

**MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING AND RULE HEARING – August 25, 2015
1205 Camino Carlos Rey, Santa Fe, NM 87507**

Members Present:

Robert J. Torrez	Chair, Historian
Edwynn Burckle	Cabinet Secretary, General Services Department
Christina Espinoza	Designee for the Honorable Secretary of State
Roscoe Woods	Representative for the Honorable Attorney General
Sarita Nair	Representative for the State Auditor
Lynne S. Rhys	Law Librarian, Supreme Court
Jeff Pappas	Representative for Department of Cultural Affairs
Jennifer Salazar	General Counsel, Assistant Attorney General

Staff Present:

Linda Trujillo	State Records Administrator
Pete Chacon	Information Technology, Chief Information Officer
Leo Lucero	Director, Records Management Division, RMD
Jennifer Camp	Management Analyst, RMD
Tanya Vigil	Management Analyst, RMD
Susan Montoya	Management Analyst, RMD
Melissa Salazar	Director, Archives and Historical Services
Felicia Lujan	Archives Bureau Chief
Dr. Rick Hendricks	State Historian
Matt Ortiz	Administrative Law, Division Director
Joseph Lovato	Executive Secretary

Guests that signed in:

Michelle E. Dominguez	Cibola County
Natalie Grime	Cibola County
Diane Madrid	NMSU
Carl Baca	NMSU
Justin Aeubel	PERA
Daniel A. Ivey Soto	NM Clerks
Rebecca L. Griego	LCS
David Coriz	NMDOT
Mariane Romero	OSI
Susan Yaeger	CCS
Sonya Avarado	DPS
Amanda Lopez	DPS
Drew Johnson	DPS/IPRA
Adette DesGeorges	DOH
Christine Espinoza	SOS
Brittany Odell	SOS
Gabriel Baca	PERA

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Robert J. Tórréz
Historian/Chair

Hon. Hector Balderas
Attorney General

Hon. Tim Keller
State Auditor

Secretary of State

Jeff Pappas
Department of Cultural Affairs

Edwynn Burckle
General Services Department

Lynne S. Rhys
State Law Librarian

I. OPENING ACTIVITIES:

A. Call to order

The Chair called the meeting to order at 9:31 a.m.

B. Approval of agenda

The Chair entertained a **MOTION** to approve the agenda with the number for executive session corrected from IV to V. Ms. Rhys **MOVED** and Secretary Burckle **SECONDED** the motion; the motion **PASSED** unanimously.

II. Action Items:

A. Approval of June 30, 2015 Meeting Minutes

The Chair entertained a motion to approve the Minutes. Mr. Woods abstained from voting since he was not at the last Commission meeting. Mr. Pappas **MOVED** and Ms. Espinoza **SECONDED** the motion; the **MOTION** passed unanimously.

B. Approval of Agency Budget

Ms. Trujillo presented the proposed FY17 appropriation request for the agency's general fund 17900. Ms. Trujillo explained the agency has three different budgets and that the general and revolving funds are recommended at the same amount as the current year budgets. The Chair entertained a **MOTION** to approve the proposed FY17 budget for fund 1790. Ms. Nair **MOVED** and Secretary Burckle **SECONDED** the motion; the motion **PASSED** unanimously.

Ms. Trujillo than presented the proposed FY17 appropriation request for the agency's revolving fund 37100. Ms. Trujillo asked the Commission members for advice in deciding to move one position from the revolving fund to the general fund. Secretary Burckle stated his advice would be to leave that position in the revolving fund. The Chair entertained a **MOTION** to approve the proposed FY17 budget for fund 37100. Mr. Pappas **MOVED** and Ms. Rhys **SECONDED** the motion; the motion **PASSED** unanimously.

Ms. Trujillo than presented the proposed FY17 appropriation request for the agency's federal funds which are included in fund 17900. The Chair entertained a **MOTION** to approve the proposed FY17 budget for Federal funds in 17900. Secretary Burckle **MOVED** and Ms. Espinoza **SECONDED** the motion; the motion **PASSED** unanimously.

