

**MINUTES OF THE STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING AND RULE HEARING – May 22, 2018
1205 Camino Carlos Rey, Santa Fe, NM 87505**

Members Present

Robert J. Tórréz	Chairman and Historian
Bobbi Shearer	Designee, Office of State Auditor
Natalie Cordova	Designee, Office of the Attorney General
Rebecca Abbo	Designee, General Services Department
Stephanie Wilson	Interim Supreme Court Law Librarian

Staff Present

Melissa T. Salazar	State Records Administrator
Georgette L. Chavez	Deputy State Records Administrator
Dylan Lange	General Counsel, Office of the Attorney General
Ruben Rivera	Chief Financial Officer, Administrative Services Division (ASD)
Justin Herrera	Financial Specialist, ASD
Leo Lucero	Director, Records Management Division (RMD)
Tanya Vigil	Management Analyst, RMD
Emmanuel Rodriguez	Records Management Bureau Chief, RMD
Susan Montoya	Agency Analyst Bureau Chief, RMD
Jonathan Roybal	Management Analyst, RMD
Peter Chacon	Director, Information Technology Management Division (ITMD)
James Kirby	Information Technology End User Support, ITMD
Felicia Lujan	Director, State Archives of New Mexico (SANM)
Gail Packard	Business Operations Specialist, SANM
Rick Hendricks	State Historian, Office of the State Historian (OSH)
Thomas Shumaker	Grants Administrator, OSH
Pamela Lujan y Vigil	Management Analyst, Administrative Law Division

Public Present

Joey Moya	Supreme Court of New Mexico, Office of the Clerk
Rebecca L. Griego	Legislative Council Service
Jason Clark	Administrative Office of the Courts
Dennis Chavez II	Bernalillo County
Dave Martinez	Department of Transportation
Shay Lara	Department of Public Safety
John Rivera	Department of Public Safety
Barbara Scaton	Office of Superintendent of Insurance
Barbara Ricci	Los Alamos County
Dan Maxwell	Department of Health

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Robert J. Tórréz
Historian/Chair

Hon. Hector Balderas
Attorney General

Hon. Wayne Johnson
State Auditor

Hon. Maggie Toulouse Oliver
Secretary of State

Veronica Gonzales
Department of Cultural Affairs

Ned Fuller
General Services Department

Stephanie Wilson
Acting Supreme Court Law Librarian

I. OPENING ACTIVITIES

A. Call to Order

Chairman T3rrez called the meeting to order at 10:03 a.m.

B. Approval of the Revised Agenda

Chairman T3rrez entertained a **MOTION** to approve the revised agenda. Ms. Wilson **MOVED**, and Ms. Shearer **SECONDED**; the motion **PASSED UNANIMOUSLY**.

C. Approval of the Minutes of the February 20, 2018, Regular Meeting and Rule Hearing

Chairman T3rrez made three minor editorial corrections. On page 3, line 3, he replaced the word "who" with "whose." On page 7, second to the last paragraph, he stated that Mr. Rodriguez's concise explanatory statement should be in quotes if it was written verbatim. On page 11 in the first partial paragraph, he replaced the words "past out" with "passed out." No other corrections were noted.

Chairman T3rrez entertained a **MOTION** to approve the corrected minutes. Ms. Shearer **MOVED**, and Ms. Wilson **SECONDED**; the motion **PASSED UNANIMOUSLY**.

D. State Records Center and Archives Staff Recognition

Ms. Salazar presented an achievement award to Elena Perez-Lizano in recognition of her extraordinary performance. Ms. Perez-Lizano was nominated by Ms. Packard. Ms. Salazar also announced that Adrian Ortiz was retiring from the agency. She expressed her gratitude to Mr. Ortiz for his service and hard work, stating he was an asset to the agency. The chairman asked if the position would be filled. Ms. Salazar answered that the position had already been posted. Chairman T3rrez offered his thanks and appreciation on behalf of the commission to Mr. Ortiz.

Ms. Chavez extended a thank you to Justin Herrera for his dedication and hard work in getting the commission packets ready for the meeting.

Chairman T3rrez then called the regular meeting of May 22, 2018, into recess.

