



Minutes
State Fair Commission Regular Meeting
August 5, 2023
African American Performing Arts Center
300 San Pedro NE – NM State Fairgrounds
Albuquerque, NM
10:00 am- 12 noon

Call to Order: The meeting was called to order by Chairman Serna at 10:07 a.m.

Roll Call: Michele Clement called the roll.

The following Commissioners were present:

Chairman Eric Serna
Commissioner Benny Roybal
Commissioner Carol Cloer
Commissioner Larry Chavez
Commissioner Tony Casados
Commissioner Walter Adams

The following Staff was present:

Joseph Holloway, Deputy Manager
Chris Machin, General Counsel

Pledge of Allegiance: The pledge of allegiance was led by Commissioner Cloer

New Mexico State Flag Pledge: The New Mexico State Flag pledge was led by Commissioner Cloer.

Approval of Agenda: the agenda was approved on a motion from Commissioner Adams and seconded by Commissioner Roybal, all voted in the affirmative.

Approval of Minutes of May 19, 2023 Regular Meeting: The minutes from the May 19, 2023 regular meeting were approved on a motion from Commissioner Adams, seconded by Commissioner Roybal, all voted in the affirmative.

Introduction of Guests:

Commissioner Roybal introduced Rhonda Faught from the International Women's Forum of New Mexico and the steering committee for the Historic Women's Marker program.

Public Comment: None at this time.

New Business:

1. New Mexico Historic Women's Marker Program: Debbie Martinez, "La Chicanita" Commemorative Plaque in Villa Hispana on the State Fairgrounds.

Rhonda Faught thanked the Commission for allowing her to give her presentation and explained that she was addressing the Commission to ask for approval to place a New Mexico Historic Women's Marker for Debbie Martinez "La Chicanita" in Villa Hispana.

Ms. Faught provided a handout to explain the New Mexico Historic Women's Marker Program and provided some background information on Ms. Martinez (see handout).

Commissioner Casados made a motion to approve the request to honor Ms. Debbie Martinez "La Chicanita" with a New Mexico Historic Women's Marker in Villa Hispana on the State Fairgrounds. Commissioner Chavez seconded the motion, all voted in the affirmative.

Commissioner Chavez asked if the Commission would be notified when the marker will be placed.

Ms. Faught stated that she would notify the Commission when the marker was ready to be placed in Villa Hispana and added that the Department of Transportation (DOT) will have to look at the site and do an environmental assessment to determine exactly where to place the marker.

Commissioner Casados asked if this would be done during the State Fair.

Ms. Faught stated that it would not be possible to complete the project by the State Fair.

Chairman Serna stated that there may not be enough time to place the Historic Marker in Villa Hispana in time for the State Fair but suggested that maybe there could be a ceremony to commemorate the project during the State Fair.

Ms. Faught thought that would be a great idea and will be happy to work with the State Fair staff to organize that.

Chairman Serna asked Deputy Manager Holloway to work with Ms. Faught to organize the ceremony during the Fair.

2. Discussion Item: New Mexico State Fair Carnival Contract: Terms and Agreements

Commissioner Roybal asked which Carnival operator received the Carnival Contract. Deputy Manager Holloway stated that Reithoffer Shows was awarded the contract.

Commissioner Roybal asked how many carnival companies responded to the RFP.

General Counsel Machin stated that he did not think that the Carnival RFP could be discussed at this time because as the Commissioners were aware, there has been a threat of litigation made. General Counsel Machin suggested that on the next Commission agenda this could be discussed in Executive Session based on the threatened litigation.

Chairman Serna stated that he would like to go into Executive Session to discuss the Carnival RFP at this time, because there will be a discussion about the Carnival Contract during this current meeting.

Commissioner Adams stated that the Commission could not go into Executive Session because it is not on the agenda.

Commissioner Chavez asked about the nature of the threat of litigation.

General Counsel Machin stated that the Commission had received a letter from an attorney from another carnival company which included a threat of possible litigation.

Commissioner Casados stated that there is a discussion item on the agenda to discuss the terms and agreements of the Carnival Contract, so doesn't that mean that the Commission can discuss it, even if it has to be in Executive Session.

Commissioner Adams stated that an Executive Session has to be on the agenda in order for everyone to be informed and to give notice to the public.

Chairman Serna stated that the Commission could discuss the Carnival Contract and the commission should proceed to do that.

General Counsel Machin stated that there should be limited discussion at this time.

Commissioner Chavez asked General Counsel Machin to site the threatened litigation.

