

DRAFT

MINUTES

REGULAR COMMISSION MEETING

JANUARY 23, 2012 10:00 A.M.

AFRICAN AMERICAN PERFORMING ARTS CENTER, ROOM 120

300 SAN PEDRO NE

ALBUQUERQUE, NEW MEXICO

10:00 A.M. Call to Order (David "Hossie" Sanchez, Chairman)

Commission Roll Call

Commissioners present:

Member, Ruth Bitsui

Member, Kenneth "Buster" Goff

Member, Larry Kennedy

Member, Charlotte Rode

Member, Matthew Rush

Chairman, David "Hossie" Sanchez

Member, Kenneth "Twister" Smith

Commissioners absent: none

Pledge of Allegiance

Public Present: (represents only those officially signed in; spellings are best approximations of written names) Di McCall, State Fair Junior Livestock Foundation; Charles Brunt, Albuquerque Journal; Susan Sita, State Attorney General's Office

Staff Present: Dan Mourning, Interim General Manager; Agnes Maldonado, Administration Director; Mark Shoesmith, Attorney; Michael Henningsen, Media Director

Approval Items:

Agenda:

Commissioner Kennedy moved for approval of the January 23, 2012 Agenda, Commissioner Rush seconded the motion.

Commissioner Rode asked if it is standard operating procedure for an outside entity, such as Fair management or staff to prepare the agenda. Ms. Susan Sita, NM Attorney General's Office stated that it often is.

Commissioner Rode then confirmed that it is her understanding that the Commission is being asked to approve an agenda that the Commission itself has not participated in the creation of. Commissioner Rode stated she feels it is an important issue to deal with because a precedent has been set in the past and decisions need to be made moving forward. Is this going to be standard procedure? Ms. Sita stated that it is dependent upon how each Commission operates, but that agendas are often prepared by a third party.

Commissioner Goff stated that [in the proposed Rules of Procedure] sent to each Commissioner prior to today's meeting, it is stated somewhere that the Chairman and Secretary-Treasurer set the meeting agendas, and asked if that is the way agendas will be handled in the future.

Commissioner Kennedy confirmed that the proposed Rules of Procedure have not yet been adopted, but that it is suggested in the proposed rules, so it may well become part of standard procedure moving forward that the Chairman and Secretary-Treasurer set the agenda.

Commissioner Goff asked what rules are currently being followed regarding the formulation of the meeting agendas.

Chairman Sanchez deferred to NMSF attorney Mark Shoesmith, who stated that currently the agenda is formulated by staff by authority of the Chair.

Commissioner Smith asked why Fair dates and disposition of racetrack and casino property are not on the Agenda, saying these are "pretty hot items."

Commissioner Bitsui explained that the Commission has typically used the January meeting to take care of "template" business, such as the Open Meetings Act and election of officers, and dealt with matters such as Fair dates at later meetings once new officers are in place. Suggested that the Commission move on with the motion at-hand.

To restate: Commissioner Kennedy made a motion to adopt the January 23, 2012 Meeting Agenda. Commissioner Rush seconded. All commissioners voted in the affirmative. The motion carried.

Minutes:

Commissioner Kennedy moved for approval of the November 21, 2011 Meeting Minutes, Commissioner Goff seconded the motion.

Commissioner Kennedy stated that the 11/21/12 Minutes "appear to be a seriously 'Readers' Digest' version of what happened at the [November 21] meeting. He stated that while there are allusions to comments and discussion, he believes that all of the comments made at the meeting should be available as a written transcript, saying he understands that recordings are available, but that the recording isn't available on the website. Commissioner Kennedy stated that he would like to see the minutes reflect more of what is on the tape—more detail about who said what—so that the minutes are closer to what happened at the actual meeting. Asked that the 11/21/12 Minutes be amended accordingly.

Commissioner Bitsui pointed out that the 11/21/12 meeting was 3 hours-plus in duration, and that the expectation of an entire written transcript of such a meeting would be excessive. Commissioner Bitsui stated that if people were "that" interested, they would have been at the meeting and that as long as full recordings of the minutes are available along with a written summary that meets or exceeds the legal requirement, then that should suffice.

