

**New Mexico Foundation for Open Government  
Board of Directors Meeting Minutes**

**Friday, July 31, 2015  
3:00 p.m. – 5:00 p.m.  
Albuquerque, NM**

**AGENDA MINUTES**

**Members Present**

*Those present:*

Greg Williams, President; Martin Salazar, President Elect; Bob Trapp, Treasurer; Charles “Kip” Purcell, Executive Committee Member; Janice Arnold-Jones; Carl Baldwin; Jeri Clausing; Dede Feldman; Charles Goodmacher; Viki Harrison; Emil Kiehne; Phil Lucey; Melanie Majors; Michael Melody; Karen Moses; Fred Nathan; Kyla Thompson; Sylvia Ulloa

*Staff:*

Susan Boe, Executive Director (via conference line); Shannon Kunkel, Membership Director

*Public:*

No members of the public present

President Mr. Williams called the meeting to order at 3:00 p.m.

**Approval of Agenda**

Mr. Williams called for the approval of the agenda. Ms. Thompson moved to approve the agenda for the meeting. Mr. Melody seconded the motion, and the motion carried.

**Approval of Minutes**

Mr. Williams asked for any corrections to the minutes from the April 17 meeting. There were none. Ms. Feldman motioned to approve the minutes, and Ms. Moses seconded the motion. The motion was approved. Mr. Trapp abstained from voting, as he was not present at the prior meeting.

**President’s Report**

Mr. Williams indicated that his points of discussion included both the legislative session and pending legal matters. For that reason, he deferred his report, to be discussed throughout the meeting.

**Treasurer’s Report**

Mr. Trapp addressed previous question about ensuring the investment accounts yield the highest possible returns by stating that the choice had been made to invest conservatively and that the returns were to be expected in the current market conditions.

Mr. Trapp summarized the balance sheet to date and complimented the new bookkeeper, Julie Hoffman, for her detail in separating the various income and expenditures. Mr. Trapp reviewed the income statement and addressed the grant spending. Ms. Boe explained the timeline for the specific grants and the restrictions on how they can be spent. We are working well within the restrictions of all of our grants.

There was brief discussion about the 2015 CLE fundraiser and suggestions to host the event more than once per year, to find a larger venue for the seminar, and to include additional metro areas – possibly Santa Fe or Las Cruces. There were concerns about if there would be enough open-government law firms interested in participating and not wanting to compete with the AG Roadshows. There was also a discussion about reducing printing expenses for the CLE by providing materials in digital format.

### **Executive Director's Report**

Ms. Boe indicated that there had been a nearly 50 percent increase in Hotline inquiries over last year during the same timeframe. There was discussion as to the reason for the increase. Ms. Ulloa indicated that in her experience journalists were being required by government bodies to submit IPRA requests for documents and information that was previously provided with just a phone call to the records custodians. Mr. Williams cited increased public awareness about sunshine laws and public access as a possible reason for more calls.

Ms. Boe also informed the Board that FOG had been awarded a \$25,000 grant from the Thornburg Foundation and secured a \$5,000 sponsorship from Thornburg in support of the Dixon Lunch.

Ms. Boe gave an update on the FOG's efforts to improve the Secretary of State's website and require that information be "sortable, searchable, and downloadable." She also reported on FOG's new partnership with Tom Johnson and his initiative "It's the People's Data," which is a program to compile information in Santa Fe and create a model for open-data websites.

Ms. Boe lastly noted that the first committee meeting for House Memorial 125 to examine IPRA-related costs had been scheduled for August 17, and that FOG would have a representative, either Ms. Boe or Mr. Williams, in attendance at the meeting.

### **OMA and IPRA Legal Issues Discussion and Reports**

1. *State Investment Council Case* – Mr. Yohalem was not in attendance, so Ms. Boe provided a brief update, noting that within one month of the Amicus Brief being submitted, the SIC had reversed its decision. The board congratulated Mr. Yohalem and Ms. Boe on the victory in this case.