General Counsel Machin stated that the letter received from the Attorney mentioned the possibility of litigation.

Chairman Serna asked who was on the committee that oversaw the RFP.

Deputy Manager Holloway stated that Procurement Officer Ms. Kulinna would have to be consulted for that information. Deputy Manager Holloway stated that he is not sure of the language in the Procurement Code regarding the sharing of that information.

Deputy Manager Holloway stated that the Procurement code had changed since 2015 and there is language in the code that there must be strict adherence to the code by the certified Procurement Officer.

Chairman Serna asked Deputy Manager Holloway to site from the Procurement Code to address his statement above.

Deputy Manager Holloway cited the Procurement Code:

"On and after July 1, 2015, only certified chief procurement officers may do the following, except that persons using procurement cards may continue to issue purchase orders and authorize small purchases:

- (1) make determinations, including determinations regarding exemptions, pursuant to the Procurement Code;
- (2) issue purchase orders and authorize small purchases pursuant to the Procurement Code;
- and
- (3) approve procurement pursuant to the Procurement Code."

Chairman Serna stated he remembered in a previous meeting that General Counsel Machin said that the State Fair was exempt from the Procurement Code.

General Counsel Machin stated that he did not say that the State Fair was exempt from the procurement code.

Chairman Serna asked if there was a position taken that had been cited that stated that the State Fair was exempt from the procurement code.

Deputy Manager Holloway stated that there is no position that states that the State Fair is exempt from the Procurement Code. Deputy Manager Holloway added that the only exemption that the State Fair has been given is to purchase feed during the fair for the animals.

Commissioner Casados stated that he had been a procurement officer in the past and agreed that the law must be followed. However, he thinks that the procurement officer must have been given some direction from a Board or someone above him to follow the code.

Commissioner Casados added that he remembered that he heard during a previous Commission meeting that the General Manager was not answerable to this Commission.

Commissioner Casados stated that he disagrees with that statement and added that it has a bearing on what they are talking about and maybe that can be addressed in another meeting. Commissioner Casados stated, speaking for himself, he feels that if the Commission does not have jurisdiction over the General Manager he does not want to serve on the Commission.

Deputy Manager Holloway stated that during a previous meeting the representative from Governor's office stated the General Manager acts in the same capacity as a Cabinet Secretary and therefore is answerable to Governor. Deputy Manager Holloway added that the General Manager is responsible for the day-to-day operations of the State Fair/Expo NM.

Chairman Serna stated that was not what he heard during discussions with the Governors' Office and would like to get a legal opinion on who the General Manager is answerable to.

General Counsel Machin stated that he would have to research that and get back with Commission.

Commissioner Cloer stated that the Commission would like to know about the process for RFP's.

Deputy Manager Holloway stated that Procurement Officer Ms. Kulinna is the expert on the process and has already provided the Commission with that information in previous meetings.

Chairman Serna stated that Procurement Officer Ms. Kulinna should be in attendance at this meeting.

General Counsel Machins stated that given that Ms. Kulinna is classified employee, she is not required to attend Commission meeting and not required to work on Saturday. General Counsel Machin stated that there are specific State Personnel rules that cover what is required of classified employees.

Chairman Serna stated that he wants those rules in to be included in research by General Counsel Machin..

Deputy Manager Holloway stated that Procurement Officer Ms. Kulinna is always available to meet with Commissioners.

Commissioner Casados stated that if she is needed at a Commission meeting then Commission meetings should be scheduled Monday through Friday. Commissioner Casados added that he wants things to be done right.

Commissioner Roybal stated that the question of how many carnival companies responded to the Carnival RFP should be open for discussion.

Deputy Manager Holloway stated that we received one bid.

Commissioner Casados asked if the Carnival RFP was done according to the rules?

Deputy Manager Holloway stated that yes, all rules were followed.

Commissioner Cloer stated that notice that the RFP would be going out was given to interested parties at several trade conference in November, and the Carnival RFP was issued in April, so interested parties had six months to prepare to respond.

Commissioner Chavez asked when the Carnival RFP was issued.

Deputy Manager Holloway stated that the Carnival RFP was issued April 26, 2023 and all responses were due June 6, 2023.

Commissioner Casados asked if the contract was for four years and then asked if we could have given them a longer contract.

Deputy Manager Holloway stated that this is a four-year contract with the option to renew it for four additional years.

Commissioner Chavez asked what the method to cancel this contract is.

