



**New Mexico Foundation for Open Government (NMFOG)
Board of Directors Meeting Minutes
Thursday, Jan. 14, 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; Sammy Lopez, Secretary; Carl Baldwin, Treasurer; Members: Kathy Bearden, Billie Blair, Dede Feldman, Heather Ferguson, Tom Johnson, Henry Lopez, Steve McKee, Mike Melody, Karen Moses, Fred Nathan, Jessica Onsurez, Chuck Peifer, Kip Purcell, Mary Lynn Roper, Kristelle Siarza, Hal Stratton, Robert B. Trapp, Greg Williams, and Daniel Yohalem.

Members Not Present:

Mary Ann Armijo, Paula Maes, Tim Maestas, and Lucas Peerman

Staff:

Melanie Majors, Executive Director.

Public:

Jason Espinoza, NMFOG lobbyist attended the meeting.

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. Blair moved. Ms. Moses seconded. Motion carried.

Approval of Minutes:

Ms. Boe called for a motion to approve the meeting minutes from the Nov. 19, 2020 meeting; Mr. Melody moved. Ms. Bearden seconded. Motion carried.

President's Report

Ms. Boe said that NMFOG had an extremely positive agenda for 2021. First, she told the board that the Thornburg Foundation, NMFOG's largest grant source asked that the date for the application be brought forward. The application is now in process. Next,

Ms. Boe stated that in discussions with board members, NMFOG would include a request for a Legal Initiative in the next application. She said she would discuss the initiative under new business.

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 2020 have increased to \$132,131.32 resulting in a very strong financial statement during uncertain times. Total net assets were at \$184,046.52.

He pointed out the \$15,104 paycheck protection loan was no longer a liability as it had been forgiven. He said 2020 had been a good year for investments.

Mr. Baldwin presented the 2021 budget. The budget has a total of \$95,086.14 in expected revenues and \$96,907.87 in expenditures, a difference of \$1,821.73. He also thanked the budget committee including Mr. Trapp and Mr. Melody.

He said the new budget also reflects a move from a member-based organization to a donation-based organization. The board did discuss the budget line item for a development manager, stating the addition of this individual was a priority for the year. The fundraising committee will meet to discuss this position and set up a strategic plan for fundraising.

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. She also thanked the print publications that used the survey and the newest ad.

In addition, she related:

- The FOG Hotline continues to be active.
- Upcoming legislative session – In the next newsletter, FOG outlined recommendations to ensure public access to debate during the special session.
- Secured new phone system for NMFOG.
- Registered as a lobbyist with Secretary of State website.
- Worked with lobbyist on new contract.
- Met with City of Albuquerque records custodians to discuss a virtual Hackathon.

COMMITTEE REPORTS

LEGAL COMMITTEE

Mr. Williams indicated he had nothing new to report on the amicus brief filed on behalf of Daniel Libit in his lawsuit against the UNM Foundation and the UNM Lobo Club. He asked Mr. Yohalem to share an update on a case Mr. Yohalem is pursuing on behalf of the Santa Fe Reporter concerning disciplinary records. He said he may ask FOG for an amicus brief at a future date.

MARKETING COMMITTEE

Mr. McKee said the Marketing Committee revised the Roundhouse Runaround ad. Ms. Majors thanked the print outlets that share the ads in their publications.

President Boe offered thanks to Mr. McKee and his firm for the tremendous job regarding FOG's marketing.

LEGISLATIVE COMMITTEE

Mr. Nathan pointed out the Legislature was proceeding with the session and that the committee met prior to the board meeting and outlined priorities for the session:

1. A change to the rules to open the budget process to make it transparent. Responding to the survey, the majority of those responding indicated "it was extremely important to involve the public in the budget process."
2. New legislation to make capital outlay requests more transparent. Rep. Matthew McQueen is working on this legislation and NMFOG believes the public is entitled to know the sponsor of each capital outlay project.
3. An amendment to the Inspection of Public Records Act requiring that public employee disciplinary records be open to inspection. Respondents to the FOG survey showed more than 90.3 percent strongly supported strengthening IPRA.
4. An amendment clarifying that county records, including records involving property are all subject to IPRA. Currently, some county records fall under the state's Recording Act instead of IPRA.
5. New legislation amending the state's Open Meetings Act requiring state-appointed task forces comply with OMA. In NMFOG's recent survey, 88 percent of respondents indicated that advisory committees and task force groups should be subject to the OMA.

