

MINUTES
SPECIAL COMMISSION MEETING
SEPTEMBER 01, 2011
AFRICAN AMERICAN PERFORMING ARTS CENTER
310 SAN PEDRO –ROOM 120
ALBUQUERQUE, NEW MEXICO, 87108
10:00 A.M.

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

Commission Roll Call (Michael Henningsen)

Commissioners present:

Chairman, David “Hossie” Sanchez

Member, Benny Roybal

Member, Ruth Bitsui

Member, Larry Kennedy

Member, Kenneth “Twister” Smith

Member, Charlotte Rode

Commissioners absent:

Member, Kenneth “Buster” Goff

Pledge of Allegiance (led by Commissioner Benny Roybal)

Approval Items:

Agenda:

Commissioner Roybal moved for approval of the agenda, Commissioner Bitsui seconded the motion. All Commissioners present voted in the affirmative.

Minutes:

Commissioner Smith moved for approval of the July 29, 2011 Meeting Minutes, Commissioner Bitsui seconded the motion. All Commissioners present voted in the affirmative with the exception of Commissioner Rode, who abstained because she was not present at the July 29 meeting.

Introduction of Guests:

Public Present: Charlie Bennett, La Mesa Neighborhood Improvement Association; Jack McGrail, New Mexico Horseman’s Association; Roger Flegel, FWNA; Valerie Alarid, ABQ Downs; Oliver Uytterbrock, Albuquerque Journal; Tim Lease, LEMHC; Ike Eastvold, Fair Heights Neighborhood Association; Rey Garduno; City Councilor; John Collins, New Mexico Horse Council; Mike Redman, Securitas; David Montoya, Securitas; Bob Gerding, Outdoor Adventures; Winona Kennedy, New Mexico Horse Council; Dorothy Kerwin; Fair West Neighborhood Association

Staff Present: Dan Mourning, Interim General Manager; Agnes Maldonado, Administration Director; Mark Shoesmith, Attorney; Michael Henningsen, Media Director; Judy Padilla, EXPO Staff; Lesley Lowe, Assistant Attorney General to the New Mexico State Fair Commission

Mark Shoesmith:

Mark Shoesmith, attorney for EXPO/Fair, explained due to asserted violations of the Open Meetings Act (OMA) during the July 29, 2011 State Fair Commission Meeting, the Commission's purpose at this meeting was to remedy those violations by having said meeting over again. Summarized allegations, summarized OMA, stated that summary of the July 29, 2011 meeting was, in fact, provided to the public in Minutes of the July 29 meeting on the EXPO New Mexico website within the 10-day period proscribed in OMA, which were modified as necessary to comply with OMA. Items on July 29 agenda discussed in Closed Session were RFP for Racetrack and Casino, which will be discussed in Open Session today. Leslie Lowe, Assistant Attorney General assigned to the State Fair Commission, concurred.

Management Report: (Dan Mourning, Interim General Manager)

Interim General Manager Dan Mourning Stated that State Fair is upon us. Summarized where the agency stands as far as preparations for Fair go. Reiterated the fact that the agency is experiencing a budget shortfall of approximately \$2 million. Stated that the agency is in the process of repositioning itself in the market as an "entertainment Mecca," partnering with outside promoters, etc., to make interim events successful and profitable.

Summarized his report of July 29, 2011, stating that the agency must also partner with City of ABQ on Fair on issues such as Park and Ride, which did not happen for 2011 but will be revisited in the future, and other issues such as drainage in order to keep it successful. Race dates for 2012 have been set.

Discussed EXPO New Mexico's general budget shortfall and the various difficulties faced by the agency in these trying economic times. He stated that management and staff have been working hard to cut costs and increase efficiency in an effort to shore up the budget, and acknowledged that the Fair must continue to be nurtured while new business avenues are explored for the year-round operation. Mr. Mourning discussed various ideas currently in motion under his direction to make the 2011 State Fair successful. Among them, he discussed the Monday-Tuesday closure, discount days, partnerships with the City of ABQ, Downs of ABQ, keeping the Fair safe and clean, communicating and addressing the needs of the surrounding communities and other critical areas which the Fair must address.

Mr. Mourning continued to summarize his July 29 report, discussing negotiations underway to secure the larger, more prestigious National Arabian Horse show that currently resides in Tulsa, OK in the future if EXPO can cover the Outdoor Horse Arena and make a few other minor improvements. Mr. Mourning said the negotiations are moving in a positive direction and that he is confident EXPO will soon be home to both Arabian shows, which would be an economic boon to the agency.

Mr. Mourning also briefly discussed a retooling of the EXPO Flea Market, saying he has been holding regular meetings with vendors to improve conditions and collect ideas for increasing attendance and revenue. Flea Market Task Force has been established. Mr. Mourning stated that, in general, EXPO management and staff have taken a more aggressive approach in securing more year round concerts for Tingley, and are attempting to enter into co-promotions to increase the use of Tingley and other facilities to increase revenue. Mr. Mourning reported that the Professional Bull Riders Association is booked for the first weekend of the 2011 Fair for the first time since 2008 and in negotiations for another show during the off-season. Mr. Mourning stated that he is negotiating with PBR about bringing the more prominent show back to Tingley in the coming year, and is working with Commissioner Smith on securing more rodeo and livestock events.