II. RULE HEARING

A. Chairman T3rrez called the public hearing to order. He introduced himself as chairman of the commission and the hearing officer. For the record, he noted that the meeting was being held on May 22, 2018, in Santa Fe, New Mexico at the State Records Center and Archives located at 1209 Camino Carlos Rey. He announced the time was approximately 10:10 a.m. The purpose of this hearing is for the commission and the state records administrator to receive public comment on the following rulemaking:

1. Amendment to 1.21.2 NMAC, Retention and Disposition of Public Records (CPR Rule)
2. Amendment to 1.13.12 NMAC, Designation of Records Management Personnel (CPR Rule)
3. Amendment to 1.13.30 NMAC, Disposition of Public Records and Non-Records (CPR & SRA Rule)
4. Amendment to 1.13.10 NMAC, Records Storage and Access (SRA Only)

According to Chairman Tórrrez, the hearing was being conducted pursuant to and in accordance with the provisions of the Public Records Act, Article 3, Sections 14-3-1 through 14-3-24 NMSA 1978. The New Mexico Lobbyist Regulation Act regulates activities before state officials in rule-making proceedings. The Secretary of State's office can be contacted for information and registration. Public notice of this hearing was advertised in the *New Mexico Register*, on the agency website, on the Sunshine Portal, posted on the public entrances of the Santa Fe and Albuquerque offices, and was sent to the Legislative Council Service for distribution. Copies of the proposed rule were also available from the state records administrator's office. He stated that copies of the proposed rulemaking were available on the table located near the door. Chairman Tórrrez reminded everyone in attendance to sign the attendance sheet, which would later be entered as an exhibit as part of the hearing. He then asked if everyone had signed the attendance sheet and requested that the sheet be provided for his review.

Chairman Tórrrez announced for the record that the following commissioners or designees were present: Robert J. Tórrrez, State Auditor designee Bobbi Shearer, Attorney General Designee Natalie Cordova, General Services Department designee Rebecca Abbo, Interim Supreme Court Law Librarian Stephanie Wilson, and CPR General Counsel Dylan Lange.

Chairman Tórrrez stated this is a formal proceeding that would be recorded. He directed that anyone interested in a copy must make his or her own arrangements to purchase a copy from the state records administrator's office. In order to ensure that the proceedings are accurately recorded, only one person at a time would be allowed to speak. He instructed that any person recognized to speak regarding the proposed rulemaking would be asked to identify themselves for the record each time they addressed the hearing officer. Secondly, he asked that they speak loudly and clearly so the recorder could pick up their comments.

Chairman Tórrrez explained the hearing would be conducted in the following matter: Ms. Salazar would present exhibits, and he would rule on their admissibility. Exhibits admitted into evidence would be available for review by members of the public. Exhibits could not be removed from the room. Chairman Tórrrez stated he would open the hearing for comment once all the exhibits were ruled upon. He offered that neither commission nor the state records administrator follow the rules of evidence, but shall, in the interest of efficiency, reserve the right to limit all testimony deemed irrelevant, redundant, or unduly repetitious. He stated that he would make that decision as the hearing officer. He then asked for a show of hands of the number of people who intended to comment on the proposed rules. Audience member Joey Moya introduced himself as a representative for the New Mexico Supreme Court and the Judiciary.

Chairman Tórrrez thanked him and then stated he would permit members of the audience to question any person wishing to comment. Any member of the audience wishing to pose a question would also need to be recognized. Chairman Tórrrez directed that each person recognized shall identify him or herself for the record. Comments offered would be considered in preparing the final amendment. He stated they may or may not be incorporated into the final version but would be carefully considered. The volume of comments and the effects of the revisions would dictate the effective date of the amendment.

Chairman Tórrrez asked Ms. Salazar if she had any exhibits to introduce into evidence. Ms. Salazar provided the following exhibits.

Exhibit A: Notice of Hearing published on April 10, 2018, in Volume 29, Issue 7 of the *New Mexico Register*.

Exhibit B: Notice of Rule Hearing, as posted on the agency's website.

Exhibit C: Revised Agenda as posted on the agency's website and as posted outside rule hearing room.

Exhibit D: E-mail to Legislative Council Services with Notice of Regular Meeting and Rulemaking.

Exhibit E: Posting to Sunshine Portal of Notice of Regular and Rulemaking.

Exhibit F: E-mail to agency heads, CROs, RLOs with Notice of Regular Meeting and Rulemaking.