C. Management of Electronic Records: 1.13.4 NMAC

Ms. Trujillo explained that rule 1.13.4 NMAC must be amended to conform with the proposed functional records retention and disposition schedule and to update language from an Attorney General's opinion related to transitory records. She reminded the Commission that the rule is a joint rule adopted by both the Commission and the State Records Administrator. Ms. Trujillo asked the Commission to grant her authority to appoint Mr. Ortiz as a joint hearing officer for a rule hearing on September 22, 2015. She informed the Commission that the notice was published in the NM Register on August 14, 2015 informing the public that the State Records Administrator or designee would take public comment. The Chair entertained a **MOTION** to grant Ms. Trujillo authority to appoint Mr. Ortiz hearing officer for the Commission for the September 22, 2015 rule hearing on 1.13.4 NMAC. Secretary Burckle **MOVED** and Ms. Rhys **SECONDED** the motion; the motion **PASSED** unanimously. Ms. Trujillo clarified that Mr. Ortiz would be serving as a designee for the State Records Administrator and as a result of the previous motion would also be serving as a designee for the State Commission of Public Records. The Chair confirmed that this was correct.

The Chair called a ten minute recess. The Commission meeting recessed at 10:07 a.m. and reconvened at 10:19 a.m.

III. Rule Hearing:

A. Repeal

Ms. Trujillo reminded the Commission that they had tabled the repeal of the following rules at the meeting on June 30, 2015.

1.15.1 NMAC	GRRDS, General Provisions
1.15.2 NMAC	GRRDS, General Administrative Records
1.15.3 NMAC	GRRDS, General Administrative Records (for Use by Local Government and Educational Institutions)
1.15.4 NMAC	GRRDS, General Financial
1.15.5 NMAC	GRRDS, General Financial Schedule (Interpretive)
1.15.6 NMAC	GRRDS, General Personnel Records
1.15.7 NMAC	GRRDS, General Personnel (Interpretive)
1.15.8 NMAC	GRRDS, General Medical Records
1.15.9 NMAC	GRRDS, General Hospital and Medical Center Records
1.16.111 NMAC	LRRDS, Legislative Council Service
1.16.112 NMAC	LRRDS, Legislative Finance Committee
1.16.117 NMAC	LRRDS, Legislative School Study Committee
1.16.119 NMAC	LRRDS, Legislative Maintenance
1.17.205 NMAC	JRRDS, Supreme Court Law Library
1.17.210 NMAC	JRRDS, Judicial Standards Commission
1.17.215 NMAC	JRRDS, Court of Appeals
1.17.216 NMAC	JRRDS, Supreme Court
1.17.218 NMAC	JRRDS, New Mexico Magistrate Courts
1.17.219 NMAC	JRRDS, Board Governing the Recording of Judicial Proceedings
1.17.220 NMAC	JRRDS, Administrative Office of the Courts
1.17.230 NMAC	JRRDS, New Mexico District Courts
1.17.244 NMAC	JRRDS, Bernalillo County Metropolitan Court
1.17.264 NMAC	JRRDS, Administrative Office of the District Attorneys and the District Offices
1.18.305 NMAC	ERRDS, Office of the Attorney General
1.18.308 NMAC	ERRDS, Office of the State Auditor
1.18.333 NMAC	ERRDS, Taxation and Revenue Department
1.18.337 NMAC	ERRDS, State Investment Council
1.18.341 NMAC	ERRDS, Department of Finance and Administration
1.18.342 NMAC	ERRDS, Public School Insurance Authority
1.18.343 NMAC	ERRDS, Retiree Health Care Authority
1.18.350 NMAC	ERRDS, General Services Department
1.18.352 NMAC	ERRDS, Educational Retirement Board
1.18.355 NMAC	ERRDS, Public Defender Department
1.18.356 NMAC	ERRDS, NM Office of the Governor
1.18.360 NMAC	ERRDS, Lieutenant Governor's Office
1.18.361 NMAC	ERRDS, Office of the Chief Information Officer
1.18.366 NMAC	ERRDS, Public Employees Retirement Association
1.18.369 NMAC	ERRDS, Commission of Public Records
1.18.370 NMAC	ERRDS, Secretary of State
1.18.378 NMAC	ERRDS, State Personnel Office
1.18.379 NMAC	ERRDS, Public Employee Labor Relations Board
1.18.394 NMAC	ERRDS, Office of the State Treasurer
1.18.404 NMAC	ERRDS, Board of Examiners for Architects
1.18.418 NMAC	ERRDS, Tourism Department
1.18.419 NMAC	ERRDS, Economic Development Department
1.18.420 NMAC	ERRDS, Regulation and Licensing Department
1.18.430 NMAC	ERRDS, Public Regulation Commission
1.18.440 NMAC	ERRDS, Office of Superintendent of Insurance
1.18.446 NMAC	ERRDS, Board of Medical Examiners
1.18.449 NMAC	ERRDS, Board of Nursing
1.18.460 NMAC	ERRDS, State Fair Commission
1.18.464 NMAC	ERRDS, State Board of Licensure for Professional Engineers and Surveyors
1.18.465 NMAC	ERRDS, Gaming Control Board

