Commission for the Blind

Minutes (Draft)

Special Meeting Held Virtually

December 2, 2020 - 10:00 AM

1. Call to Order

Chairman Schreiber called the meeting to order at 10:06 AM.

2. Roll Call

Mr. Schreiber took roll and present were Dr. Robert Reidy, Ms. Urja Lansing, and Chairman Art Schreiber. All members were present.

3. Introduction of Guests and Staff

Present were Mr. Greg Trapp, Executive Director; Mr. Jim Salas, Deputy Director for Vocational Rehabilitation and Independent Living; Mr. Kevin Romero, Deputy Director for Finance and Administration; Ms. Lucy Mallahan, Orientation Center Director; Ms. Kelly Burma, Skills Center Coordinator; Ms. Patricia Adams, Executive Secretary; Ms. Audrey Trujillo, IT Manager; and Mr. John Kreienkamp. Assistant Attorney General. One guest was present, Ms. Diana Marquez.

4. Approval of possible changes to the agenda order and deletion of Agenda items

Mr. Trapp said that Ms. Mallahan might need to leave early, and asked permission to hear her items out of order. Ms. Lansing moved to approve the agenda and to allow Ms. Mallahan’s items to be taken out of order, and Dr. Reidy seconded the motion. A roll call vote was taken, and the agenda was approved, with Ms. Lansing voting yes, Dr. Reidy voting yes, and Chairman Schreiber voting yes.

5. Approval of minutes for the Regular Meeting of October 7, 2020

Mr. Trapp said that the minutes distributed contained an error under the Director’s Report, with the amount listed for vocational rehabilitation funds relinquished as $190 million when it should have been $290 million. The second correction was in reference to the meeting of the Legislative Finance Committee and the recommendation that the agency “hearing” to the Committee requirements. The word “hearing” was corrected to “adhering.”

Ms. Lansing moved to approve the minutes as revised for the regular meeting of October 7, changing $190 million to $290 million, and Chairman Schreiber seconded the motion. A roll call vote was taken, and the minutes were approved, with Ms. Lansing voting yes, Dr. Reidy voting yes, and Chairman Schreiber voting yes.

6. Chairman’s Report, Arthur A. Schreiber

Chairman Schreiber talked about the importance of the item on the agenda related to the Kirtland Air Force Base case. He said he would like to take the opportunity to thank Mr. Trapp and Mr. Kreienkamp for their work in maintaining the contract for the Thunderbird Inn and Dining Facility on Kirtland Air Force Base. He said he is thankful that Mr. Trapp was familiar with the attorneys that litigate on the Randolph Sheppard Act and said that he thought that Mr. Trapp made the correct choice of attorney.

7. Director's Report, Greg Trapp

Mr. Trapp reported that the Commission had its legislative Finance Committee hearing on November 16. Mr. Trapp said he participated remotely, and that he had some difficulties because of the use of Webex. I thank all of the Commissioners for attending. We have been asked to cut our budget by 5 percent. Mr. Trapp said he was hoping that we will see the waiver of the 15 percent Pre-Employment Transition Services Reserve included in either a federal spending legislation or a special Corona Relief package that will make the cut much easier to manage. Mr. Trapp said the federal government is funded through December 11, and that Congress is currently negotiating a 1.4 trillion dollar spending bill. If Congress is unable to agree on an appropriations bill they will need another stop gap bill.

Mr. Trapp said that he has submitted a proposed proclamation to declare January as Glaucoma Awareness Month. He thanked Dr. Reidy, his daughter Kristen, and Ms. Burma for their work on the proclamation. Mr. Trapp said there is concern that individuals may not be getting the necessary comprehensive eye exams. He said that he also hopes to submit an article to the Albuquerque Journal on the importance of eye exams.

Mr. Trapp reported that he has made several national presentations, including to the Council of State Administrators of Vocational Rehabilitation on the future of VR and managing during the pandemic, and to a Community of Practice meeting sponsored by the WINTAC technical assistance center at George Washington University on providing in-person services during the pandemic. He said that he will be presenting next week to the National Council of State Agencies for the Blind on the Uniform Guidance.

Mr. Romero reported that the SFY 2020 audit was submitted on time, meeting the November 2 deadline. He said that the audit was under review and that it would not be public until released. He said that the agency was in the process of filling 2 positions, and that an Albuquerque secretary position was filled in November.

Mr. Romero reported that the Commission is now beginning to use the Docusign Service available through DoIT. This is an electronic service that allows signatures to be completed electronically and sent. This will allow for the reduction of the amount of scanning and printing of contracts and documents. He said the Commission has requested to participate in the Microsoft Digital Workspace Initiative. He said it will standardize the services and software available across all state agencies, and that currently state agencies use the same software and services but pay for it individually.

