

**MINUTES OF THE
STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING
April 8, 2008**

The State Commission of Public Records convened at 9:20 a.m. on Tuesday April 8, 2008 at 1209 Camino Carlos Rey, Santa Fe New Mexico.

Members Present

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| Stan Hordes, Ph D, Chair | Historian |
| Mr. Evan Blackstone | Representing the Honorable Hector Balderas, State Auditor |
| Mr. Robert. Mead | State Law Librarian |
| Ms. Deborah Moll | Designee for Arturo Jaramillo, Secretary, General Services Department (GSD) |
| Mr. Zachary Shandler | Representing the Honorable Gary King, Attorney General |

Members Absent

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| Honorable Mary Herrera | Secretary of State |
| Dr. Frances Levine | Director Museum of New Mexico |

Staff Present

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| Ms. Sandra Jaramillo | State Records Administrator |
| Ms. Antoinette L. Solano | Administrative Assistant |
| Ms. Judi Ross Hazlett | Deputy State Records Administrator |
| Mr. John Martinez | Director, Administrative Law Division |
| Ms. Angela Lucero | Director Records Management Division, RMD |
| Ms. Lori LeRouge | IT Generalist |
| Ms. Marlene Salvidrez | Administrative Law Division, Analyst |
| Dr. Estevan Rael-Galvez | State Historian |
| Mr. Joseph Valdez | Records Management Analyst |

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| Mr. Stephen Vigil | Assistant Attorney General, Legal Counsel |
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Guest Present

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| Mr Robert J. Rivera, CPA | Robert J. Rivera, CPA, PC |
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I. CALL TO ORDER:

Chairman Hordes called the meeting to order at 9:20 a.m. The Chair welcomed Mr. Stephen Vigil the newly assigned legal counsel to the Commission of Public Records from the Attorney General's Office. Dr. Hordes stated the Commission looked forward to working with him. The Chair also welcomed Mr. Zachary Shandler who in the past has represented the Attorney General on the Commission. Mr. Vigil advised that a roll call of the Commission be taken to

establish quorum. Ms. Antoinette L. Solano administered the roll call. Dr. Hordes, present, Mr. Mead, present, Ms. Deborah Moll, present, Mr. Zachary Shandler, present. Roll call established that four Commissioners were present; therefore the Commission had a quorum. Chairman Hordes called the meeting to order at 9:20 am.

II. APPROVAL OF AGENDA:

Chairman Hordes called for the approval of the agenda. Mr. Shandler moved to approve the agenda. The motion was seconded by Mr. Mead and the agenda was approved unanimously.

III. APPROVAL OF MINUTES:

The Chair entertained a motion for the approval of the minutes of the meeting of December 4, 2007 with the following correction on page 2 the letter "q" on Mr. Rodriguez's name be changed to "g." Mr. Shandler moved to approve the minutes as corrected. Mr. Mead seconded the motion, the minutes as corrected were approved unanimously.

IV. ACCEPTANCE OF THE FY 07 AUDIT REPORT:

Ms. Jaramillo informed the Commission that the FY 07 Financial Audit report had been submitted to the State Auditor by the established deadline and that the audit was released on March 20, 2008. She stated that she was pleased to report that the FY 2007 audit was unqualified and then introduced Mr. Robert Rivera, CPA who presented the audit report to the Commission for their approval. Copies of the audit report were provided to the Commission and Mr. Rivera went over the report in detail. He stated the report outlined all the financial revenue and expenditures for the Commission of Public Records as of and for the year ended June 30, 2007. He indicated the audit was conducted in accordance with auditing standards contained in the *Government Auditing Standards*. Mr. Rivera reported that the State as a whole had trouble with the financial reporting controls in the new *Statewide Human Resource, Accounting, and Management Reporting System* (SHARE). The SHARE affected the agency's ability to initiate, authorize, record, report and process financial data reliably in accordance with accepted accounting principles. He advised that state auditing standards require that an agency be able to rely on the financial system they use and that problems be corrected in a timely manner. Because the agency failed to run a parallel accounting system as a back-up system to ensure the availability of timely and reliable accounting information the audit report included the State's accounting system SHARE as a Finding. Ms. Jaramillo stated the agency concurred with the finding however the agency lacked the necessary resources to run a parallel system. The Chair stated it was unfortunate that the audit finding against the agency was a result of SHARE. He then asked for a motion to accept the FY 07 audit report, Mr. Mead so moved, Mr. Shandler seconded, the motion passed unanimously.

Mr. Vigil asked that the record show the Chair had acknowledged the arrival of Mr. Evan Blackstone the representative for the Honorable Hector Balderas. The Chair welcomed Mr. Blackstone.