Mr. Mourning stated that LFC and private audits are scheduled to take place concurrently. Capital may get on-call for the upcoming Special Session, but it is likely that EXPO/Fair capital will be drastically cut.

The hope is, however, that the agency will receive some monies for various improvements. He also reported that two offerers responded to Racino RFP: Downs of ABQ and Laguna Development Corporation; there is no defined timeline for evaluation of responses.

Commissioner Bitsui asked who is on the RFP Committee. Mr. Mourning responded that the Committee members are not currently being disclosed, and that the Governor's Office will announce members at its discretion.

John Collins, New Mexico Horseman's Association: Thanked Commission and Management for improvements to horse facilities.

Financial Report: (Agnes Maldonado, Director of Administration)

Ms. Maldonado stated that many adjustments have been made since the last report. A temporary service has been engaged, and financials are now being accounted for monthly. 2010 deficit was \$1.9 million. 2010/2011 deficit \$2.4 million. Working to reduce deficit with a plan into 2012/2013 that changes the look of the Fair and securing new revenue sources such as different music shows, Christmas show, new art shows and other new events. New revenue estimates are \$16 to \$17 million. All temporary services have gone to ATA Services, which saves the agency a little money by moving some staff to new areas, assigning new tasks, reducing costs.

Ms. Maldonado then summarized her report of July 29, 2011, stating that last year the agency brought in \$15 million in revenue, while this year the agency brought in \$12.5 million. Last year's expenditures, by comparison, were \$16.2 (a deficit of \$1.9 million). Ms. Maldonado stated that the agency is currently awaiting an audit so that it knows exactly where it stands financially, and announced that there is a new CFO working to straighten the books and prepare for the audit. She stated that the agency is still operating at large deficit, but that measures are being undertaken to correct it.

Ms. Maldonado explained that overtime hours will be cut by up to 50 percent during Fair, and that contract work during Fair will be cut by 5-10 percent. She stated that Management has had to begin to think differently and outside the box about Fair and the year-round operation, such as the aforementioned cuts and others, such as cutting prize expenditures by 50 percent and utilizing volunteer labor for work the agency used to pay for.

Commissioner Rode asked if internal audits were being conducted prior to current management arrival. Ms. Maldonado stated they were, but the audits were perhaps not as complete or not as aware of the problems.

New Business

Approval of "Open Meetings" Resolution

Commissioner Roybal moved for approval of the Open Meetings Resolution, Commissioner Bitsui seconded the motion. All Commissioners present voted in the affirmative with the exception of Commissioner Rode, who abstained because she had not yet been appointed to the Commission as of July 29, 2011 and was not present at the July 29, 2011 meeting. (*Full text of Open Meetings Resolution appears at the end of Meeting Minutes.*)

Delegation of Authority

Commissioner Bitsui moved for approval to delegate authority to oversee the daily operations of EXPO New Mexico to Management, Commissioner Kennedy seconded the motion. All Commissioners present voted in the affirmative All Commissioners present voted in the affirmative with the exception of

Commissioner Rode, who abstained because she had not yet been appointed to the Commission as of July 29, 2011 and was not present at the July 29, 2011 meeting.

Request for Proposals: Racino Property

Attorney Mark Shoesmith summarized the details of the recently closed Request for Proposals for A Racetrack and Casino Operation or for Alternative Uses on the 93 acres of the Fairgrounds currently occupied by the Downs at ABQ. Mr. Shoesmith explained that the Downs' current lease expires in January of 2012, and that the RFP sought offerors who could provide a reliable revenue stream to EXPO of not less than \$2 million annually while enhancing the Fair and its year-round operations. Mr. Shoesmith stated that winning proposal would be brought before the Commission for approval following evaluation by a selection committee appointed by the Governor.

Mr. Shoesmith explained the future process for the RFP once the proposals have been graded, through the drawing of a lease agreement from the winning offeror, which must be approved by the Commission. If the lease is not approved by the Commission, several options are available, including rebidding or reissuance of the RFP.

Commissioner Rode confirmed that the Committee is not an OMA function, but that the Commission vote is.

Commissioner Roybal suggested that the Commission have a workshop prior to voting on any lease so that the Commission is well-informed. Such a meeting would be an Open Meeting if a quorum were present, but could be called into Executive Session.

Commissioner Rode confirmed that Commission has sole authority to accept or decline recommendation of selection Committee.

Commissioner Kennedy confirmed the Commission will receive both rankings of RFP proposals.

Tim Lease expressed concern that the Commission is only getting one choice, and asked if there is a specified timeline for evaluation and recommendation. Mr. Shoesmith answered that there are no artificial deadlines because there is no way to predict how long it will take to evaluate each proposal.

Commissioner Bitsui stated that it her hope that the Commission can make a good decision given the amount of time in which it must be made. Mr. Shoesmith responded by saying he is confident that there is plenty of time, but there are too many variables to accurately predict best or worst case scenarios.

