

Martin Luther King Jr. State Commission Regular Meeting
Minutes of Friday, October 18, 2024, at 1:00 pm

Call to Order

The meeting was called to order by Vice Chair Smith.

Commission Introductions and Verification of Commissioners

Commissioners took turns introducing themselves.

The Roll of Commissioners was called, as follows:

Commissioners Present:

Vice Chair Clarence Smith

Commissioner Joseph Cotton

Commissioner Little V. West

Commissioner Ahdohny Routheni

Commissioner Constance Williams

Commissioner Joseph Dabney, III

State Treasurer Laura Montoya, *ex officio*

Secretary of State Maggie Toulouse Oliver, *ex officio*

PRR Chairman Pat O'Connell, *ex officio*

Human Right Bureau Director Hazel Mella, Ph.D., *ex officio*

Cabinet Secretary Josett Monette, *ex officio*

Commissioners Absent:

Commissioner Oscar Robinson

Election of Officers

The Commission proceeded to elect officers.

Vice Chair Smith opened nominations for Chair. Commissioner West expressed an interest in being Chair if elected, to pursue transparency, accountability, and compliance, a vision he has been articulating during his time on the Commission. Commissioner West was nominated by Treasurer Montoya, which was seconded by Commissioner Cotton; there were no other nominations for Chair. Commissioner Routheni moved to table elections; after a brief discussion, including discussion regarding urgent business the Commission needs to attend to, the resignation of the Executive Director, and the fact that election of officers should have been conducted in June, Commissioner Routheni withdrew the motion to table. Vice Chair Smith, noting that there were no other nominations for Chair, closed nominations for Chair. By a vote of 9 in favor (Smith, Cotton, Montoya, West, Toulouse Oliver, O'Connell, Williams, Mella, and Monette) and with two abstentions (Routheni and Dabney), Commissioner West was elected Chair of the Commission.

Vice Chair Smith opened nominations for Vice Chair. Commissioners Smith and Williams were both nominated for Vice Chair. Commissioner Cotton nominated Commissioner Smith, seconded by Commissioner Dabney; Treasurer Montoya nominated Commissioner Williams, seconded by Secretary Toulouse Oliver. Commissioner Williams was elected Vice Chair by a vote of 9 in

favor of Commissioner Williams (Montoya, West, Toulouse Oliver, O'Connell, Williams, Mella, Monette, Routheni, and Dabney) and 2 in favor of Commissioner Smith (Smith and Cotton).

Vice Chair Smith opened nominations for Secretary and nominated himself to serve as Secretary, seconded by Commissioner Routheni. He was elected by a vote of 10-0 (with all Commissioners present voting in favor, except Commissioner Dabney, who did not vote).

After elections, Vice Chair Smith passed the gavel to newly elected Chair West, who presided over the remainder of the meeting.

Approval of the Agenda

On approval of the agenda, State Treasurer Montoya moved, and Commissioner Cotton seconded, approval of the agenda. In discussion, Deputy Attorney General Billy Jimenez noted that he was not aware that the Commission had approved an Open Meetings Act resolution for 2024 and that he had prepared and circulated a draft resolution that might be considered on the agenda today. State Treasurer Montoya stated a concern with approving an item which is not listed on the agenda. Chair West asked the Deputy Attorney General if the Commission met again within the next two weeks and added an Open Meetings Act Resolution on that Agenda, if that would resolve the Open Meetings Act Resolution matter without potentially creating an Open Meetings Act issue by adding an agenda item which was not already on the agenda. Deputy Attorney General Jimenez agreed with that approach and the Chair stated it would be handled in that manner. The roll was called and the motion to approve the agenda passed, with all Commissioners present voting in favor.

Approval of the Minutes from March 2024

Secretary Montoya moved, and Commissioner Cotton seconded, approval of the March 2024 minutes; no Commissioners opposed the motion; 10 voted in favor, 1 abstained. The Chair noted that the March minutes note that approval of the January minutes were tabled because they were not circulated to the Commissioners, so the January minutes will be added to the agenda for the next meeting for approval along with the minutes from the current meeting.

Public Comment

The Commission received public comments from Khadijah Bottom and Devonte Watson. The Chair thanked them for their comments.

Executive Director's Report

The Commission received a report from Executive Director Leonard Waites. Executive Director Waites stated that some of the data he had been asked to present he was unable to present because his computer was taken from him and he did not know when it would be returned and he did not have the data. As to the Youth Leadership Conference, he reported that it is scheduled for June 26th at the Sheraton Airport Hotel, that it has had sponsors for the last eight years, that \$50,000 is allocated in the budget for this event, and that \$75,000 had been expensed since the

beginning of the budget year (July). The Executive Director reported that SJT has been contracted to do the audit this year and that they may begin the audit next week. The Executive Director also shared that the Commission has a presentation before the Legislative Finance Committee (LFC) on Wednesday the following week.

The Executive Director reported on several programs, including activities of the Deputy Director.

The Executive Director then read his resignation letter to the Commission, in which he offered to assist with the transition, and indicated that he stands for any question from the Commissioners.

Several Commissioners, including the Secretary of State, State Treasurer, and Chair of the Commission attempted to obtain clarification on several matters, including the status of the budget and expenditures, the status of the audit due by November 1, 2024, the budget request presentation to the LFC on Wednesday the following week, the computer issues the Executive Director stated he recently experienced, and the status and security of the Commission's electronically stored information by asking questions of the Executive Director on these points, but ultimately the Executive Director suddenly concluded his presentation by stating that he was done answering questions and had nothing else to say.

