



**New Mexico Foundation for Open Government (NMFOG)  
Board of Directors Meeting Minutes  
Thursday, April 22, 2020  
12 p.m.  
Albuquerque, NM  
ZOOM Meeting**

A virtual meeting of the board of the New Mexico Foundation for Open Government was held via ZOOM, notice having been given.

**Members Attending:**

Susan Boe, President; Mike Melody, Vice-President; Carl Baldwin, Treasurer; Members: Billie Blair, Dede Feldman, Tom Johnson, Karen Moses, Fred Nathan, Jessica Onsurez, Chuck Peifer, Kip Purcell, Robert B. Trapp, Greg Williams, and Daniel Yohalem.

**Members Not Present:**

Mary Ann Armijo, Kathi Bearden, Heather Ferguson, Henry Lopez, Sammy Lopez, Paula Maes, Tim Maestas, Steve McKee, Lucas Peerman, Mary Lynn Roper, Kristelle Siarza, and Hal Stratton

**Staff:**

Melanie Majors, Executive Director.

**Public:**

Jason Espinoza, NMFOG lobbyist, attended the meeting as did Miriam Diemer, deputy city clerk, City of Albuquerque.

**Call to Order:**

A quorum being present, Ms. Boe called the meeting to order at 12:04 p.m.

**Approval of Agenda:**

Ms. Boe called for a motion to approve the agenda. Ms. Feldman moved. Mr. Melody seconded. Motion carried.

**Approval of Minutes:**

Ms. Boe called for a motion to approve the meeting minutes from the Jan. 21, 2021 meeting; Mr. Melody moved. Mr. Baldwin seconded. Motion carried.

## **PRESIDENT'S REPORT**

Ms. Boe said that NMFOG was working on activities for its 2021 year. She told the board FOG received \$12,500 under the PPP program.

She also reminded board members they approved efforts to move forward on work for the Legal Initiative. She related that she has been talking to organizations about FOG's Legal Initiative saying she believes the bulk of our funds will be raised in New Mexico. She said in the initial talks with funders all expect board members to contribute to the effort before asking outsider sources for funds.

She said FOG had a couple of pledges and \$10,000 in the bank from the Thornburg Foundation.

She announced the Albuquerque Journal would give FOG \$50,000 towards the effort. (Recently, District Judge Nancy Franchini ruled against APS and for the Journal and KOB TV 4 in an IPRA lawsuit. She awarded the Journal \$293,625 in damages.) The money will be paid when and if the Journal prevails.

She said FOG would be contacting the national group, Center for Excellence in Ethics and Journalism, now known as the Inasmuch Foundation, out of Oklahoma City.

Ms. Boe then asked Ms. Blair, fundraising chair, to provide an additional update. Ms. Blair pointed out FOG received \$5,000 for the initiative from a board member and \$1,000 pledge from a supporter. She reminded the board that it agreed to raise \$300,000 to hire a full-time FOG attorney. The funds will be placed in a reserve account for future years. She said a pledge form was created and each board member would receive the form following the meeting. She asked the board member to return the form to FOG by April 30<sup>th</sup>.

Mr. Nathan asked if the board could hear more details about the lawsuit. Ms. Moses deferred to Mr. Peifer who gave the following update.

He said the lawsuit was originally filed in 2014 when the APS School Board fired Superintendent Winston Brooks. APS commissioned a secret report used as the basis for Mr. Brooks' settlement agreement. That agreement required APS to pay Brooks \$350,000 to buy out his remaining contract. The plaintiffs filed an IPRA for the report. APS denied the IPRA request, saying it was a personnel matter, and the report was an attorney-client communication and work product and therefore exempt from IPRA. This was a further example of how government agencies were continuing to broaden the scope of the exemption for matters of opinion in personnel matters. The Journal and KOB TV 4 agreed to file a lawsuit challenging the exemption.

Peifer said a recent two-day trial turned out better than we could have hoped. APS withheld other documents and did not disclose others. He said the plaintiffs were able to show APS had a whole team of people that were aware of the request, aware of the documents' existence and aware they were not disclosed.

He said the judge seemed shocked about the APS response adding she had enormous discretion and found APS was guilty on nine violations. Mr. Peifer sent kudos to the Journal and KOB. He added the pressure was on to win the appeal which FOG has joined. It was gratifying to do, said Mr. Peifer; it was a just cause.

## **FINANCE COMMITTEE REPORT**

Mr. Baldwin presented the Financial Report which was included in the packet sent to the board prior to the meeting.