Deputy Manager Holloway stated that he would have to review the contract but generally a contract would be cancelled for cause.

Commission Adams stated at this time that he has noticed that there has been a failure to communicate between the General Manager and the Commission and felt that the Commission should be a part of the decision making and not just given a report on what had been done. Commissioner Adams stated that he has experienced a feeling of disrespect as a member of this Commission because of the lack of communication. Commissioner Adams stated that he wants to be part of the process.

Commissioner Cloer stated that she knows that everyone (Commission and staff) wants the best for the State Fair, however, agrees there has been a breakdown in communication.

Commissioner Adams stated that there should be a practice of communication between the Commission and the General Manager and Staff, there should be a plan in place. As an example, the General Manager calls the Chairman and then the Chairman shares with other Commissioners.

Chairman Serna asked General Counsel Machin, if Section 16-6-4 and Section 16-6-15 NM Statute annotated 1970 is that still good law?

Chairman Serna quoted from the statute “the New Mexico State Fair Commission has broad authority to perform all acts and do all things necessary or convenient to carry out the powers granted to the New Mexico State Fair Commission”.

Chairman Serna stated that he thinks the Commission has more powers than has been stated by Deputy Manager Holloway and added that the General Manager and staff should be under Commission oversight.

Chairman Serna would like to know the authority that General Counsel Machin comes up with and believes he will find the Commission has broader authority than stated previously.

General Counsel Machin stated that he will do in-depth research and will report back to the Commission.

Chairman Serna asked General Counsel Machin who he is counsel to?

General Counsel Machin stated that he is general counsel to Expo NM and the Livestock Board and added that he also provides both Commissions with legal advice during public meetings.

Chairman Serna stated that if there were no more questions or comments about the Carnival contract he would like to take a five-minute break and then continue with the agenda.

Deputy Manager Holloway stated that staff is very busy at this time getting ready for the upcoming Fair and Reithoffer Shows is already getting their footprint set up for the upcoming State Fair. Deputy Manager Holloway stated that we are lucky to have Reithoffer Shows again as the Carnival Operation for the State Fair because they are among the best carnival shows nationwide.

Deputy Manager Holloway added that the Carnival Contract is a good contract.

Commissioner Roybal stated that he agrees that it is a good contract, but the process should have started six months before and included the Commission from the beginning.

State Fair Management Report:

Financial Report:

Deputy Manager Holloway stated that CFO Smouse was not able to attend the meeting and he would give a brief overview of the financial report given to the Commissioners in the packet. (See handout).

Commissioner Chavez addressed a few items from the financial report:

1. Commissioner Chavez stated that in the unaudited income statement the general fund appropriation should be classified as non-operating revenue.
2. Commissioner Chavez stated that the depreciation can be estimated along the way (monthly) and can be adjusted on the audit.
3. Commissioner Chavez would like a monthly financial report and asked CFO Smouse call him to discuss.

4. Commissioner Chavez stated that he would like an official copy of the Audit report and stated that he would like the official name that the report is filed under. Is it the New Mexico State Fair Commission or under the Agency- Expo NM?

Deputy Manager Holloway stated that CFO Smouse has gone through the process to contract with a company to perform the annual Audit of the State Fair.

Deputy Manager Holloway stated the company who had been awarded the contract, Beasley Mitchell & Company, are based in Las Cruces. Deputy Holloway stated that the contract amount was capped by DFA at \$30,000.00.

Deputy Manager Holloway added that nine companies had been solicited, seven had responded and we received one bid. The contract had been awarded for One year and could be renewed up to Six years. Deputy Manager Holloway added that it might be time to negotiate with DFA to raise the cap on what the State Fair can pay to a company to perform the audit.

Commissioner Chavez stated that he would support a discussion with DFA regarding the amount that the State Fair can pay a company to perform the audit.

Commissioner Roybal stated he would like more current financial reports in a timely manner.

Deputy Manager Holloway will let CFO Smouse know that Commissioner Roybal would like to receive the financial report sooner.

Commissioner Chavez stated that he recommends the selection of the Audit company be made earlier so that the Audit company could begin the process sooner.

Deputy Manager Holloway stated that the State Auditor's office sets the rules and the dates of the audits done with all State Agencies.