Ms. Lansing thanked Mr. Romero and his staff for all of the work involved in getting the audit together and submitted on time. Mr. Romero responded saying that the agency has an awesome team.

Mr. Salas reported on new hires, saying that Jesse Shirek was hired as the new Assistive Technology Manager, and that he started on November 2. He said that Mr. Shirek has a strong background in assistive technology, and that he is from North Dakota. Mr. Salas said that Marsha Lujan was hired as the new VR secretary in Albuquerque and that she started 2 weeks ago, replacing Janet Schupp who had retired. He said that he has been conducting interviews for the Vocational Rehabilitation counselor positions in Farmington and Las Vegas, and that they have identified strong candidates and are finishing reference checks and hope to make job offers this week.

Mr. Salas said that for Federal Fiscal Year 20 there were 12 closures in integrated employment and one in self-employment for a total of 13. He said the average wage was $21.68. He said that for State Fiscal Year 21, there have so far been four closures in integrated and none in self-employment, with an average wage of $25.81. He said that there are currently 25 persons in employment status.

Mr. Trapp asked Ms. Mallahan for an Orientation Center report and asked that she include her update on the apartment project. Ms. Mallahan said that they continue to provide services virtually and they currently have four full-time students and seven part-time students. She said there is one student also receiving some training through the Skills Center and another receiving training through the Independent Living Program. Ms. Mallahan said that they continue to have two vacancies at the Orientation Center, with one for the Industrial Arts Position and the other for a secretary position. She said they will be participating in the Dare to Be Remarkable program, which is a conference that gathers together rehabilitation professionals and trainers, as well as center directors, and educators. She said this time students will participate. It will be held virtually and she is excited to have students participating.

Ms. Mallahan reported on the apartment construction, saying that the design is about 60% complete. She said that they requested a waiver of the setback requirement from the road asking that the property zoning be changed from C-3 commercial to an R-4 residential multi-family dwelling. She said it has passed through committee, and that the City Council meets on December 15 and she will be on hand for any questions. If the setback is not approved it will require a complete redesign. She said she was told to expect pushback from one member, and that it was just another hurdle in the long process of getting the apartments built.

Mr. Trapp said that he could not imagine that the City of Alamogordo would do anything that would be detrimental to employment in the city. He thanked Ms. Mallahan and Mr. Romero for their work on the project.

Ms. Burma reported that the Skills Center was continuing to serve students, mostly Pre-ETS and students who were potentially eligible for Pre-ETS. She said that she was identifying eligible students through the Technology for Children Program, and that many students are turning 14 in the first quarter of next year.

8. Unfinished Business

a. Update on Commission Response to the Coronavirus Emergency, Greg Trapp and Jim Salas

Mr. Trapp mentioned the proposed Glaucoma Awareness Month proclamation, saying that he is concerned that some people are not getting routine eye exams and other needed health care. He said that he expects to see an increased number of blind individuals as a result. He said that some people are also having strokes as a result of the virus, and that strokes can impact on vision.

Mr. Salas reported that all of the VR counselors are working from home, and that the assistive technology staff is primarily working from home. He said that technology deliveries are primarily being done without contact by delivering or picking up from the consumer’s front door. Mr. Salas said that independent living is the biggest challenge, and that normally the teachers would be spending 80% of their time face-to-face with consumers in their homes, but they are now doing it remotely. He said that protocols and safeguards were in place when computers needed to be set up or when services would be provided in-person, and that all employees have appropriate personal protective equipment available for those instances.

Mr. Trapp reported that he and Ms. Burma have been attending the Disability Access and Functional Needs Coordination Group twice a week. He said the group is in the process of revising a memo on how blind individuals can request home testing. He said testing is an issue since those who are symptomatic are not supposed to use ride sharing services such as Uber and Lyft. Mr. Trapp said that Ms. Burma did a great job last week helping a blind individual to obtain transportation to get tested prior to a medical procedure, and he asked her to describe what she did.

Ms. Burma thanked Mr. Trapp, and described how she coordinated the transportation to help the individual get drive-through testing. She also emphasized the importance of working with patient advocates in hospital systems. Ms. Burma described the after action report committee that she is chairing, saying that the report was focusing on issues related to transportation, housing, medical prescription, insurance, access to medical supplies, daily home health needs, and the need to skill up on technology. She said her committee was a part of a larger after action report being coordinated by Lisa McNiven of the Governor’s Commission on Disability, and she thanked Ms. Lansing for serving on her committee.