Commissioner Rode stated that this issue is the single most important issue affecting this property and neighborhood, so the Commission has a responsibility to ensure it does the best possible job. Ms. Rode stated that she is concerned that the Commission will not have the opportunity to view both proposals in light of the fact that the lease would extend for 25 years.

Assistant Attorney General Leslie Lowe explained that the Evaluation Committee will simply rank the proposals according the criteria set forth in the RFP. Those scores will then be presented to the Commission, along with the winning proposal and other supporting documentation. <This is taken verbatim from digital recording of the meeting, and represents accurately the words spoken by Assistant District Attorney Leslie Lowe>

Ike Eastvold stated that his neighborhood association has felt left out of the process, and that he believes the process is wrong for the property.

Rey Garduno stated he echoes what Mr. Eastvold stated. Stated he commits himself to EXPO to make it "a great place" for all.

Reduction in Force

Ms. Maldonado stated that the agency experienced a Reduction in Force (RIF) of the Executive Director of the African American Performing Arts Center, and all positions that had been open longer than 12 months. She stated that the agency is also working with SPO on a future RIF.

Adjournment (David "Hossie" Sanchez, Chairman)

Next meeting date is To Be Announced. All items and times are tentative and subject to change.

NEW MEXICO STATE FAIR COMMISSION RESOLUTION NO. 01-2011

WHEREAS, the New Mexico State Fair Commission ("Commission") met in special session at the State Personal Office in Santa Fe on July 29, 2011 at 10:00 a.m. as required by law; and

WHEREAS, Section 10-15-1(B) of the Open Meetings Act (NMSA 1978, Sections 10-15-1 to -4) states that, except as may be otherwise provided in the Constitution or the provisions of the Open Meetings Act, all meetings of a quorum of members of the Commission, held for the purpose of formulating public policy, discussing public business or for the purpose of taking any action within the authority of the Commission, are declared to be public meetings open to the public at all times; and

WHEREAS, any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public; and

WHEREAS, Section 10-15-1(D) of the Open Meetings Act requires the Commission to determine at least annually what constitutes reasonable notice of its public meetings;

NOW, THEREFORE, BE IT RESOLVED by the Commission that:

1. Notice of any regular meetings will be given ten (10) days in advance of the meeting date. The agenda will be available at least twenty-four (24) hours prior to the meeting. The notice shall indicate how a copy of the agenda may be obtained.
2. Special meetings may be called by Chairman or a majority of the members upon three (3) days notice. The notice shall include an agenda for the meeting or information on how members of the public may obtain a copy of the agenda. The agenda shall be available to the public at least twenty-four (24) hours before any special meeting.
3. Emergency meetings will be called only under unforeseen circumstances that demand immediate action to protect the health, safety and property of citizens or to protect the public

body from substantial financial loss. The Commission will avoid emergency meetings whenever possible. Emergency meetings may be called by the Chairman or a majority of the members upon twenty-four (24) hours notice, unless threat of personal injury or property damage requires less notice. The notice for all emergency meetings shall include an agenda for the meeting or information on how the public may obtain a copy of the agenda.

4. For the purposes of regular meetings described in paragraph 1 of this resolution, notice requirements are met if notice of the date, time, place and agenda is posted on the EXPO New Mexico webpage at www.exponm.com. Copies of the written notice shall also be mailed to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings.
5. For the purposes of special meetings and emergency meetings described in paragraph 2 and 3 of this resolution, notice requirements are met if notice of the date, time, place and agenda is posted on the EXPO New Mexico web page at www.exponm.com. Telephone notice also shall be given to those broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made a written request for notice of public meetings.
6. In addition to the information specified above, all notices shall include the following language:

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact EXPO New Mexico at 505-222-9700 at least one (1) week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact EXPO New Mexico at 505-222-9700 if a summary or other type of accessible format is needed.

7. The Commission may close a meeting to the public only if the subject matter of such discussion or action is excepted from the open meeting requirement under Section 10-15-1(H) of the Open Meetings Act.
 - a) If any meeting is closed during an open meeting, such closure shall be approved by a majority vote of a quorum of the Commission taken during the open meeting. The authority for the closed meeting and the subjects to be discussed shall be stated with reasonable specificity in the motion to close and the vote of each individual member on the motion to close shall be recorded in the minutes. Only those subjects specified in the motion may be discussed in the closed meeting.
 - b) If a closed meeting is conducted when the Commission is not in an open meeting, the closed meeting shall not be held until public notice, appropriate under the circumstances, stating the specific provision of law authorizing the closed meeting and the subjects to be discussed with reasonable specificity is given to the members and to the general public.
 - c) Following completion of any closed meeting, the minutes of the open meeting that was closed, or the minutes of the next open meeting if the closed meeting was separately

scheduled, shall state whether the matters discussed in the closed meeting were limited only to those specified in the motion of notice for closure.

- d) Except as provided in Section 10-15-1(H) of the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by vote of the Commission in an open public meeting.

Passed by the New Mexico State Fair Commission this 29th day of July 2011.

September 1, 2011 Meeting Minutes passed by New Mexico State Fair Commission this 9th day or November, 2011:

David "Hossie" Sanchez, Commission Chariman