1.18.469 NMAC	ERRDS, State Racing Commission
1.18.479 NMAC	ERRDS, Board of Veterinary Medicine
1.18.505 NMAC	ERRDS, Cultural Affairs Department
1.18.508 NMAC	ERRDS, New Mexico Livestock Board
1.18.516 NMAC	ERRDS, Department of Game and Fish
1.18.521 NMAC	ERRDS, Energy, Minerals and Natural Resources Department
1.18.539 NMAC	ERRDS, State Land Office
1.18.550 NMAC	ERRDS, Office of the State Engineer
1.18.601 NMAC	ERRDS, Commission on the Status of Women
1.18.605 NMAC	ERRDS, Martin Luther King Jr Commission
1.18.606 NMAC	ERRDS, Commission For the Blind
1.18.609 NMAC	ERRDS, Indian Affairs Department
1.18.624 NMAC	ERRDS, Aging and Long Term Services Department
1.18.630 NMAC	ERRDS, Human Services Department
1.18.631 NMAC	ERRDS, Department of Workforce Solutions
1.18.632 NMAC	ERRDS, Worker's Compensation Administration
1.18.644 NMAC	ERRDS, Division of Vocational Rehabilitation
1.18.647 NMAC	ERRDS, Developmental Disabilities Planning Council
1.18.665 NMAC	ERRDS, Department of Health
1.18.667 NMAC	ERRDS, New Mexico Department of Environment
1.18.669 NMAC	ERRDS, Health Policy Commission
1.18.670 NMAC	ERRDS, Veterans' Services Department
1.18.690 NMAC	ERRDS, Children, Youth and Families Department
1.18.705 NMAC	ERRDS, Department of Military Affairs
1.18.760 NMAC	ERRDS, Adult Parole Board
1.18.765 NMAC	ERRDS, Juvenile Public Safety Advisory Board
1.18.770 NMAC	ERRDS, Corrections Department
1.18.780 NMAC	ERRDS, Crime Victims Reparation Commission
1.18.790 NMAC	ERRDS, Department of Public Safety
1.18.794 NMAC	ERRDS, Mounted Patrol
1.18.795 NMAC	ERRDS, Homeland Security and Emergency Management Department
1.18.805 NMAC	ERRDS, Department of Transportation
1.18.924 NMAC	ERRDS, Public Education Department
1.18.926 NMAC	ERRDS, School For the Blind and Visually Impaired
1.18.927 NMAC	ERRDS, New Mexico School For the Deaf
1.18.940 NMAC	ERRDS, Public Schools Facilities Authority
1.18.950 NMAC	ERRDS, Higher Education Department
1.18.954 NMAC	ERRDS, New Mexico Department of Agriculture
1.18.980 NMAC	ERRDS, NM Office of the Medical Investigator
1.19.2 NMAC	LGRRDS, Office of the County Assessor
1.19.3 NMAC	LGRRDS, Office of the County Clerk
1.19.4 NMAC	LGRRDS, Board of County Commissioners County Managers
1.19.5 NMAC	LGRRDS, Office of the County Sheriff
1.19.6 NMAC	LGRRDS, Office of the County Treasurer
1.19.7 NMAC	LGRRDS, Southern Sandoval County Arroyo Flood Control Authority (SSCAFCA)
1.19.8 NMAC	LGRRDS, New Mexico Municipalities
1.19.9 NMAC	LGRRDS, New Mexico Municipal Courts
1.19.10 NMAC	LGRRDS, Middle Rio Grande Conservancy District
1.19.11 NMAC	LGRRDS, Soil and Water Conservation Districts and Watershed Districts
1.20.2 NMAC	EDRRDS, New Mexico Public Schools
1.20.3 NMAC	EDRRDS, New Mexico Colleges and Universities