Exhibit G: Proposed Amendment to 1.21.2 NMAC, Retention and Disposition of Public Records.

Exhibit H: Comments from James Noel via Camille Sapienz regarding 1.21.2 NMAC, Retention and Disposition of Public Records.

Exhibit I: Comments from James Noel via Kevin Ybarra regarding 1.21.2 NMAC, Retention and Disposition of Public Records.

Exhibit J: Proposed Amendments to 1.13.12 NMAC, Designation of Records Management Personnel.

Exhibit K: Proposed Amendments to 1.13.30 NMAC, Disposition of Records and Non-Records.

Exhibit L: Proposed Amendments to 1.13.10 NMAC, Records Storage and Access.

Chairman Tórréz asked if there were any other exhibits to enter into the records. Ms. Salazar answered there were none. Chairman Tórréz admitted exhibits A through L into the record. He directed that the proposed rulemaking be introduced into the record and opened the floor for testimony and comment. He stated that members of the audience could question each witness upon being recognized to speak.

Chairman Tórréz called for public comment on the amendments to 1.21.12 NMAC, Retention and Disposition of Public Record. Mr. Moya raised his hand, and Chairman Tórréz asked him to identify himself for the record.

Mr. Moya introduced himself and stated he was there on behalf of the Supreme Court of New Mexico and the Judiciary. He stated that the Chief Justice asked him to appear to provide comment on amendments to 1.21.12 NMAC and to other amendments if they applied. According to Mr. Moya, the various courts that make up the New Mexico judiciary were not aware of the proposed amendments through some confusion and were not aware of the comments submitted by the 2nd Judicial District Court. He explained the Judiciary was not opposed to the comment or the proposed amendment but would like additional time to review and comment at a later date. He asked that the commission defer action on this particular

amendment and explained that the Judiciary was working with State Records Center staff on a variety of matters to assist in bringing the Judiciary into compliance and in revising their records retention procedures. He stated that he would like all of the district courts to have an opportunity to review the proposed amendment and the comment that was sent in. Mr. Moya offered that in the future they were going to try to coordinate the comments from the Judiciary and to provide one point of contact who would communicate on behalf of the entire Judiciary for any amendments the commission or the administrator proposed to the rules. He added that the Judiciary wanted to better organize themselves and provide comprehensive input and comments for any regulation proposed for amendment or adoption in the future that would affect the records retention practices of the Judiciary. He asked again that the commission defer action to allow the Judiciary to respond as a whole and as a unified voice. Mr. Moya then stood for questions. There were none.

Chairman Tórréz called for the public comment on the amendment to 1.13.12 NMAC, Designation of Records Management Personnel. There were no comments. Chairman Tórréz moved to the next item.

Chairman Tórréz called for public comment on the amendments to 1.13.10 NMAC, Records Storage and Access. There were no comments. Chairman Tórréz moved to the next item.

Chairman Tórréz called for public comment on the amendments 1.13.30 NMAC, Disposition of Records and Non-Records. There were no comments.

Ms. Salazar asked if she could admit the attendance sheet as Exhibit M. Chairman Tórréz asked if everyone had signed the attendance sheet. He marked the attendance sheet as an exhibit entered into the record.

Chairman Tórréz stated that any rules adopted by the commission or the state records administrator would be filed in accordance with the State Rule Act and the *New Mexico Register* publication deadlines. Any rules not adopted may be postponed for future discussion at the specified time in the future or may be postponed indefinitely. He thanked everyone for their participation and attendance.

B. Chairman Tórréz adjourned the rule hearing at 10:24 a.m.

III. ACTION ITEMS

A. Vote on Proposed Rule

Chairman Tórréz called the regular meeting back into order.

The first item was to discuss and vote on the proposed commission rules. The chairman stated the first proposed rule was 1.21.2 NMAC, Retention and Disposition of Public Records. Chairman Tórréz asked if any of the commissioners had comments or questions. Ms. Wilson **MOVED** to postpone a vote until the Judiciary had an opportunity to review the rule and submit comments. Ms. Salazar requested that Ms. Montoya have an opportunity to present the concise explanatory statement and make additional comments regarding this rule. Ms. Salazar stated that the agency had been working closely with the Judiciary to designate one point of contact to simplify communication. She also recommended postponing a vote until August 28, 2018, to allow the Judiciary to review and respond as one body.

