sandoval addressed this issue. Chairman Hordes concluded that the recommendations were for a longer retention period. Mr. Valdez concurred. Chairman Hordes entertained a motion for approval. Ms. Moll so moved, and Ms. Herrera seconded the motion. The schedule was approved and the motion passed. Chairman Hordes stated, *let the record show that the vote was unanimous in the affirmative and that there were no abstentions.*

1.18.521 NMAC - ERRDS, Energy, Minerals and Natural Resources Department

Ms. Jaramillo introduced Mr. Ruben Rivera to discuss the next item for the Commission's consideration. This was an amendment to the existing Executive Records Retention and Disposition Schedule for the Energy, Minerals and Natural Resources Department (EMNRD). The amendments to Sections 1.18.521.13 - 15, 26, 27, 33, 34, 43 - 45, 64, 65 and 72 - 76 were requested by the EMNRD.

The amendment was reviewed by the Department and its legal counsel as well as the State Record Center and Archives' Internal Review Committee.

Mr. Rivera handed out copies of further revisions to the amendments originally provided and the Commission and the reviewed each item. Chairman Hordes thanked Mr. Rivera and inquired if a representative from the agency was present. Ms. Jaramillo and Mr. Rivera indicated that no representative was in attendance.

Chairman Hordes entertained a motion to approve the changes, with the new revisions just provided by Mr. Rivera. Ms. Moll so moved, and Ms. Herrera seconded the motion. The Chair asked if there were any questions. Ms. Moll inquired about the difference between hard rock and soft rock mining. Ms. Jaramillo stated that the difference lay in what material was actually mined. Hearing no further questions, the Chair asked for a vote. The motion carried, and Chairman Hordes stated, *let the record show that the vote was unanimous in the affirmative and that there were no abstentions.*

VI. OLD BUSINESS

A. Drainage Repairs to West Capitol Complex

At this point, Ms. Jaramillo announced the arrival of Mr. Larry Miller, Property Control Division (PCD) Deputy Director. Chairman Hordes asked the members of the Commission if they could suspend the review of *Action Items* and move to *Old Business* so that Mr. Miller could report on drainage repairs in the complex.

The members concurred in his request, and Chairman Hordes welcomed Mr. Miller and noted appreciation for the PCD's work toward addressing continuing concerns with the West Capitol Complex. Mr. Miller stated that items regarding ground cover and re-grading had been completed. The other items on the work schedule, however, had just been approved. The delay was a direct result of State contract price agreement expiration dates. Mr. Miller stated the company now had been given notice to proceed and that mid-May was the target date for completion. Chairman Hordes asked if there were any questions regarding the report.

B. Building Security

Before returning to *Action Items* and while Mr. Miller was still present, Ms. Jaramillo asked to address security issues for the building, which was Item B under *Old Business*. She reported that there was an increase in vandalism during the months of January and February. The vandalism resulted in broken entrance doors in Administration (rocks were thrown through the Administration doors), graffiti in the restrooms and vending area, and damage to vending machines. Cultural Affairs Secretary Ashman, State Librarian Richard Ackroyd, GSD Secretary Jaramillo and Ms. Jaramillo met to discuss additional security. Secretary Jaramillo was able to

secure funds for a security guard to be on site daily from 2:30 pm instead of 5:00 pm. Since the security guard began the earlier schedule, there had been no additional incidents. She reported that she and the State Librarian had also been working with Mr. Bill Taylor, Director of Property Control, to undertake an assessment of building security issues and needed improvements.

Ms. Jaramillo commented that the SRCA and Cultural Affairs would be working on a proposal for funding for FY09 to upgrade security cameras and provide 24-hour security for the grounds. Chairman Hordes thanked Ms. Jaramillo and her staff for a prompt response to the vandalism and also thanked GSD Secretary Jaramillo for his prompt and effective response to these concerns as well as his continued support for long-term plans. Mr. Mead asked about the nature of security threats, and Mr. Miller stated it was time for a new risk assessment to be taken in order to understand the current issues.

At this point, Chairman Hordes welcomed the Honorable Gary King, Attorney General, who had joined the meeting, and the Commission returned to the consideration of *Action Items*.

