

**MINUTES OF THE
STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING
August 18, 2009
9:30 a.m.**

The State Commission of Public Records convened at 9:30 a.m. on Tuesday August 18, 2009 at 1209 Camino Carlos Rey, Santa Fe, New Mexico 87505.

Members Present

Deborah Moll	Vice-chair and Acting chair, designee for Arturo Jaramillo, Secretary, General Services Department
Tenanco Borrego	Representative for the Honorable Hector Balderas, State Auditor
Robert Mead	State Law Librarian
Elaine Lujan	Representative for the Honorable Gary King, State Attorney General
Mary Herrera	Secretary Of State
Frances Levine, Ph D.	Director, Museum of New Mexico

Staff Present

Sandra Jaramillo	State Records Administrator
Judi Hazlett	Deputy State Records Administrator
Antoinette L. Solano	Administrative Assistant
John Martinez	Director, Administrative Law Division (ALD)
Angela Lucero	Director, Records Management Division (RMD)
Jackie Garcia	Records Management Analyst, Agency Analysis Bureau, RMD
Leo Lucero	Chief, Agency Analysis Bureau, RMD
Ruben Rivera	Fiscal Officer
Scott Sheldon	Procurement Specialist

Members Absent

Stanley Hordes, Ph.D.	Chair, Historian
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Guests Present

Cathleen Catanach	Corrections Department
Toby Rosenblatt	Department of Health
Ellie Ortiz	Legislative Finance Committee

CALL TO ORDER

Acting Chair Moll called the meeting to order at 9:30 a.m. Acting Chair Moll advised that she would be presiding over the Commission of Public Records meeting in the absence of, Chair, Dr. Stanley Hordes. Acting Chair Moll requested that a roll call be taken, so the audience would know who was sitting on the Commission. Ms. Sandra Jaramillo administered the roll call. Ms. Moll, Mr. Robert Mead, Honorable Mary Herrera, Dr. Frances Levine, and Mr. Tenanco Borrego were recorded as present. The roll call confirmed the Commission had a quorum.

APPROVAL OF AGENDA

Acting Chair Moll entertained a motion to approve the agenda for the August 18, 2009 Commission meeting. Ms. Herrera so moved, Mr. Mead seconded the motion and the motion carried. The agenda was approved.

Mr. Vigil called for a point of order to establish approval of the agenda. Acting Chair Moll entertained a second motion to approve the agenda. Ms. Herrera so moved and Mr. Mead seconded the motion and the motion carried.

APPROVAL OF MINUTES – March 31, 2009

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

ACTION ITEMS

A. Records and Retention and Disposition Schedules

1.18.665 NMAC, Executive Records Retention Schedule (ERRDS), Department of Health

Ms. Jaramillo stated the first item for the Commission's consideration was an amendment to *1.18.665 NMAC ERRDS, Department of Health*. She introduced Ms. Jackie Garcia to present the amendment. Ms. Garcia informed the Commission that the amendment added a new record series, 1.18.665.638 NMAC, Child Fatality Review Files, which was not included in the current schedule. She also stated that the amendment was prepared at the request of the Department of Health.

The amendment, if approved, would schedule records used in reviewing to decide how these particular deaths could be avoided in the future. Mr. Mead asked to clarify if in hindsight these changes would affect the files. Ms. Garcia introduced Mr. Toby Rosenblatt of the Department of Health. Mr. Rosenblatt advised the Commission that the Department had established a four-panelist board to investigate how to improve prevention of suicide deaths, SIDS deaths. The panel uses these records in its review and five-year retention was sufficient.

Acting Chair Moll entertained a motion to approve the amendment. Mr. Mead so moved and Ms. Herrera seconded the motion and the motion carried.

1.18.690 NMAC, ERRDS, Children Youth and Families Department

Ms. Jaramillo indicated that the Children, Youth and Families Department (CYFD) had requested the next item on the agenda *1.18.690 NMAC ERRDS, Children, Youth and Families Department* be withdrawn. She indicated that at the June 30, 2009 Commission meeting, the CYFD schedule was tabled and was to be placed on the agenda of the August 18th meeting. She stated that the staff of the Children, Youth and Families Department asked to table the schedule once again, for further research on retaining the records. Acting Chair Moll entertained a motion to table the amendment. Mr. Mead so moved and Ms. Herrera seconded the motion and the motion carried.

1.18.770 NMAC, ERRDS, Corrections Department

Ms. Jaramillo stated that the next item for the Commission consideration was the amendment to *1.18.770 NMAC ERRDS, Corrections Department*. She advised the Commission that the amendment would be presented by Mr. Leo Lucero. Mr. Lucero explained that the amendment to the existing Corrections Department consisted of a minor modification to *1.18.770.31 NMAC American Correctional Association Accreditation Audit Compliance Files*. Which the intent is to clarify that the record series pertains to all compliance audits for the Corrections Department and are not exclusive to the training academy.

Mr. Lucero introduced Ms. Cathleen Catanach, who was in attendance representing the Corrections Department. Acting Chair Moll entertained a motion to accept the amendment. Ms. Lujan so moved and Dr. Levine seconded the motion and the motion carried.

B. 1.13.1 NMAC General Provisions

Acting Chair Moll advised that the next item was a proposed amendment to *1.13.1 NMAC, General Provisions*. Ms. Jaramillo added that the rule which addressed the open meetings act proceedings that was discussed at the March 31, 2009 Commission Meeting. A concern about internal inconsistencies on notice requirements was raised. Accordingly the agency was offering an amendment to clarify notice requirements for special and emergency meetings.