Chairman Tórréz stated there was a **MOTION** to table 1.21.2 NMAC, Retention and Disposition of Public Records. He asked if there was a second. Ms. Shearer **SECONDED**

the motion to table. Chairman Tórrrez asked if there were questions or discussion. Mr. Lange offered that Ms. Montoya could give her presentation at this time.

Ms. Montoya introduced herself and read the following concise explanatory statement for 1.21.2 NMAC, Retention and Disposition of Public Records:

“Section 7 is being amended to clarify the definition of a trigger event. Section 9 is being amended to remove language referencing the judicial branch and add language indicating that records transferred to the state archives will be reviewed for final disposition. Section 428 is being amended to modify the retention period. And section 620 is being added to provide a classification for court proceedings records. For additional information including the rule promulgation authority, effective date of the rule and date of the adoption of the rule, please see the transmittal form in section 3 of the packet. This amendment is presented as identical to the amendment noticed on April 10, 2018, in the *New Mexico Register*. And the commission has received comments on this amendment. The amendment has been reviewed by the state records administrator and the State Records Center and Archives internal review committee and is respectfully submitted for your review.”

Chairman Tórrrez asked if there were any other comments or questions. Ms. Salazar recommended again that the vote be tabled until August based on Mr. Moya’s comments. There was brief discussion about addressing each section amendment independently.

Chairman Tórrrez stated there were a **MOTION** and a **SECOND** to table 1.21.2 NMAC, Retention and Disposition of Public Records until the August 2018 meeting. He asked if there was any additional discussion. There was none. The motion **PASSED UNANIMOUSLY**.

Chairman Tórrrez proceeded to voting on proposed amendments to 1.13.12 NMAC, Designation of Records Management Personnel. He asked if anyone had questions or comments. There were none.

Ms. Montoya read the following concise explanatory statement:

“Sections 9, 10, and 11 are all being amended to clarify the training requirement renewal cycle. For additional information including the rule promulgation authority, effective date of the rule and date of the adoption of the rule, please see the transmittal form in section 3 of your packets. This amendment is presented as identical to the amendment noticed on April 10, 2018, in the *New Mexico Register*. The commission has not received comment unless we consider the comment made earlier to be a blanket statement; otherwise we received no other comment. This amendment has been reviewed by the state records administrator and the State Records Center and Archives internal review committee and is respectfully submitted for your review.”

Ms. Salazar offered that the amendments were to clean-up the rule and clarify that trainings were to occur during the fiscal year, rather than a calendar year. She believed the changes were not substantive change.

Chairman Tórrrez entertained a **MOTION** to approve the amendments to 1.13.12 NMAC, Designation of Records Management Personnel. Ms. Wilson **MOVED**, and Ms. Shearer **SECONDED**; the motion **PASSED UNANIMOUSLY**.

Chairman Tórréz proceeded to voting on proposed amendments to 1.13.30 NMAC, Disposition of Public Records and Non-Records. He asked if anyone had questions or comments. There were none.

Mr. Rodriguez introduced himself and read the following concise explanatory statement:

“Section 7 is being amended to clarify the definition of a trigger event. Section 11 is being amended to add language, the state records administrator may suspend destruction of records determined to have historical value as well as the requirements for the electronic records certificate of destruction. Section 12 is being amended to add language, the state records administrator may suspend destruction of records determined to have historical value, and Section 13 is being amended to identify the services that will be suspended due to past due invoices. This amendment has been reviewed by the state records administrator, and this amendment is respectfully submitted for your review and approval.”

Ms. Salazar offered that section 7, which amends the trigger date, is tied directly to 1.21.2 NMAC, which was tabled. She suggested delaying any action on section 7 as it relates to the tabled rule.

Ms. Salazar stated that the language added in sections 11 and 12 was based on discussion had at the last commission meeting. She explained that records having historical value were identified on a destruction request from the Secretary of State’s office. These historical records were pulled from the destruction list until the retention schedule could be amended with language allowing the state records administrator authority to put a hold on destruction in such instances. Ms. Salazar added that the agency was further clarifying what was required on a certificate of destruction after those records had been destroyed. She went on to say that section 13 would allow SRCA to suspend services for past due invoices.