V. ACTION ITEMS (continued)

Records Retention and Disposition Schedules (continued)

Amendments (continued)

1.18.550 NMAC - ERRDS, Office of the State Engineer

Ms Jaramillo stated that the next item was an amendment to the existing schedule for the Office of the State Engineer. The amendments to Sections 11-54 of 1.18.550 NMAC were requested by staff from the Office of the State Engineer; the purpose of the amendments is to compile all of the forms in the Water File into one record series. The last changes to schedule for the Office of the State Engineer were filed on November 15, 2000.

Ms. Jaramillo introduced Mr. Leo Lucero to discuss the amendment and answer questions. Mr. Lucero stated the amendments were reviewed by the State Records Center and Archives' Internal Review Committee and staff and legal counsel from the Office of the State Engineer. Chairman Hordes asked for a motion for approval. Mr. Mead so moved, and Ms. Herrera seconded the motion. Chairman Hordes inquired about the volume of material being brought in the Archives. Ms. Jaramillo and Ms. Arnaiz-DeLeon confirmed that about 1400 boxes had been transferred. The motion for approval of the amendments passed and Chairman Hordes stated, *let the record show that the vote was unanimous in the affirmative and that no abstentions*.

1.18.667 NMAC - ERRDS, New Mexico Environment Department

Ms. Jaramillo introduced Ms. Jackie Garcia to present the amendments to the existing ERRDS for the Environment Department. Ms. Garcia reported that the proposed amendments affect record series held by the Department's Ground Water and Air Quality Divisions. The record series involving waste water-discharge permit files, site investigation and clean up files, abatement files, the air monitoring database and tools for the environmental management organization system are new series added to the schedule. The records series involving superfund cost recovery grant files, superfund technical and research files, laboratory data files, air quality enforcement files, asbestos enforcement files and air quality permit files were amended to define the record series more precisely and to change the retentions of these records. Other record series including superfund

oversight section database, research files, ad hoc reports, landfill inspection files, air permit cards, air quality enforcement card files, air monitor strip charts, air quality enforcement database and air database were repealed.

Ms. Garcia stated that the additions, modifications and deletions made to the schedule were reviewed by Environment Department staff and legal counsel and the State Records Center and Archives' Internal Review Committee. They were also approved by the cabinet Secretary.

Chairman Hordes entertained a motion for acceptance of the changes. Mr. Mead so moved, and Ms. Herrera seconded the motion. Chairman Hordes asked for discussion, and Mr. Mead had a concern about administrative case files and retention on Page 3. Ms. Garcia clarified the issue by discussing the renumbering of the record series and surveys she conducted and noted that the retention was required because of the sensitivity of pollution records. Ms. Moll asked about review of records transferred to Archives, and Chairman Hordes replied that he had full confidence of the Archives' staff and depended on their knowledge of these records. The motion to approve passed, and Chairman Hordes stated, *let the record show that the vote was unanimous in the affirmative and that there were no abstentions.*

Repeals and Replacements

1.18.790 NMAC- ERRDS, Department of Public Safety

Ms. Garcia also presented the next items - the repeal of the existing 1.18.790 NMAC, the ERRDS for the Department of Public Safety (DPS) and its replacement with a new existing schedule. The replacement schedule was developed to comply with the State Records Center and Archives strategic plan to have records retention and disposition schedules current within a five year period.

Ms. Jaramillo explained that legal counsel for DPS did review the schedule but did not sign off on it due to concerns over retention; she also summarized the visits to the Department made by Ms. Garcia, which began a year ago. She explained that the preparation of the schedule had been extended and difficult, and that SRCA staff had met with Department representatives repeatedly. Ms. Jaramillo turned the presentation over to Ms. Garcia.

Ms. Garcia stated that the schedule was reviewed by DPS staff and legal counsel and the State Records Center and Archives' Internal Review Committee. Representatives from the DPS were invited to the meeting, but no one was in attendance. In affirming Ms. Jaramillo's comments, Ms. Garcia discussed the amount of time spent in reviewing each record series with the Department and stated that she did not understand the reluctance of the DPS to sign off on the changes.