V. ACTION ITEMS

Ms. Jaramillo stated that before proceeding to the next order of business she wished to bring to the Commission's attention that Mr. Joseph Valdez, Senior Records Management Analyst had announced his retirement from government effective May 30, 2008 after 25 years of service to the State. The Chair commended Mr. Valdez for his excellent service to the State and to the Commission of Public Records.

A. Records Retention and Disposition Schedules:

Amendment to 1.18.446, NMAC, Executive Records Retention and Disposition Schedule (ERRDS), New Mexico Medical Board

Ms Jaramillo stated that the first action item for the Commission's consideration was an amendment to *1.18.446, NMAC, ERRDS, New Mexico Medical Board* which was being presented by Mr. Joseph Valdez. Mr. Valdez indicated that the name of the agency had changed from the Board of Medical Examiners to New Mexico Medical Board and that the agency had requested changes to several records series in particular the retention period for complaint files (1.18.446.104) be extended from 5 years to 10 years due to possible malpractice suits. Mr. Shandler and Ms. Moll both expressed their concern regarding confidentiality issues and how the Commission should address confidentiality within a records retention and disposition schedule. Ms. Moll suggested that a general clause regarding confidentiality be included in the description of records series that contained confidential records. Ms Jaramillo agreed to do so.

The Chair asked Mr. Vigil as Legal Counsel for the Commission of Public Records what he considered a substantial amount of time for malpractice issues to be resolved. Mr. Vigil replied he could take the matter under advisement and let the Commission know his findings. At this time however he could not advise. Members of the Commission stated they would like to have staff from the Medical Board staff in attendance to discuss the matter before they took action. Ms. Jaramillo asked that the amendment be tabled. The Chair asked for a motion to table the amendment to 1.18.446 NMAC. Ms. Moll so moved, Mr. Mead seconded. The motion carried.

Amendment to 1.18.665, NMAC, ERRD, Dept of Health.

Ms. Jaramillo advised that the next schedule for consideration was an amendment to *1.18.665, NMAC, ERRDS Dept of Health*. Ms. Jaramillo informed the Commission the amendment was necessary to correct descriptions of Sections 2358, 2359, 2360 and the retention period for Section 2361 from five years to ten years. The Chair entertained a motion for approval. Ms. Moll so moved, Mr. Shandler seconded. The motion passed unanimously.

Amendment to 1.19.3 NMAC, Local Government Records Retention and Disposition Schedule (LGRRDS) Office of the County Clerk.

The next item for the Commission's consideration was an amendment to *1.19.3 NMAC, LGRRDS Office of the County Clerk*. Ms. Jaramillo reported that reasons for the amendment included legislation passed during the 2008 Legislative Session, Senate Bill 80 which had been signed into Law by Governor Richardson. Senate Bill 80 made provisions for conforming state election records retention practices with Federal law. Mr. Valdez presented the amendment. The Chairman asked for a motion to approve. Mr. Mead so moved, Ms. Moll seconded. The motion passed unanimously.

Repeal and Replacement to 1.18.770, NMAC, ERRDS, Corrections Department

Ms Jaramillo stated Mr. Valdez would also present the repeal and replacement for *1.18.770, NMAC, ERRDS, Corrections Department*. Mr. Valdez advised the Commission that he had worked closely with the staff of the Corrections Department on the schedule for over a year. Mr. Shandler asked which facilities were covered by the schedule. Mr. Valdez replied the schedule covered all facilities statewide for the Corrections Department.

Mr. Shandler stated he was not familiar with records created by Correction facilities and asked how retention periods had been determined. Ms Jaramillo replied that records management analysts review an agency's enabling legislation, state statues, administrative law, as well as federal regulations before surveying, describing and determining the retention period for records created by an agency. The SRCA also appraises the legal, administrative, financial, and historical value of each record series. Based on the appraisal, the SRCA establishes the retention period in consultation with the agency. Mr. Shandler stated that he wanted to make sure the Commission adopted retention schedules that adequately described public records. Ms. Moll and Mr. Mead both expressed their concern regarding the short retention period for many of the records series and felt that the Correction Department should keep their files for a longer period of time.

The Chair asked the Commission if they wished to consider amending the records series to increase the retention periods or to table the repeal and replacement. Mr. Shandler stated that the Commission should provide the Corrections Department with the opportunity to respond to the Commissions concerns before amending the schedule. The Chair asked for a motion to table the repeal of *1.18.770, NMAC ERRDS Corrections Department*. Mr. Shandler so moved, Mr. Mead seconded, the motion passed. Ms. Jaramillo stated that she would ask the Department of Corrections to attend the next Commission meeting. The Chair instructed the Commission to review the retention schedule and come back with their questions at that time.