Legislation FOG Opposes:

In addition, NMFOG plans to oppose a Senate Bill, with an emergency clause, to exempt the names of hiring candidates from IPRA. Sen. Bill Tallman filled this bill. It failed in previous Legislative sessions. NMFOG maintains there is no evidence, other than occasional anecdotal opinion, that closing off the process from the public results in either a better applicant pool or a better ultimate hire. The bill sponsors have offered no studies or other empirical proof showing that an open process affects the ability to hire a qualified person.

MEMBERSHIP

Mrs. Majors reported in response to a donation request sent in December, NMFOG received more than \$9,000 in donations.

COMMITTEE MEMBERS

No discussion of the committee members was held. Mrs. Majors sent a copy of the current assignments to all the NMFOG board members and asked them to indicate whether they would continue in their assignment.

Other Committee Reports – While a review of the bylaws was listed on the agenda, no report was made.

NEW BUSINESS

Ms. Boe outlined NMFOG's plan for its own legal initiative. She asked the board to approve a measure where NMFOG would raise \$300,000 over the next two years to fund the position of an attorney. She explained the ability to hire an attorney who could pursue IPRA or OMA claims is prohibitive not only for individual citizens but also for journalists, many of whom are freelancers or work in newsrooms with shrinking budgets. Currently, FOG relies on a group of pro-bono attorneys, but generally, the FOG legal panel is focused on creating law at the appellate level. While FOG does offer free hotline access, having a dedicated FOG attorney in New Mexico would provide invaluable, quick assistance to all journalists and other transparency advocates in the state who need same-day strategic phone calls or "lawyer letters." Such an attorney may be able to nip access problems in the bud, avoid time-consuming litigation, and allow journalists to meet deadlines, which ultimately benefits the public. She pointed out With shrinking newsroom budgets at all media outlets, resources to hire outside counsel to pursue IPRA or OMA claims are limited. While no one believes that additional legal backing would address all of the state's challenges, we know from past efforts that legal intervention has been instrumental in shaping the transparency laws in the state and focusing attention on compliance. Currently, NMFOG relies on a group of pro-bono attorneys, but generally, the legal panel is focused on creating law at the appellate level at which it has been very successful. We have lost only one case in our 31-year history. NMFOG also offers free hotline access to anyone who calls us. Having a dedicated transparency attorney in New Mexico would provide invaluable, quick assistance to all journalists and other citizen advocates in the state who need same-day strategic phone calls or "lawyer letters." Such an attorney may be able to nip access problems in the bud, avoid time-consuming litigation, and also allow journalists to meet deadlines, which ultimately benefits the public. Although media law attorneys in New Mexico are quite committed and take cases on a pro bono or contingency basis, their numbers are low – no more than a dozen experienced lawyers in the private bar.

Many rural counties have no attorneys at all, much less one with experience in media access questions. Also, with so many news deserts in New Mexico, we need to empower citizens to become government watchdogs. While the state's Sunshine Laws are considered some of the country's most robust, responses to public information requests can be slow and tortuous. One of the barriers to effective enforcement is a lack of resources. In New Mexico, the Attorney General and District Attorneys may bring an action for noncompliance with IPRA but they also have limited budgets determined each year by a legislative appropriation. There never seems to be enough money to expand efforts to enforce IPRA.

Ms. Boe called for motion to approve the project. Mr. Melody Moved and Mr. Nathan seconded. Motion carried.

Ms. Moses congratulated the board for its efforts for an aggressive agenda for 2021.

DATES FOR 2021 BOARD MEETINGS

The dates are:

- Thursday April 22, 2021
- Thursday, August 19, 2021
- Thursday, November 18, 2021

ADJOURNMENT

As there was no other business, Ms. Boe called for motion to adjourn. Mr. Melody moved. Ms. Blair seconded. Motion carried. Thanked everyone. Meeting adjourned at 1:50 p.m.