Chairman Hordes entertained a motion to approve the repeal and replacement. Ms. Moll so moved, and Ms. Herrera seconded the motion. Chairman Hordes open the floor for discussion. There were questions from Mr. Mead, Mr. Alvin Garcia and Ms. Moll concerning staff involvement and time. Ms. Jaramillo stated that the DPS has poor record keeping practices. Among the problems are ones that involve an electronic system which differs in dates from the actual file folders. There are also many duplicate records. Ms. Jaramillo reported that it is usual for the SRCA to make recommendations and suggestions to improve record keeping and filing systems after an agency analysis but the SRCA cannot force an agency to implement the recommendations. The motion passed to approve the repeal of the existing schedule and it

replacement with the new schedule passed, and Chairman Hordes stated, *let the record show that the vote was unanimous in the affirmative and that there were no abstentions.*

VI. OLD BUSINESS (continued)

C. 1.13.4. NMAC, *Records Management Requirements for Electronic Messaging.*

Ms. Jaramillo reported on the e-mail rule presented at the last Commission meeting. She noted that a second draft, reflecting consideration of public comments, was included in the Commission packet, along with a one page summary of what the rule is supposed to do. Ms. Jaramillo stated that she was working with the OCIO's office and there would be a third draft. Other agencies have been contacted in response to concerns about the type of *Outlook* application they were using, which may influence how records are managed. Ms. Jaramillo concluded by commenting that the SRCA hoped to have a final rule ready by June 2007.

D. 2007 LEGISLATIVE REPORT

Ms. Jaramillo pointed out that included in the Commission packet was a summary of appropriations. She explained that the agency did not receive funding for the Web-based training or for the centralized electronic repository but that special appropriations were received for preparation of title abstracts of community land grants, a project begun several years ago, and for continuing the New Mexico history scholars' program and implementing a New Mexico history student internship program.

Ms. Jaramillo reported on the several bills introduced regarding rule making, and she commended Mr. Martinez for doing an excellent job in attending committee meetings and providing legislators with the information to make decisions on particular bills.

Ms. Jaramillo handed out information summarizing Senate Bill 201, the Real Property Electronic Recording Act. This Act allows County Clerks to accept electronic filings on real property. Ms. Jaramillo discussed the complexity of the issues involved in such a process and noted that it was critical that standards be in place first. She reported that the State CIO had been contacted about working with the SRCA in developing the standards.

Ms. Jaramillo also reported on other bills that could impact the SRCA, including those creating new agencies, among them the Information and Technology Department. The SRCA will have to examine all the retention schedules for agencies being reorganized, look at the records stored, review rules to determine changes needed with respect to rule-making authority, and work closely with the affected agencies. Ms. Jaramillo concluded that FY08 would be a very busy year.

VII. EXECUTIVE SESSION

Chairman Hordes entertained a motion to go into the executive session to discuss limited personnel matters pursuant to Paragraph (2) of Subsection H of the Open Meeting Act.

Ms. Moll so moved and Mr. Mead seconded the motion. Ms. Packard took a roll call vote: Commissioners King, Mead and Jaramillo and representatives Herrera and Corrales voted to convene in executive session. The Commission went into executive session at 10:20 a.m. and came out of executive session at 10:55 a.m. Chairman Hordes reaffirmed that only those matters for which the Commission went into closed session were discussed during the closed session.

Chairman Hordes entertained a motion to continue the open session. It was so moved by the Commissioner King and seconded by Ms. Herrera. The motion passed.

VIII. DIRECTOR'S REPORT

Ms. Jaramillo indicated that a copy of her report was included in each Commissioner's packet. She then talked about the agency deficit in salary and benefits at the beginning of FY07, the History Day Competition, the official proclamation declaring April as Records and Information Management Month throughout New Mexico, and the upcoming Electronic Records Workshop hosted by the Records Management Division of the SRCA. She also noted the list delineating records destruction that took place from July 1, 2006 to March 9, 2007 and the FY07 second quarter key performance measure report.

Ms. Jaramillo announced that staff will be presenting at the National Council on Public History at the Annual 2007 Meeting being held here in Santa Fe, April 12-15, 2007

IX. SCHEDULING OF NEXT MEETING.

Chairman Hordes scheduled the next Commission meeting for Tuesday, June 19, 2007 at 9:00 a.m. at the State Records Center and Archives facility in Santa Fe, New Mexico.

X. ADJOURNMENT

Chairman Hordes entertained a motion for adjournment. Commissioner King so moved and Secretary. Jaramillo seconded the motion. The motion passed unanimously, with no abstentions. The meeting was adjourned at 11:03 a.m.