Ms. Trujillo recommended not repealing the following rules because there had not been sufficient communication with the counties and municipalities who would be impacted by the repeal.

1.15.3 NMAC	GRRDS, General Administrative Records (for Use by Local Government and Educational Institutions)
1.15.5 NMAC	GRRDS, General Financial Schedule (Interpretive)

1.15.7 NMAC	GRRDS, General Personnel (Interpretive)
1.19.2 NMAC	LGRRDS, Office of the County Assessor
1.19.3 NMAC	LGRRDS, Office of the County Clerk
1.19.4 NMAC	LGRRDS, Board of County Commissioners County Managers
1.19.5 NMAC	LGRRDS, Office of the County Sheriff
1.19.6 NMAC	LGRRDS, Office of the County Treasurer
1.19.7 NMAC	LGRRDS, Southern Sandoval County Arroyo Flood Control Authority (SSCAFCA)
1.19.8 NMAC	LGRRDS, New Mexico Municipalities
1.19.9 NMAC	LGRRDS, New Mexico Municipal Courts
1.19.10 NMAC	LGRRDS, Middle Rio Grande Conservancy District
1.19.11 NMAC	LGRRDS, Soil and Water Conservation Districts and Watershed Districts

Ms. Trujillo stated that the Records Management division staff had held multiple roundtable discussions and met with some agencies individually. Ms. Trujillo presented the Commission with a side by side comparison of changes had been made from the first published rule to the rule being considered and explained that all changes had been reviewed by Jennifer Salazar from the Office of the Attorney General. Ms. Salazar's advice was that changes in language could only be made if they changes were logical outgrowths on the originally proposed rule. Ms. Trujillo also stated there were a few more amendments that would be presented to the Commission to be considered and advised the Commission that only changes that were logical outgrowths of the original rule were being proposed. Ms. Trujillo asked that Mr. Lucero present the amendments to the Commission. Mr. Lucero asked Ms. Montoya to put the amendments up on the screen so the members of the public as well as the Commission members could see the requested amendments. Mr. Lucero presented all changes to the Commission.

The Chair asked Ms. Salazar if the Commission should act on the amendments as well as the rule all as one action. Ms. Salazar stated she believed the State Records Administrator would make a recommendation on all that was to be acted on and the Commission then could take act on the recommendation. The Chair opened the floor for persons from the public to speak on the rule being repealed, replaced and amended.

Ms. Madrid from New Mexico State University gave her support of the new rule. Ms. Madrid stated how much appreciation she had for the effort the staff had given and the changes that were being made. Ms. Madrid stated the new rule would be very helpful.

Mr. Baca from PERA was next to speak. Mr. Baca stated that he, nor any of his staff, had attended a round table discussion, but he is concerned that the proposed rule would have a negative effect on PERA. Mr. Baca stated he was not sure of the effect it would have on the budget process for their records management system and that PERA was already in compliance with the current rule. He further state that the PERA IT system is already programed to delete records that have meet the current retention period and was not sure the new rule would be followed by PERA due to not being able to reprogram the current processes that could potentially cost upwards of a million dollars. Ms. Trujillo stated this rule would not be effective until October 1, 2015 and the State Records Administrator as well as the Records Management staff would be willing to sit down and figure out what would need to be determined in order to make sure the rule works for PERA. Ms. Trujillo than stated that she anticipated there would be some changes to the retention schedules at the November Commission meeting. Specifically, she anticipated some changes from the Secretary of State and a few other agencies that are still scheduled to meet with staff. Ms. Trujillo stated the staff would make themselves available to meet with PERA. Ms. Trujillo stated she did have some concern that there is a computer system that is programmed to automatically delete records, as Mr. Baca stated, without going through the Commission adopted approval process.