2. *Department of Health Medical Marijuana Case* – Mr. Purcell explained that the Attorney General's Office had concluded that the regulation to keep the names of applicants

confidential was valid. The DOH was particularly cautious about the release of applicant addresses. Mr. Purcell indicated that FOG's position, particularly in light of the recent explosion in Santa Fe, is that the public has a right to know if producers are in their neighborhoods.

Gov. Martinez has issued a statement instructing the DOH to change its rule. However, Mr. Purcell explained that this does not resolve the issue at hand, and the DOH should be required to produce all records associated with previous IPRA requests. Mr. Purcell also noted that the larger question in this case is whether a government agency can legally pass administrative rules that are inconsistent with enabling legislation.

*3. Juvenile Detention Records* – Mr. Williams explained that Bernalillo County in May issued a letter stating that they would keep confidential the arrest records of juveniles. Mr. Williams said there was no new case law, but that the County changed its interpretation of the law. The County recognized that the new interpretation was unclear and inconsistent and reverted to its prior policy of making these records public. Mr. Williams indicated that the current statute causes confusion because CYFD cannot release such information, but other entities should; therefore, the same information may be deemed public or private depending upon who hold the records.

Ms. Moses noted her concern that this situation could set a bad precedent and be carried over to other entities and other statutes relating to juveniles.

#### **Membership Director's Report**

Ms. Kunkel discussed a recent re-launch of the website and the technical issues that had developed with the old site hosted by the NFOIC. She explained that our new skilled volunteer, Deb Schutt, had been instrumental in helping FOG develop a new, more functional site.

Ms. Kunkel also gave an update on the two upcoming events – the movie screening of “The Sun Never Sets” in Santa Fe and the Dixon Lunch in Albuquerque. Mr. Williams encouraged the Board to help with the fundraising efforts.

#### **New Business**

Mr. Williams called for a discussion to continue about the new Policies and Procedures. He said most were passed at the April 17 meeting, but a few provisions were still under consideration.

*Term Limits* – A proposal to require a one-year sabbatical from service on the board following two consecutive three-year terms was put to discussion. Ms. Thompson stated that term limits were an important way to cycle out less engaged board members and make way for new members. Mr. Melody said that attrition ought to occur naturally, rather than forcing active members to take a one-year leave from the board. He also noted that the

board would not want to prohibit attorneys from serving continuously. Ms. Moses mentioned that the Executive Committee already has the authority to simply not invite any given member to return for an additional term.

Ms. Thompson moved to adopt the new term limits. Mr. Goodmacher seconded. Prior to a vote, Ms. Harrison said that while she understands the need to keep the make-up of the board fresh, she would not want to jeopardize the effectiveness of the current board. Mr. Melody added that if board members are forced to take a sabbatical, they may refrain from becoming involved again. Ms. Arnold-Jones said the term limits contradict the Bylaws.

Ms. Thompson amended the motion to leave the issue of term limits to what is stated in the Bylaws, effectively not adding any term limits. Ms. Feldman seconded. The motion passed unanimously.

*Public Officials serving on the Board* – Ms. Thompson moved to prohibit elected officials from serving on the board. Mr. Nathan seconded. Ms. Arnold-Jones stated that this policy, too, should be written in the Bylaws, rather than in the Policies and Procedures. She also asked if the rule should be written to exclude from the board persons running for elected office, as well. Ms. Boe answered that enacting this policy would give the Executive Committee the ability to ask any candidate for office to resign from their position on the board. Mr. Purcell said that he would like the provision expanded to include all public employees, stating that while it may be valuable to have a records custodian serve on the board, it would not be appropriate. Mr. Williams called for a vote to add the sentence “An individual who holds an elected public office shall be ineligible to serve on the Board of Directors.” to the end of Section IV. Nominating Committee and Board Composition. By a vote of 14 to 6, the motion carried.

The meeting adjourned at 5:00 p.m.