Chairman Tórréz asked if state agencies would be notified in the instance that records of historical value were identified on the destruction list. Ms. Salazar responded in the affirmative, adding that the Secretary of State had been notified that some records were on hold. Ms. Salazar stated that pulling records from a destruction list is a rare occurrence. If it did occur, the state records administrator would advise the custodial agency, and the commission would make the final determination regarding retention. She described the process, which included review by the state archives director and the state historian.

Chairman Tórréz asked Ms. Salazar if her request was to ask for approval of the rule, with the exception of section 7, which pertained to the tabled rule. Ms. Salazar replied “yes.”

Ms. Shearer asked for more clarification on the trigger event meaning. Ms. Salazar explained that a trigger event starts the retention clock and does not necessarily coincide with the closure of a file. She provided some trigger event examples to include a child’s date of birth or the closure of a court case. Ms. Salazar also clarified that trigger events in the retention schedule apply to all state agencies that fall under the Public Records Act.

Chairman Tórréz entertained a **MOTION** to approve amendments to 1.13.30 NMAC, Disposition of Public Records and Non-Records, excluding Section 7. Ms. Wilson **MOVED**, and Ms. Shearer **SECONDED**; the motion **PASSED UNANIMOUSLY**.

Chairman Tórréz moved to the proposed amendments to 1.13.10, NMAC Records Storage and Access.

Mr. Rodriguez made the presentation. He explained that 1.13.10 NMAC was a state records administrator rule and required no action by the commission. He read the following concise explanatory statement:

“Section 7 is being amended to clarify the definition of a trigger event. Section 11 is being amended to identify the services that will be suspended due to past due invoices. Again, this amendment has been reviewed by the state records administrator.”

Ms. Salazar explained that she is authorized to promulgate rules and would be taking action on the proposed rule amendments. She added that she would postpone a decision on section 7, but would proceed with section 11, following all appropriate guidelines under the State Rule Act.

B. Adoption of Fiscal Year 2019 Commission of Public Records Reasonable Meeting Notice Resolution pursuant to the Open Meetings Act, Section 10-15-1 (D) NMSA 1978

Chairman Tórréz introduced the resolution. Mr. Lange explained the statutory requirements. Chairman Tórréz asked if there were any substantive changes from last year. Ms. Salazar answered “no.”

Chairman Tórréz entertained a **MOTION** to adopt Resolution No. FY 2019-01, Commission of Public Records Reasonable Meeting Notice Resolution. Ms. Shearer **MOVED**, and Ms. Wilson **SECONDED**; the motion **PASSED UNANIMOUSLY**.

C. New Mexico Historical Records Advisory Board Grant Approvals

Chairman Tórréz moved to the grant recommendations made by the New Mexico Historical Records Advisory Board. Dr. Shumaker introduced himself and made the following presentation:

“The New Mexico Historical Records Advisory Board met on Friday, May 18, 2018, to review, score, and rank five regrant proposals for fiscal year 2019 funding. Because of state budget cuts, only the National Historical Publications and Records Commission is providing the funding. The agency was awarded a state board programming grant in the amount of \$65,000, to be split between FY18 and FY19. A budget adjustment request will be submitted at the beginning of July 2018. Of this amount, \$25,000 is allocated for regrants in each year.

Below are the board’s rankings and recommendations for fiscal year 2019 funding. Also provided below are the grant summaries describing each project and the table used by the board to rank the applicants.”

Ranking	Grantee Name	Requested	Fund %	Award Amount
1	Museum of New Mexico Foundation	\$3,926.00	100%	\$3,926.00
2	County of Curry	\$2,913.00	100%	\$2,913.00
3	Couse Foundation	\$8,500.00	90%	\$7,650.00
4	Harding County	\$8,500.00	30%	\$2,550.00
5	Maternal Health Program	\$8,500.00	25%	\$2,125.00
TOTAL		\$32,339.00		\$19,164.00

Dr. Shumaker stated these were the board recommendations for approval by the commission.

Chairman Tórréz asked if Harding County still had original historic newspapers that needed to be microfilmed. Dr. Shumaker answered in the affirmative. He then asked Dr. Shumaker if he knew what time periods were covered for *The Spanish American* and *Mosquero Developer*. Dr. Shumaker replied that they cover the early 20th century.