Senator Ivey-Soto spoke next and told the Commission how pleased he was that the State Records Administrator and staff have been very receptive to feedback.

The Chair asked if there were any additional questions from the Commission. Mr. Woods asked for clarification from Ms. Salazar, the Commission's advising attorney, if all the changes to the rule from the original publication and the amendments presented to the Commission at this meeting were in fact logical outgrowths. Ms. Salazar confirmed that she had reviewed the changes with the staff and her opinion was that all changes were logical outgrowths and could be considered for adoption by the Commission.

The Chair then asked Ms. Trujillo for a recommendation. Ms. Trujillo recommended repealing all the rules stated on the notice and agenda, with the exception of:

- 1.15.3 NMAC GRRDS, General Administrative Records (for Use by Local Government and Educational Institutions)
- 1.15.5 NMAC GRRDS, General Financial Schedule (Interpretive)
- 1.15.7 NMAC GRRDS, General Personnel (Interpretive)
- 1.19.2 NMAC LGRRDS, Office of the County Assessor
- 1.19.3 NMAC LGRRDS, Office of the County Clerk
- 1.19.4 NMAC LGRRDS, Board of County Commissioners County Managers
- 1.19.5 NMAC LGRRDS, Office of the County Sheriff
- 1.19.6 NMAC LGRRDS, Office of the County Treasurer
- 1.19.7 NMAC LGRRDS, Southern Sandoval County Arroyo Flood Control Authority (SSCAFCA)
- 1.19.8 NMAC LGRRDS, New Mexico Municipalities
- 1.19.9 NMAC LGRRDS, New Mexico Municipal Courts
- 1.19.10 NMAC LGRRDS, Middle Rio Grande Conservancy District
- 1.19.11 NMAC LGRRDS, Soil and Water Conservation Districts and Watershed Districts

And that the Commission adopt 1.21.2 NMAC, FRRDS, Public Records with the changes and amendments presented by Leo Lucero.

The Chair entertained a **MOTION** to approve the recommendation of the State Records Administrator. Secretary Burckle **MOVED** and Mr. Pappas **SECONDED** the motion; the motion **PASSED** unanimously.

IV. Director's Report

Ms. Trujillo presented the Commission with the director's report. (See attached)

V. Executive Session:

The Chair will entertain a motion to enter into Executive Session.

Ms. Espinoza **MOVED** that the Commission enter into Executive Session to discuss the State Records Administrator's Annual review, pursuant to Section 10-15-1(H)(2) of the Open Meetings Act. Ms. Nair **SECONDED** the motion; the Chair asked for a roll call vote. Ms. Trujillo called for a vote;

Robert J. Torrez	yes
Edwynn Burckle	yes
Christina Espinoza	yes
Roscoe Woods	yes
Sarita Nair	yes
Lynne S. Rhys	yes
Jeff Pappas	yes

The Motion passed unanimously. The Chair stated the record was to show that the Commission entered into Executive Session at 11:36AM and the recorder would now be turned off. All non-Commission members must leave the room.

The Chair called the Commission back to open session at 12:00 p.m. The Chair stated that the only matter discussed in Executive Session was limited to the State Records Administrator's evaluation. The Chair advised the audience that the Commission would be keeping Ms. Trujillo as State Records Administrator.

VI. Scheduling of Next Commission Meeting:

The Chair set the next Commission meeting for November 17, 2015.

VII. Adjournment

The Chair entertained a **MOTION** to **ADJOURN**. Ms. Nair **MOVED** and Ms. Espinoza **SECONDED** the motion; the motion **PASSED** unanimously.

The meeting adjourned at 12:03 p.m.

Submitted by:  11/17/15
Linda M. Trujillo, State Records Administrator Date

Attested by:  11/17/15
Robert J. Torrez, Commission Chair Date

Minutes approved on: 11/17/15