Mr. Trapp said that one of the things he has been working on both locally and nationally is the vaccine prioritization. He said that blind agencies provide services that are in many ways medical in nature and that are similar to occupational or physical therapy, and that agencies for the blind should receive a higher vaccine priority. He said that there are training and services that are essential to the health and safety of persons who are blind. He said that he and his national colleagues are thinking that the best approach is to include Rehabilitation professionals as a category of essential workers. He said he is putting together a position paper for the National Council of State Agencies for the Blind to adopt next week.

b. Report on Apartment Construction at the Orientation Center, Lucy Mallahan

This item was taken earlier.

c. Approval of Agency Transition to a Consumer-Controlled Independent Commission, Greg Trapp

Mr. Trapp said that it was not anticipated that things would be where they are currently with the pandemic. He said how the upcoming legislative session will take place is unknown. He said there has been conversation that the session might become a short session with legislators limited to 3 to 5 bills, and that it would be primarily addressing the budget and any Corona Relief legislation. There would then perhaps be a longer session later in the year when vaccines have been administered and transmission rates are lower.

He said that he would like to be in the Roundhouse to shepherd the bill through and that is not possible at this time. He said that there is the likelihood that the bill may not be introduced. He said that his own workload has increased substantially due to the pandemic and that he did not know how he could spend two or three days each week to work on the legislation. He said that there are things that need to be addressed in the Commission for the Blind Act such as blindness being determined by ophthalmologists and the requirement to maintain the registry of blind persons, but this may not be the time to address the changes.

Dr. Reidy said that he certainly supports the recommended changes and commented that he understands the time commitment required to travel between Albuquerque and Santa Fe. He volunteered to provide any assistance he can provide since he lives within blocks of the capital building.

Mr. Trapp responded that his willingness is greatly appreciated but the legislature may not meet physically in the building and if they do members of the public may not be allow in under the circumstances of the pandemic. Mr. Trapp recommended that he and Chairman Schreiber have some conversation with the bill sponsor and a couple of others to see if this is the time to proceed. He said that there have been concerns expressed by the Rehab Council. He said concern has been expressed that particular voices might not be heard. He said that reports can be given to the Commission from CAP, the SILC, and the 121 Native American rehabilitation programs.

Chairman Schreiber concurred that he thinks it would be wise to speak with legislative leadership about the timing of the proposed changes. Ms. Lansing also agreed that it might make sense to speak with leadership about the timing.

9. New Business

a. Approval of Revised Allowable Cost Policy and Procedure, Greg Trapp and Kevin Romero

Mr. Trapp said there was a presentation from the RSA Fiscal Manager, David Steele, on the Section 107 Monitoring during the Council of State Administrators of Vocational Rehabilitation conference. Mr. Trapp said he has updated the Allowable Cost Policy and Procedure to address the presentation. Mr. Trapp summarized the proposed changes, saying the title of section V is changed from Agency Purchases and Procurement to Agency Purchases, Contracts, and Procurements. He said he has also added additional language to section V, Paragraph E to ensure compliance with Appendix II to 2 CFR Part 200, including a statement saying that we will review all contracts to ensure compliance with Appendix II. He said that the changes include references to the sections of the appendix that we are most likely to encounter. Mr. Trapp said that a typo was corrected in the references to the Stevens amendment in Section XII, removing the apostrophe. He said the Stevens Amendment notice language has been updated to include our FFY21 numbers. He said the Stevens Amendment comes from Senator Ted Stevens wanted to get credit for highways that were built in Alaska. Mr. Trapp said a citation to Section 10-16-7 NMSA 1978 has been added in the contract item of the conflict of interest section. He said the disclosure of outside employment language has been moved to Section XIII Conflict of Interest, placing it under paragraph E. Mr. Trapp concluded by saying that the new Allowable Cost Policy and Procedure includes an Appendix XVI, containing agency Determination 11-16 on the VR exemption from the procurement code.

Dr. Reidy moved to approve the Allowable Cost Policy and Procedure as revised, and Ms. Lansing seconded the motion. Mr. Trapp asked that the motion be amended to authorize affixing an electronic signature, and Dr. Reidy and Ms. Lansing agreed. A roll call vote was taken, and the motion was approved, with Ms. Lansing voting yes, Dr. Reidy voting yes, and Chairman Schreiber voting yes.

b. Discussion of Emergency Medical Eye Care Program Eligibility Requirements, Greg Trapp

Mr. Trapp said that he was going to rely on Dr. Reidy to help with this item. Mr. Trapp said Dr. Arup Das was invited to attend but was unable to make it. Mr. Trapp said that the Emergency Medical Eye Care Program is one of only a few throughout the country. He said that the Affordable Care Act has reduced the need for the program in the state. He said he initially thought the Affordable Care Act and expanded Medicaid might make the Emergency Medical Eye Care Program unnecessary, but despite the Affordable Care Act and expanded Medicaid there is still a small but significant population that is still in need of the services provided by the program.

Mr. Trapp said that currently the patient needs to either be a resident of the state or a legal resident alien. He said that he has authorized exceptions in the past for undocumented persons who may have a path to citizenship. He said that he thinks that the requirement that the individual be a resident of New Mexico should be maintained.