Mr. Stephen Vigil added that the rule was consistent with the Attorney General's interpretation of the Open Meetings Act. He stated that he concurred with approving the provision. Acting Chair Moll entertained a motion to approve the amendment. Mr. Mead so moved and Ms. Herrera seconded the motion and the motion carried.

C. FY11 Appropriation Request

Ms. Jaramillo stated that the next item for the Commission's consideration was the FY11 Appropriation Request. She introduced the Deputy State Records Administrator and Chief Financial Officer, Ms. Judi Hazlett, who explained the request. Ms. Hazlett began by reviewing the agency's budget structure, focusing on the two budgeted funds - the operating fund and the internal service fund. She then walked through the organization of the appropriation request, directing the Commission's attention to the pertinent forms. Ms. Hazlett stated that the FY11 appropriation request was not a zero-dollar growth request, due primarily to increases attributed to costs beyond the agencies control.

She also stated that the budget reductions of FY09 and the extremely tight FY10 budget have made meeting statutory and strategic obligations difficult. Due to the imposed hiring freeze the agency operated with four vacant positions, at a ten percent vacancy rate for most of FY09 which are two additional positions, two division directors, the agency CIO and the State Historian recently also became vacant, bringing the agency rate to over 14 percent. The vacancies have adversely affected the ability of the agency to meet performance targets and forced a reduction in hours that the State Archives is open to the public. Ms. Hazlett informed the Commission that personal services and benefits in the FY09 operating budget was under-funded and that the same was true for FY10. With the exceptions to the hiring freeze requested and approved for the four longer-term vacancies, the agency would not have the budget to fill them. However exceptions to the hiring freeze for the two division director's positions have been approved and can be supported this fiscal year

Ms. Hazlett indicated that the largest increase in the FY11 general fund request in the personal services and benefits category, as a result of requesting funding for all authorized positions. The agency recognizes that full funding may not be possible; however, its ability to meet statutory and business goals and deliver services been seriously compromised as a result of the vacancies. She also informed the Commission that the general fund contractual services request is \$1.9 less than the FY09 actual and \$1.2 more than the FY10 operating budget amounts. The request reflects an increase in IT services, primarily from a result of increased maintenance costs. The request for general fund support in the other category reflects an increase of \$54.9 over FY10 operating the majority of which is attributable to the replacement of IT equipment, increases in HCM fees, and increased mileage rates for in-state travel.

Ms. Hazlett indicated that the agency requested an increase of \$25.6 over FY10 operating in fund 371, its internal-service revolving fund. The request is supported by anticipated revenue generation and available fund balance. The increase is attributable to two proposed purchases-\$11.0 for a new photocopy machine and \$43.1 for a replacement microfilm duplicator. She also stated that the agency planned to submit a \$460.0 special appropriation request expanded lease space and shelving in the Albuquerque Records Center. The Albuquerque records center is out of space, due to the growing number of requests for storage. The agency is considering leasing additional space adjacent to the current records center. However, stationary mezzanine shelving will be required to support the additional 40,000 cubic feet of storage space. The additional shelving space is estimated to cost \$400.0 and the additional lease space is \$60.0 over the current lease.

Ms. Hazlett requested that the motion allow staff to make technical corrections. Ms. Hazlett concluded her presentation. Acting Chair Moll commended the staff for doing their jobs and being so involved. Acting Chair Moll entertained a motion for approval of the FY11 appropriation request. Mr. Mead moved to approve the appropriation requests, with the stipulation that the agency be allowed to make any technical changes as required. Ms. Herrera seconded the motion and the motion carried.

OLD BUSINESS

Ms Jaramillo reported that agency was in the process of working with the Property Control Division of the General Services Department, on its ongoing feasibility study, with the focus of the space needs for both the Santa Fe, and Albuquerque Records Center. She stated that the study is scheduled for completion by the end of September 2009. Ms. Hazlett added that the Albuquerque Records Center was at full capacity

Ms. Jaramillo went on to say that the Santa Fe Record Center was at 91 percent capacity and that the lease for the Albuquerque building would expire in June of 2010. She stated that the agency was in negotiations with the owner to extend the lease for five years subject to budget availability and lease space adjacent to the records center for additional spacing needs.

She explained that relocation would be more expensive for the move and set up and for shelving. Ms Hazlett added that the agency might consider charging state agencies for storage in order to make up the difference. Ms. Jaramillo advised the Commission that the SRCA would be improving the cooling/heating system and adding additional security cameras by the end of December 2009. Mr. Mead asked if the Property Control Division was looking into both issues. Ms. Jaramillo stated that the issues were being reviewed by both parties to come up with resolutions.

DIRECTOR'S REPORT

Ms. Jaramillo informed the Commission that information on FY09 records destruction was included in their packets. She also advised that the agency had received permission to fill the vacant two division director's positions. She added that the State Historian had received a number of awards and that the agency had received a grant of some \$70.0 to support the New Mexico Historical Records Advisory Board activities. Mr. Mead stated that he believes it is time for the Commission to support the agency before the Legislature. Ms. Jaramillo stated that she would contact Chair Hordes and set up a special meeting, for the Commission to review all the pending issues impacting the agency. Ms. Jaramillo ended her report and invited the Commissioners to take a tour of the facility, with their time permitting.

SCHEDULING OF NEXT MEETING

Acting Chair Moll, with the concurrence of the Commission, set the next scheduled meeting for Tuesday November 17, 2009 at 9:30 a.m.

ADJOURNMENT

Acting Chair Moll entertained a motion for adjournment. Mr. Mead so moved, Ms. Herrera seconded the motion and the motion carried. The meeting was adjourned at 10:42 a.m.