Chairman Tórréz asked Dr. Shumaker for the time period covered by the Maternal Health Program records. Dr. Shumaker answered they are from 1986-1996. Chairman Tórréz asked if the licensure files were in the possession of the New Mexico Department of Health and whether this was an assessment grant. Dr. Shumaker replied “yes” and further explained that there would be additional cooperation between the grantee and the agency to assess the material and advise on the best course of action.

Ms. Salazar went on to explain that upon review of the application, she determined that records and archives staff could assist in assessing the materials rather than spend \$8,500 on an outside vendor. She added that the agency would provide guidance on how to properly preserve and describe the materials and based on the records retention and disposition schedule. The Maternal Health Program could then contact the vendor to process the material and prepare them for storage at the Department of Health. Ms. Salazar explained that the materials are permanent records relating to mid-wives in New Mexico and their preservation goes toward preserving women’s history. She shared that her own great grandmother was a *partera* in Los Ojos and Canjilon in the early 20th century and offered that these materials have historical value.

Ms. Abbo asked how Harding County and the Maternal Health Program could complete their projects with only partial funding. Ms. Salazar explained that when analyzing the Harding County grant application, they found that a good portion of funds were being used to rehouse newspapers into Mylar enclosures. The board could not justify spending grant funds to rehouse these unstable materials. Award funds would be used to cover the cost for microfilming and digitizing instead. Ms. Abbo asked if the Maternal Health Program would have to pick up the balance. Ms. Salazar explained they would have to pick up any balance but in reviewing the grant application they were addressing only 16 cubic feet of records. In her professional opinion, Ms. Salazar believed that the cost to process 16 cubic feet of records would cost far less than the \$8,500.00 requested.

Ms. Wilson asked if there were any plans for the funds that were not granted. Dr. Shumaker stated that there is a plan to create an interim-grant cycle that opened in April 26th and will close on June 29th. This can be done because a grant was rescinded during the current cycle due to the recipient not being able to finish the work. Another applicant was lost due to ineligibility. In order to meet the federal performance measure requirements, an interim-grant cycle was created to make up the short-fall.

Chairman Tórréz entertained a **MOTION** to approve the New Mexico Historical Records Advisory Board regrant recommendations for FY 2019 Grant Cycle as submitted. Ms. Shearer **MOVED**, and Ms. Wilson **SECONDED**; the motion **PASSED UNANIMOUSLY**.

D. Acceptance of Deeds of Gift

1. Dolores Gonzales Collection of Memorabilia Related to Bilingual Education

Ms. Lujan asked the commission to consider the *Dolores Gonzales Collection of Memorabilia Related to Bilingual Education* for inclusion into the permanent archives. This collection was donated by archives patron Orlando Gallegos in honor of his aunt, Maria Dolores Gonzales.

According to Ms. Lujan, Dr. Gonzales has been called a “pioneer of bilingual education” amongst those within her profession. Dr. Gonzales was an active resident of the Village of Pecos. She cared about her community and was a teacher in San Miguel County after attending Highlands University in Las Vegas, New Mexico. She attended the University of Columbia in New York, where she received her Master’s degree and then went on to teach at the University of New Mexico. She also taught in both South and Central America. She later attended Penn State University where she received a Ph.D. in Education. She returned to New Mexico to work for UNM.

Ms. Lujan shared a letter written about Dr. Gonzales passing. The letter read that she passed away “at the pinnacle of her career,” when she developed cancer. Dr. Gonzales died on March 18, 1975. In May 1976, a school in Albuquerque, New Mexico was named after Dr. Gonzales. That same letter reads “our sister never married nor had any children of her own, but her forty nephews and nieces who adore her are living proof of her generosity and love for children.”

Ms. Lujan stated the collection is .25 linear feet and includes a booklet published by the UNM Cultural Awareness Program in 1978; articles; correspondence; diplomas; photographs; and a 1975 Joint Memorial of the New Mexico Legislature in memory of Dr. Gonzales. According to Ms. Lujan, these types of donations allow us to document the unique perspectives with regard to culture and education.

Chairman Tórréz entertained a **MOTION** to accept the deed of gift for the *Dolores Gonzales Collection of Memorabilia Related to Bilingual Education*. Ms. Shearer **MOVED**, and Ms. Wilson **SECONDED**; the motion **PASSED UNANIMOUSLY**.