Statement of financial position:

- FOG has \$53,600.48 in its cash accounts.
- Investments in 2021 are at \$132,131.32. Total net assets are at \$185,731.80. This includes a grant award from the Thornburg Foundation of \$42,500 and \$12,500 from the PPP program.

Mr. Baldwin also pointed out all of the funds for the Legal Initiative will be kept separately.

Ms. Blair made a motion to accept the financial committee report and Mr. Melody seconded the motion. All approved.

## **EXECUTIVE DIRECTOR REPORT**

Ms. Majors included her report and the quarterly hotline report in her packet to the board. A copy of the report is included in the minutes.

She thanked Mr. Espinoza for his assistance with the legislature. She also thanked the print publications that used the survey and the newest ad.

Ms. Majors introduced Miriam Diemer, deputy city clerk, City of Albuquerque, who is the lead city employee on the Hackathon. The event, called DataFest:ArtQuest, is the name for the event set for June 12 and June 19. Volunteers are needed. It is being held in conjunction with the city's Cultural Affairs Department with the goal to create a database of the city's, county's and UNM's public art. The event will feature a section in which individuals will capture information on the location of art, its GPS coordinates and provide new photos. The information will be used in a database. Other parts of the Hackathon include workshops and an entire day focused on devising some use for the data created.

In addition, she reported the FOG Hotline continues to be active.

## **COMMITTEE REPORTS**

### **LEGAL COMMITTEE**

Mr. Williams said FOG would file an amicus brief in the New Mexico Court of Appeals on behalf of the Santa Fe Reporter concerning a case about City of Santa Fe police disciplinary records. Also, he said FOG is a party in an amicus brief in the New Mexico Court of Appeals in *The New Mexican v. Public Serv. Co. of New Mexico & BHP Billiton New Mexico Coal*, a case involving an attempt by utility companies to impose a prior restraint on the newspaper. Mr. Yohalem is the author of the briefs in both cases. The brief is set to be filed on April 23<sup>rd</sup>.

## **LEGISLATIVE COMMITTEE**

Mr. Nathan talked about the Legislature's redistricting committee. He proposed nominating Ms. Feldman and Mr. Stratton as members of the redistricting committee. Mr. Nathan said he would follow up on the redistricting committee nominations. He mentioned HB 55, which allowed for publication of capital outlay and noted about a dozen bills FOG worked on during the session. Mr. Nathan asked that the board be sent a full outline of bills on FOG's legislative agenda following the meeting. He also related that Sen. Jeff Steinborn asked him for FOG's help with a bill to bring transparency to lobbyists. He said he would bring the bill to the Legislative committee this fall.

## **Committee Reports**

There were no other reports from other committees.

## **GRANTS**

Ms. Boe asked Ms. Majors to talk about FOG's "Be Afraid of the Dark. The New Mexico Foundation for Open Government Democracy Project " one of the items that FOG listed as an activity in its 2021 Thornburg Grant.

It is a year-long project focused on transparency and accountability as the basis for democracy. This project would concentrate on these two most essential principles of democracy, without which self-governance would be impossible. Accountability ensures that government is held responsible to the citizenry; transparency gives the public the right to access government information and requires that decisions and actions made by the government be open to public scrutiny and occur in the light.

- a) Essays -- written by FOG members and others. The project would debut during the annual Sunshine Week in March. NMFOG would draft and distribute the essays to the media, post them on the NMFOG website and use portions of the essays in NMFOG's social media. The essays will also be sent to high school newspapers across the state. The topics, for example, could include transparency's importance to business, technology and education.
- b) Video -- NMFOG plans to produce a video talk similar to a Ted's Talk, post it on our website, and upload it to YouTube. The video link could also be made available to a host of business and civic groups, teachers, students, and others. This would be particularly helpful in this Covid-imposed time of Zoom meetings and remote learning.
- c) Ads -- NMFOG will use the democracy project in a series of ads that

our member publications can use in their editions.

### **NEW BUSINESS**

There was no new business on the agenda.

### **DATES FOR 2021 BOARD MEETINGS**

The dates are:

- Thursday, August 19, 2021
- Thursday, November 18, 2021

### **ADJOURNMENT**

As there was no other business, Ms. Boe called for motion to adjourn. Ms. Feldman moved, and Mr. Nathan seconded. Motion carried. Everyone was thanked. Meeting adjourned at 1:20 p.m.