Repeal of 1.18.969 NMAC, ERRDS University of New Mexico (UNM) Hospital

Ms. Jaramillo stated the next item for the Commission's consideration was the repeal of *1.18.969 NMAC, ERRDS UNM Hospital*. She informed the Commission the schedule was being repealed because all the records described in 1.18.969 NMAC were covered under the General Medical Schedule (1.15.8 NMAC). Ms. Jaramillo stated Legal Counsel for UNM Hospital had agreed to repeal the schedule. The Chair asked for a motion to repeal 1.18.969 NMAC, Mr. Shandler so moved, Mr. Blackstone seconded, motion passed unanimously.

B. Acceptance of Deed of Gifts

Ms. Jaramillo stated that the next item on the agenda was the presentation of the Deed of Gifts for the Commission's approval by Ms. Melissa Salazar. Ms. Salazar indicated there were five (5) deeds of gifts for the Commission's consideration and approval. The first was the Madge Buckley Collection, which includes three (3) mechanical drawings and a map of the City of Santa Fe. Ms. Moll moved to accept the collection, Mr. Mead seconded the motion. The motion passed unanimously.

The second deed of gift was the Dale and Dee Barber Santa Fe Community Theater Collection. The collection consists of 0.5 linear feet of documents and ephemera relating to the Santa Fe Community Theater for the period 1960 through 1990. Ms. Moll moved for approval of the donation. Mr. Mead seconded the motion. The motion passed unanimously.

The third deed of gift presented was the Henrietta Christmas Collection. Ms. Salazar indicated the collection consisted of 1.5 linear feet of genealogical research related to Pojoaque valley and La Cienega. Mr. Mead moved to accept the collection, Mr. Blackstone seconded, the motion passed unanimously.

The fourth deed of gift was the Albert Gallegos Collection of Santa Fe Cuatro Centenario Commission activities. Ms. Salazar stated this was a video-tape collection documenting the 1998 400th centennial of Don Juan De Oñate's settlement of a Spanish Colony in New Mexico in 1598. The Chair asked if the agency had machines on which to view the VHS tapes, and whether the agency has the capability of transferring the VHS tapes to DVD. Ms. Salazar stated that the agency had both a tape player and the capability of transferring VHS tapes to a digital format. Ms. Moll moved to accept the collection and Mr. Shandler seconded the motion. The motion passed unanimously.

The fifth deed of gift for the Commission's consideration was the New Mexico Women's Forum Collection. Ms. Salazar indicated the collection consisted of oral history interviews with Ms. Mary Lou Cook, and Mary Lynn Butkey on tape and DVD. Mr. Blackstone moved to accept the collection and Mr. Mead seconded the motion. The motion passed unanimously.

C. Acceptance of Loan agreements

Ms. Salazar reported the La Acequía del Caño Association had requested their record books be placed on loan with the New Mexico State Record Center and Archives for a period of five years. The Chair asked why the Association had requested they be placed on loan and not donated as a gift. Ms. Salazar stated that at this time the Association was not comfortable with turning over legal custody of the records. However, they realized the books were better stored in the SRCA controlled vault environment. The Chair stated at some point in time he would like to see these books as a permanent collection. Ms. Moll moved to accept the loan agreement and Mr. Mead seconded the motion. The motion passed unanimously.

The next loan agreement was the Manuelita Romero Family Papers which contains land sale documents dating back to 1860 for the Pojoaque Valley. Mr. Mead moved to accept the loan agreement and Mr. Blackstone seconded the motion. The motion passed unanimously.

VI. NEW BUSINESS

Ms. Jaramillo stated that Ms. Salazar would be demonstrating the agency's new archival management software implemented in the fall of 2007 which includes a new on-line catalog system. The online catalog provides the public with information on collections in the custody of the SRCA. Ms. Jaramillo indicated the project was funded through appropriations from the Computer Enhancement funds in FY07 with reauthorization for use in FY08. She stated Ms. Salazar was the project manager and had successfully overseen the migration of data from the old system to the new ensuring a successful implementation of the software. Ms. Salazar demonstrated how HERITAGE (the online catalog) could be accessed through the State Record Center and Archives Website after the Commission's discussion of the Uniform Real Property Electronic Recording Act..

VII. OLD BUSINESS

A. Uniform Real Property Electronic Recording Act

Ms. Jaramillo reported that the Real Property Electronic Working Group had been formed in August of 2007 by Chairman Hordes and Secretary Soto from the Department of Information Technology (DoIT) for the purpose of providing recommendations to the Commission and to the DoIT on proposed standards to implement the Uniform Real Property Recording Act. The act allows county clerk's to accept electronic filings as a real property records based on standards promulgated by the Commission of Public Records and the DoIT. The standards recommended for adoption by the Commission and DoIT are based on recognized national standards promulgated by PRIA (Property Records Industry Association) and best practices. Ms. Jaramillo indicated the recommendation had also been presented to Secretary Soto and the Information Technology Commission. If accepted for promulgation Ms. Jaramillo stated the rule would be sent out for

comment to all the County Clerk's as well as Banking and Mortgage Companies prior to the Public Hearing scheduled for June 3, 2008.