E. Request Decision by Commission to Initiate Rulemaking Process for NMAC

Mr. Lucero asked the commission to vote to initiate the rulemaking process for 1.21.2 NMAC, Retention and Disposition of Public Records and 1.13.30 NMAC, Disposition of Public Records and Non-records for the upcoming August meeting. Chairman Tórréz asked if this required a motion and action. Ms. Salazar replied in the affirmative and explained the initiation of rulemaking was a new condition required by the Attorney General’s recently promulgated rule. She also asked Mr. Lange how the new rule affected rules being considered by the state records administrator.

Mr. Lange stated the Attorney General’s Office had issued a default rule regarding what public agencies must follow in the rulemaking process. The new rule requires that agencies announce their intention to initiate rulemaking at one meeting before acting on the rulemaking at a subsequent meeting. He advised that the initiation of rulemaking had to be as specific as possible with regard to rule changes being considered. He stated the commission could not just issue a blanket approval of its authority to initiate rulemaking. The proposed changes had to be identified with some specificity during the initiation process. Mr. Lange read a section of the new Attorney General rule, 1.24.25 NMAC, and recommended that the commission vote to initiate rulemaking only if specific sections had been identified for amendment. He stated the goal of the new laws was to give the public more information. After additional discussion, it was determined that the commission did not have to initiate the rulemaking process for the rules it had just tabled. A rule hearing had already been held and the commission was simply allowing the Judiciary additional time to comment before issuing a decision at the August meeting.

F. Form Search Committee

Ms. Salazar formally announced her retirement from state government. She stated her official retirement start date would be October 1, 2018, but her last day in office would be September 21, 2018. Ms. Salazar added that Chairman Tórréz wished to form a search committee. She handed out to each commissioner the previously posted job description for the state records administrator position.

Chairman Tórréz and Ms. Salazar remarked that she had been with the agency since 1996. He stated he had enjoyed working with her and expressed his appreciation for her work. He offered that Ms. Chavez had generously offered to step in until the commission was able to hire a replacement. He then asked for two volunteers from the commission to form the search committee to fill the position before Ms. Salazar leaves. Chairman Tórréz asked Mr. Lange if he had authority, as the chairman, to appoint an interim for the position. Mr. Lange said he would look into that question and provide him an answer at a later time.

IV. OLD BUSINESS

A. SPO Tenancy Update

Ms. Salazar provided an update on the State Personnel Office tenancy into the Southwest Room. She reported the Southwest Room would be moved upstairs in mid-June by ESA Construction. She added that the walls surrounding the building would also be demolished as people were using these areas to set up tents and to camp. Ms. Salazar also reported that the upstairs lockers would be removed and a security desk installed. According to Ms. Salazar, these areas presented a security issue as people were engaging in inappropriate behavior.

Ms. Salazar stated that an invitation to bid for the consolidation was advertised and would close on June 22, 2018. She believed the invitation to bid was for the construction of all the offices and cubicles within the Southwest Room. She expressed that she had continued to hope that the consolidation would not happen in this space since it had previously been identified as the expansion vault for the State Archives.

Ms. Salazar also reported that she and agency staff had met three times with the Judiciary and had provided a tour. She had also given a tour to the Legislative Finance Committee. She stated the Judiciary had agreed to support the agency during the upcoming budget hearings when it asked for more funding for staffing. She added that the Judiciary understood the importance of records and the State Archives. Ms. Salazar added that the agency would work with the Judiciary to develop a strategy that met everyone's needs with regard to space and computer output microfilm.

V. DIRECTORS REPORT

Ms. Salazar reported the agency had 8 vacancies out of 37 positions, placing the vacancy rate at 21.6 percent. She provided a list of all the vacant positions.

As of May 22, 2018, the general fund balance in the 400 category was \$36,946.00; the balance in the 300 category was \$30,636.00; and the 200 category balance was \$461,735.00. Ms. Salazar reported there were budget adjustment requests pending. The requests would allow the agency to purchase additional items out of the 400 category. Ms. Salazar stated the revenue to date was \$125,386.00. The *New Mexico Register* had brought in \$90,815.00 of that amount, and box and archive supply sales had generated \$10,606.00. Storage and destruction fees had generated \$19,543.00 in revenue. The information was detailed in the commission packet.