Commissioners Kennedy and Goff agreed with Commissioner Bitsui, but also stated that they strongly feel more detail is in order—that a more middle-of-the-road approach is in order.

Commissioner Kennedy withdrew his previous motion. Introduced a new motion to postpone approval of minutes until a more detailed version can be produced. Commissioner Rode seconded. Commissioner

Rode also suggested that a posting be placed on the agency website to let the public know that complete recordings of the meeting are available. Media Director Michael Henningsen assured all Commissioners that such a posting could be placed, and that a more detailed transcription of the 11/21/12 meeting already exists. (The website posting has been placed, and Commissioners have received copies of the more detailed 11/21 meeting transcript for approval at the 3/5 meeting.) All Commissioners voted in the affirmative. The Motion carried.

Commissioner Kennedy stated that minutes appear to be “seriously Readers’ Digest” version of the meeting as it happened. Would like future minutes to reflect more of what is stated in the meeting.

Action Item

Approval of Open Meetings Act (annual resolution)

Commissioner Bitsui moved for approval of the OMA, Commissioner Rush seconded.

Commissioner Goff asked if now was the appropriate time for discussion on prior notice to Commissioners of upcoming meetings/materials.

Commissioner Kennedy suggested that a more appropriate time might be during discussion of new proposed Rules of procedure, so that if there currently are no rules governing advance notice to commissioners on setting meetings or obtaining materials prior to those meetings, or if such rules are not being adequately followed, those items can be addressed.

Commissioner Rode stated she is concerned that the Commission is currently being treated like “the public,” insofar as not being informed of the agenda until the public is. She stated that the Commission should be notified before the public of meetings, agenda items and other information pertaining to meetings. She expressed distress that this is not currently the case, and feels that it is disrespectful that Commissioners are not given meeting agendas prior to posting to the general public.

Commissioner Bitsui stated that historically, the Agenda has always been the purview of the Chairperson, and that while Commissioners have had the ability to make comments and suggestions with regard to the addition of agenda items; the decision has always ultimately belonged to the Chair.

The Commissioners voted unanimously in the affirmative to adopt the Open Meetings Act. The motion carried.

Election of Officers

Chair

Commissioner Rode nominated Commissioner Kenneth “Twister” Smith

Commissioner Bitsui nominated Commissioner Larry Kennedy

Roll-call vote:

Commissioner Bitsui: **Kennedy**

Commissioner Goff: **Smith**

Commissioner Kennedy: **Kennedy**

Commissioner Rode: **Smith**

Commissioner Rush: **Kennedy**

Commissioner Sanchez: **Kennedy**

Commissioner Smith: **Smith**

Smith: 3

Kennedy: 4

Commissioner Kennedy elected Chair

Chairman Kennedy proceeded, taking nominations for Secretary-Treasurer.

Secretary-Treasurer

Commissioner Bitsui nominated Commissioner Kenneth “Twister” Smith

Commissioner Sanchez nominated Commissioner Matthew Rush

Roll-call vote:

Commissioner Bitsui: **Smith**

Commissioner Goff: **Smith**

Commissioner Kennedy: **Rush**

Commissioner Rode: **Smith**

Commissioner Rush: **Rush**

Commissioner Sanchez: **Rush**

Commissioner Smith: **Smith**

Smith: 4

Rush: 3

Commissioner Smith elected Secretary Treasurer

Presentation of Proposed Rules of Procedure for the State Fair Commission (This is an action item to allow the initiation of the rule-making process.)

Commissioner Bitsui made a motion to allow initiation of the rule-making process. The motion was seconded by Commissioner Goff.

Chairman Kennedy explained that the proposed rules are designed as governing guidelines for the Commission, to be adjusted as necessary to provide for more constructive meetings for both the Commission, EXPO and the public. Having recently perused the rules of procedure for a similar Board he had recently been appointed to, Chairman Kennedy thought they might serve as a good overall template for rules of procedure to help guide the Commission as it takes on and works to accomplish its business. Rules in place, Chairman Kennedy stated, would give the Commission a sort of baseline going forward. Chairman Kennedy explained the process is that the Commission presents the current rules publicly for a period of at least 30 days, during which Commissioners, Fair management and the public would have the opportunity to study them. Then, at a later public meeting, those rules could be discussed and amended as deemed necessary before the Commission votes to accept certain public comment and amendments.