The Chair acknowledged the working group for their work. Mr. Shandler had a question on Section 1.11.2.14 pertaining to electronic signatures. He stated that to his knowledge the Secretary of State had not promulgated a rule on electronic signatures. Mr. Martinez (Administrative Law Division Director and Chair of the working group) stated that the Office of the Secretary of State was preparing to promulgate such a rule in the near future. The Chair asked for a motion to accept the recommendation of the working group. Ms. Moll made the motion to accept the recommendation and Mr. Shandler seconded. The motion passed unanimously.

B. Drainage Issues

Ms. Jaramillo reported that for the most part the issues regarding drainage identified in Property Control's, survey of the West Capital Complex in 2006 had been resolved. However another issue not previously identified in the survey had emerged in February. The drainage issue is the result of water seeping in underneath the foundation of the Records Center north wall. Water draining off the roof saturates the earth surrounding the north side of the building which is higher than the floor inside. The earth should be 6" below the floor level. Property Control intends to remove dirt from the outside of the building and then slope it so that the water drains away from the building. The Chair stated he had concerns about water drainage on the lower lobby entrance area which freezes during the winter months and creates hazardous walking conditions. He understood that curb cuts had been made to the patio hoping to alleviate the problem, however it did not help because the water continues to freeze. The Chair stated the Commission needed to revisit this issue with Property Control to see what needs to be done to correct the problem.

C. Building Fire and Security Report

Ms. Jaramillo reported that final fire and security assessment reports had been issued by Property Control in February, however due to security information in the reports the reports were not being made public. Problems identified in the reports were being addressed by Property Control, the State Library and the SRCA. In summary the building has full automatic fire detection and alarm systems and a couple of recommendations were made to ensure reliability.

D. 2008 Legislative Report

Ms. Jaramillo reported that the SRCA had fared well in the agency's FY 09 appropriation request. An extension of the ½ time position for the administrative assistant in the Office of the State Historian was approved to full time. The agency also received a special appropriations in the amount of \$30,000 for the State Historians Regional Historian Initiative and \$27,000 dollars for the land grants digitization History Project which will allow the agency to digitize original land grants in the custody of the SRCA. The agency did not receive funding

(\$50,000) requested to conduct a feasibility study to determine the facility needs for the Albuquerque Records Center. The agency however did receive funding for implementation of the first phase of Centralized Electronic Records Repository. Legislation regarding regulatory reform failed to pass, however Senate bill Memorial 53 passed which authorizes the creation of an interim regulatory process study committee and named the Legislative Council Service and the Director of the Administrative Law Division as staff for the committee.

VIII. DIRECTORS REPORT

Ms. Jaramillo advised that the State Historian, Dr. Estevan Rael-Galvez had provided each Commissioner with a New Mexico Commemorative Quarter. Dr. Rael-Galvez stated he had served on the Coin Commission and that he had attended the Inauguration Ceremony releasing the coin the previous day. He also intends to attend another ceremony in Denver at the site of the Denver Mint. The Commission thanked Dr. Rael-Galvez for the coin and praised him for his work on the Coin Commission.

Ms. Jaramillo referred the Commission to two announcements in their packets which included the Electronic Workshop sponsored by the SRCA on April 24 and 25 and an ARMA presentation featuring former State Historian Robert Torrez lecturing on April 17, 2008 on the *Myth of the Hanging Tree*. Ms. Jaramillo referred the Commission to the Directors Report in their packets which included a list of fellowships awarded by the Office of the State Historian, personnel changes, record destruction report and performance measures reported through the second quarter. Ms. Jaramillo also reported that Mr. John Martinez Administrative Law Division Director who serves as the Chair for the SRCA Disaster Preparedness Committee had been asked by the New Mexico Judicial Training Center to conduct Disaster Preparedness and Vital Records training for the District Courts. She also stated that Mr. Martinez had been asked to participate in two National Initiatives pertaining to Vital Records and Disaster Preparedness training.

IX. SCHEDULING OF NEXT MEETING

The next meeting of the New Mexico Commission of Public records was scheduled for June 17, 2008 at 9:00a.m. (Later changed to June 19 at 9:00am)

X. AJOURNMENT

Chairman Hordes entertained a motion for adjournment. Mr. Mead so moved and Ms. Moll seconded the motion. The meeting was adjourned at 11:50 a.m.