Dr. Reidy said that it would be good to be able to provide services to those who have lived and worked in the state for years. Dr. Reidy said that the real barrier to services was the cost of the hospital. He said that Eye Associates providers were willing to waive their professional fees for services as long as the patient could be admitted to the hospital or emergency room. He said that the medical establishment had been flexible in providing care for those in urgent need.

Mr. Romero said 11 persons were served in 2020 which is a substantial reduction of the number of persons served by the program previously.

Mr. Trapp said that this left some additional headroom in the contract, but that they still needed to be mindful of tight financial resources. He said the question was whether the program should be expanded to provide services to persons who are not documented, and whether the types of procedures allowed under the program should also be expanded. Mr. Trapp gave the example of him authorizing the enucleation of an eye that had a form of cancer so that the patient would not die from cancer. Mr. Trapp said that the purpose of the program is to provide emergency treatment for persons who would suffer irreversible loss of vision if not immediately treated. Mr. Trapp asked Chairman Schreiber for authorization for him and Dr. Reidy to talk with Dr. Das to come up with recommendations for revisions to the Emergency Medical Eye Care Program Eligibility Requirements.

Mr. Schreiber said that persons who were paying taxes and were good residents should be considered, and he authorized Mr. Trapp and Dr. Reidy to talk with Dr. Das. Mr. Kreienkamp said there was no need to create a separate committee, and that he would also research the issues to give him a better idea of the legal side of the issues.

b. Report on the Status of the Randolph-Sheppard Act Contract to Operate the Thunderbird Inn Dining Facility at Kirtland Air Force Base, State of New Mexico et. al. v. United States, 20-CV-01096, Greg Trapp

Mr. Trapp said that he does not anticipate needing to go into an executive session. He said that there had been a satisfactory resolution on the law suit filed over the solicitation for the operation of the Thunderbird Inn Dining Facility at Kirtland Air Force Base. He said that the agency procured the services of Peter Nolan, who is one of two attorneys nationally known for their work in the area of the Randolph Sheppard Act. Mr. Trapp said Mr. Nolan is based out of Austin, Texas, and was therefore geographically close, and that he also considered the availability of direct flights between Albuquerque and Austin. Mr. Trapp said Mr. Nolan was also working on two similar Randolph Sheppard Act cases with the Air Force.

Mr. Trapp said that before filing the agency worked with the Attorney General’s Office to obtain a special commission for Mr. Nolan. Mr. Trapp thanked the Attorney General for expeditiously providing a special commission to work on the issue. Mr. Trapp said that bids were due at the end of October so it was necessary to react quickly. He said that the agency first requested arbitration and asked that the solicitation be suspended during the arbitration. He said no response was received on the request that solicitation be suspended, so the agency moved forward to file the lawsuit in Federal Court. Mr. Trapp said that John Travers acted as local counsel in the filing and pleadings. The Air Force agreed to withdraw the solicitation, and agreed to participate in Direct Negotiation with the agency and recognized the Randolph Sheppard Act priority. Mr. Trapp said that the Direct Negotiation is a very important factor, and that with the fully favorable settlement they were withdrawing the arbitration and lawsuit.

Mr. Trapp thanked Mr. Kreienkamp for his efforts on the case. Mr. Kreienkamp said it was the best possible resolution.

Chairman Schreiber thanked those who worked on the case, saying it was a good settlement and that he hoped for a good contract with the Air Force.

10. Commission Open Discussion

Chairman Schreiber asked if there has been any talk about the commissioner of RSA in the new administration. Mr. Trapp said that he has heard nothing from the transition team on who is being considered. He added that the Secretary of the Department of Education is over the Rehabilitation Services Administration and he thinks that they will want to provide the new Secretary the opportunity to have input on the person hired in the RSA Commissioner position.

Mr. Trapp said he hopes to see a Commissioner who will be consumer focused and able to push back with respect to some of the hyper-technical enforcement and rigidity. Mr. Trapp said that he and Mr. Romero have been spending time working on obtaining prior approval for the AWARE case management system, saying that approval had been given for the cost distribution method in the past but that it was denied this year. Mr. Trapp said that they were required to use a cost distribution method suggested by RSA, and that the distribution was virtually identical to the method used by the Commission.

Chairman Schreiber said that he Cannot believe that Joe Biden would put in someone who is not going to be customer focused.

11. Comments from the Audience

There were no audience comments.

12. Date and Location of Next Meeting

The Commission set a meeting for April 23, starting at 9:00 AM. The Commission will also schedule a meeting in January or early February, but that it will depend on when the audit is released.

13. Adjourn

Mr. Schreiber adjourned the meeting at 12:26 PM.

Approved and electronically signed this 2nd Day of February, 2021.

Arthur Schreiber, Chair

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