Contracts:

Deputy Manager Holloway reviewed the list of Contracts/RFP's provided to the Commission:

CONTRACTOR	DESCRIPTION	BEGIN	END
BASKIN ROBBINS, CHICAGO DOG, TRAIN STATIONS GRILL AND MIMA BEE'S.	LONG TERM FOOD VENDOR	6/1/23	6/30/27
CC'S CONCESSIONS	FLEA MARKET RESTAURANT	4/15/23	6/30/27
PACE AUDIO	DATA/AUDIO/VIDEO COMMUNICATIONS	6/10/23	6/30/27
REITHOFFER	CARNIVAL	9/1/23	12/30/27 W/ option to renew until 12/30/31
QUICKBEAM SYSTEMS, INC	SOUND AND LIGHTING	7/1/23	6/30/26
AAROWHEAD SECURITY dba VETSEC	SECURITY	7/7/22	6/30/25
ESPARZA ADVERTISING	ADVERTISING	3/15/20	12/31/23
NRG	STAGING	6/1/21	6/30/25

HI LO PRO RODEO	RODEO STOCK	6/1/22	6/30/26
ETIX	TICKETING	6/1/23	6/30/27
NK VENTURES	LIQUOR	1/1/20	6/30/24

Capital Projects:

Deputy Manager Holloway reviewed ongoing projects, future projects, and potential projects. (See handout).

Commissioner Cloer stated that the Fairgrounds is like a small city and can only imagine the magnitude that all of the staff and management has to deal with every day.

Deputy Manager Holloway agreed with Commissioner Cloer about the magnitude of the work being done on the grounds and added that we need to give credit to our Capital Projects director, Gary Zink for all of his hard work and coordination of all of the projects.

Commissioner Chavez stated that he would like the cost of the capital projects to be recognized in financial statements via depreciation over the life of the project.

Commissioner Casados asked about the line item in the financial report about rental of building and grounds in the amount of about \$22 million dollars, and wondered does the State Fair own anything within its parameters.

Deputy Manager Holloway stated that the State Fair owns everything on the 236 acres. The amount Commissioner Casados mentioned is likely revenue from rent from the Downs Racetrack and Casino.

Commissioner Casados asked if that line item reflects the cost of utilities?

Deputy Manager Holloway stated that the Downs Racetrack and Casino pay for their utilities.

Commissioner Chavez stated that the amount that Commissioner Casados is referencing is \$22 thousand dollars not \$22 million dollars.

Deputy Manager Holloway stated that amount would be for the rental of our forklift.

Commissioner Chavez stated that the financial report does not need to include the zeros.

Deputy Manager Holloway stated that he would pass on that information to CFO Smouse.

Managers' Report

Expo NM Report-

Deputy Manager Holloway gave a report of upcoming events around the fairgrounds (see handout).

Deputy Manager Holloway highlighted the following events:

Great Southwest Antique Show
Bare Knuckle Fight

NM Nissan Dealer Sale
Bosque Chile Festival
ABQ Gem and Mineral Show
ABQ Bruja Fest
Brew Fest
Suicide Boys Concert in Tingley Coliseum

2023 New Mexico State Fair Report-

Deputy Manager Holloway stated that the staff was very busy getting ready for the upcoming 2023 New Mexico State Fair.

Deputy Manager Holloway provided the Commission with a report on the progress being made:

- Tingley Coliseum Entertainment lineup is set (see handout)
- The Theme of the Fair is “Fair Famous” and we will be highlighting New Mexico’s ties to the movie industry around the grounds.
- The Lujan C project will celebrate the film industry and film history in New Mexico.
- There will be a new State Fair Beer, we are working with Ex-Novo Brewery in Corrales and they have created an American Pilsner for the Fair, Dusty Spur Pilsner.
- The Carnival Mega Pass is on sale online for \$30 dollars.

Commissioner Chavez asked if there would be a Park and Ride program during the Fair.

Deputy Manager Holloway stated that there would not be a Park and Ride program because the City of Albuquerque does not have enough bus drivers to manage the program.

Discussion of Meeting Calendar: Commissioner Roybal suggested a tentative date of September 29, 2023 for the next Commission meeting.

Chairman Serna stated that the suggested date for the next meeting could be discussed.

Discussion of Agenda Items of Next Meeting:

Commissioner Roybal stated that he would like to suggest that an Executive Session be put on the agenda as a regular agenda item.

Commissioner Adams agreed with Commissioner Roybal.

Commissioner Roybal asked Michele Clement to add an Executive Session to the agenda.

Michele Clement stated that she would work with General Counsel Machin on that request.

Adjournment: The meeting was adjourned at 12:52 p.m. on a motion from Commissioner Adams, seconded by Commissioner Roybal, all voted in the affirmative.