Commissioner Goff expressed that he would like the rules to include a procedure that states the Chairman and Secretary-Treasurer set the agenda, with a provision for Commissioners to add items as well.

Commissioner Bitsui stated again that the Chairman has always had decision power to set the agenda. Commissioner Bitsui wondered if the Agendas were to be done by committee going forward, would approving them become a moot point.

Chairman Kennedy read all of paragraph B ...

“B. Agenda items for the next Commission general meeting may be determined at the end of general meeting. Additional agenda items may be added by a Commissioner by submitting a request in writing to the Secretary–Treasurer at least three (3) weeks prior to the date of the next scheduled general meeting. The chair and Secretary-Treasurer shall develop agendas for special and emergency Commission meetings.”

Chairman Kennedy noted the following corrections to be made:

- Page 3, A2 (Secretary-Treasurer)
- Page 4, C (Chair shall *have* powers and duties)

Commissioner Rode asked for clarification: What if a Commissioner wants an item on the agenda and the Chair does not? Commissioner Goff seconded Commissioner Rode’s concern that each Commissioner should have his or her voice heard, and that the Rules of Procedure should be designed to ensure that.

Chairman Kennedy confirmed with Assistant AG Sita that, if the proposed Rules of Procedure are made public today, the Commission would not be able to make any changes to them except those directly related to any resulting public comment. Ms. Sita replied, yes, that was the case. Mr. Kennedy stated it was his belief, therefore, that it would be prudent not to initiate the rule-making process until changes by the Commission had been made. So if the Commission wishes to pass the Rules of Procedure on to public comment today, then any changes the Commission wishes to have made would need to be discussed and made now.

Commissioner Rode stated she is concerned there has not been ample time to review the Rules of Procedure, and is wary of moving it forward.

Chairman Kennedy stated the Commission could decide not to pass this item on to the rule-making process, that was fine, or if it was the desire of some to “make a change,” and then pass it in to the rule-making process, that was fine, too.

Commissioner Goff stated he believes the rules are good, but reiterated that if changes are to be made, they need to be made today. He then suggested that the Commission perhaps operate, if possible, under the current rules, and then take them up again at the next meeting, initiation the public portion of the process at that time.

Commissioner Sanchez suggested voting with the stipulation that changes can be made.

Chairman Kennedy stated that he believes Commissioner Sanchez’ suggestion cannot be undertaken legally without engaging another 30-day public period. Chairman Kennedy suggested that the Commission not pass the proposed Rules of Procedure into the rule-making process phase, and instead take the time between now and the next meeting to review the documents with the intention of initiating the rule-making process at that later date.

Commissioner Bitsui stated she feels strongly that the Commission should wait until everyone agrees upon the Rules of Procedure and withdrew her motion.

Commissioner Smith made a motion to postpone action until next meeting, Commissioner Rush seconded. All Commissioners voted unanimously in favor, the motion carried.

Annual Report to Governor as Developed to-date

GM Dan Mourning stated that the final Annual Report cannot be delivered to the Governor as the year-end financial report has not yet been filed by the official auditor.

Mr. Mourning went on to explain that based on complaints about dark days and the fact that the Fair still incurred expenses on those days it was closed, management is proposing to leave the 2012 Fair at 13 operating days with no dark days—13 days straight, rather than 13 open days over a 17-day run. Mr. Mourning also stated that management is considering starting the event on September 12th through the 23rd. Mr. Mourning also said Fair is taking a very close look at entertainment this year, making sure that our entertainer costs are in-line with revenues we are likely to generate.

Mr. Mourning stated that the Fair must continue to put more emphasis on livestock and agriculture, as our own internal survey shows that those are among the biggest attractions. He stated that the carnival, surprisingly, is not as much of an attraction as has long been believed.

Mr. Mourning stated that the NM State Fair is among only 6 in the country longer than 11 days, and that the NMSF is considering shortening and condensing its run in an effort to provide more value for the entertainment dollar in an increasingly tough economy. Trying to stretch the Fair over 17 days simply doesn't make fiscal sense. Rather, the focus of the 2012 Fair will be how to engage the highest number of New Mexicans, provide those elements of the Fair that are historically expected, and capitalize on new entertainment ideas and updating our event so that it's relevant and realistic in today's age and economy. Proposed 2012 Fair dates are September 12-23 with no dark days.

Commissioner Sanchez clarified that the reason for the dark days was to stretch the Fair over 3 weekends in an effort to generate the most revenue while attempting to save some money on what are historically the slowest days.

Commissioner Goff asked how closely the livestock superintendents have been involved in the discussions about rearranging Fair dates.

Mr. Mourning stated there is every intention of including all of the superintendents. Commissioner Rush stated that all of the feedback he has received has been positive regarding condensing the Fair.

Commissioner Rode stated that it is important to engage the expertise of the Commissioners and willing volunteers ASAP rather than later so that the livestock shows are the best they can be.

Commissioner Rush stated that he and Caren Cowan are in close communication, and between the two of them can bring a bulk of support to make the livestock/agriculture part of the Fair the "shining star" it should be.

Commissioner Goff underscored the need for a concerted grassroots movement to breathe much needed life into the livestock aspect of the Fair.

Michael Henningsen confirmed what Mr. Mourning stated re: the final auditor's report not being available, therefore the 2011 Annual Report is incomplete. However, Mr. Henningsen went on to explain that all of the remaining elements of the report are in place, albeit in draft form, as an overview of the 2011 State Fair and the Agency and its mission as a whole, which is available and has been delivered via email to each Commissioner in its current form. This includes statistical analysis performed in 2011 by the University of New Mexico Anderson School of Management Statistical Analysis team. Mr. Henningsen explained that all portions of the annual report not related to financials are not statutorily required, but have been produced annually by the Media Department each year since his arrival in 2008 as a way to reach out to the Governor and Legislators across the state in an attempt to educate them on EXPO New Mexico and the State Fair.

Chairman Kennedy stated that he believes the staff and director did a fantastic job with what they had to work with in the 2011 Fair, and agrees that work on the 2012 Fair needs to start now. Asked AG how a committee is formed. Ms. Sita stated that subcommittees can be formed outside of the quorum to address any area of Fair, and can be formed by the Chairman.

Chairman Kennedy asked Agnes Maldonado, Director of Administrations, to explain the process for transmitting the Annual Report to the Governor.

Ms. Maldonado stated that once the audit has final approval, it will be combined with the rest of the Annual Report copy and presented to the Commission for signature, after which it will be transmitted to the Governor's office. Ms. Maldonado stated that a preliminary exit report was given by the auditor with Commissioners Kennedy and then-Chairman Sanchez in attendance, but it was merely an overview. Once the audit has been signed off on by the State Auditor, it will be sent to the Commission for signature.

Commissioner Rode asked why only former Chairman Sanchez and current Chairman Kennedy were allowed to sit in on the auditor's exit interview, and not the rest of the Commissioners. Assistant AG Sita stated that because it is not a final report, it is not a public record—often simply an oral summary prior to a final report.

AG Sita stated that her understanding is that the exit reports are a summary, and that the final reports aren't made public until the State Auditor signs off. Therefore, it is standard procedure that the auditor's office calls upon the Chairman of a Board or Commission to hear a verbal summary, and that there is no public record available until the State Auditor gives final approval.

Set Next Meeting Dates, Discuss Possible Agenda Items

Kennedy suggested the Commission set the next, and regular, quarterly meetings.

Rush motion, Sanchez seconded. The Commission voted unanimously in the affirmative. The following dates were set.

March 5

June 4

September 4

Potential Agenda Items for March 5 meeting:

Rode: procedural workshop

Rush: committee reports if Committees are appointed

Rode: Asian American wants to present something to the Commission

Mourning: staff will provide Legislative report including but not limited to the following:

- SB 4
- HB 6
- HB 68