The Commissioners then engaged in a discussion about the urgency of presenting to LFC within a matter of days, the possibility of requesting a rescheduling, and whether the Deputy Director of the Commission might be able to provide information, given the Executive Director's statement that he was unwilling to answer any further questions from the Commission.

Executive Session

Commissioner Cotton moved to proceed to the next item on the agenda, *i.e.* "Action to convene in closed session to discuss: a. limited personnel matters, specifically the Executive Director Performance and Resignation pursuant to Open Meetings Act, NMSA 1978, Section 10-15-1(H)(2). and b. Attorney client privilege discussion pertaining to pending litigation, pursuant to Open Meeting Act, NMSA 1978, Section 10-15-1 (H)(7).", seconded by State Treasurer Montoya. The Motion passed unanimously. The Commission went into Executive Session. Commissioner Smith left the meeting during Executive Session and did not return before the end of the meeting.

Open Session

Chair West confirmed that the meeting was publicly streaming and recording.

State Treasurer Montoya stated that nothing was discussed in closed session except those matters related to items 4a and 4b on the agenda. State Treasurer Montoya moved to convene in open session, seconded by Commissioner Routheni. The motion carried by a vote of 9-0. (Cotton, O'Connell, Montoya, West, Routheni, Toulouse Oliver, Monette, Dabney, Mella voting in the affirmative; Vice Chair Williams did not vote).

Any action required as a result of the Closed Meeting

State Treasurer Montoya moved to appoint a committee to do a search for executive director, consisting of Commissioners Cotton, Williams, Routheni, Montoya, Mella, and West. The motion was seconded by Commissioner Cotton. The motion carried by a vote of 9-0. (Cotton, O'Connell, Montoya, West, Routheni, Toulouse Oliver, Monette, Dabney, Mella voting in the affirmative; Vice Chair Williams did not vote).

State Treasurer Montoya moved to accept Leonard Waite's resignation, effective immediately. The motion was seconded by Commissioner Routheni. The motion carried by a vote of 9-0. (Cotton, O'Connell, Montoya, West, Routheni, Toulouse Oliver, Monette, Dabney, Mella voting in the affirmative; Vice Chair Williams did not vote).

State Treasurer Montoya moved to appoint Beverly Gaines as interim executive director with a temporary salary increase. Secretary of State Toulouse Oliver seconded the motion. State Treasurer Montoya accepted an amendment to the motion to add that the Chair is authorized to take all actions to work the Governor's office to effectuate the temporary salary increase and the motion was amended accordingly. The motion carried by a vote of 9-0. (Cotton, O'Connell, Montoya, West, Routheni, Toulouse Oliver, Monette, Dabney, Mella voting in the affirmative; Vice Chair Williams did not vote).

Memorandum of Action for support from DFA and Do IT

Lisa Jennings, mobile CFO with Department of Finance and Administration (DFA), addressed the Commission, stating that DFA is working on a Memorandum of Understanding (MOU) with the Commission that Ms. Jennings will be able to come to assist the Commission with its financial management. Ms. Jennings stated that she has already been assisting them some with the Commission's external audit and providing documentation over to the Commission's auditors to help get that facilitated so that the Commission's audit is not submitted late. State Treasurer Montoya thanked Ms. Jennings and Cabinet Secretary Mark Melhoff in DFA for helping the Commission with the mobile CFO and clarified that the Commission is planning on signing the MOU today. State Treasurer Montoya asked Ms. Jennings if she knew where the Commission was with its audit; Ms. Jennings replied that, as of the previous day, the Commission had provided most of the requested documentation to the audit team and that the audit team was reviewing that information. Ms. Jennings stated that she had not received any further questions from the auditors but was sure that they would be working on it and would be in further communication. Ms. Jennings stated that she was hopeful that the audit would be completed on time. State Treasurer Montoya asked Ms. Jennings when the deadline for submission to the Office of the State Auditor would be; Ms. Jennings replied that it would be November 1st. Ms. Jennings stated that she would be checking with the auditors to make sure that the Commission was not holding up the audit in any way. Ms. Jennings further stated that she had just started providing information to auditors this week and was not sure if any information had been previously provided to auditors. Ms. Jennings stated that she did know that the auditors had been in communication with the Commission to request access to the SHARE system and that they've been able to go in and pull specific reports out themselves in

order to start working on the audit. Ms. Jennings explained that the auditors got access to SHARE this week, so they have been able to go ahead and get started on that.

State Treasurer Montoya moved 1) to accept a memorandum of action for anything to do with both Department of Finance and Administration and with Department of IT and 2) to authorize the Acting Director to e-mail contacts regarding the new leadership and role at the Commission so they know who the contacts are, and Commissioner Cotton seconded. The motion carried by a vote of 9-0. (Cotton, O'Connell, Montoya, West, Routheni, Toulouse Oliver, Monette, Dabney, Mella voting in the affirmative; Vice Chair Williams did not vote).

Training for MLK Commissioners (Open Meeting Act, Inspection of Public Records Act, and Governmental Conduct Act)

Deputy Attorney General Jimenez was recognized to provide training to the Commissioners. Deputy Attorney General Jimnez noted the lateness of the hour and observed that the training usually takes multiple hours. The Commission discussed and agreed that it would pursue these trainings episodically at future meetings, so that Commissioners can receive trainings while at the same time also accomplishing the business of the Commission. PRC Chair O'Connell also suggested that the Deputy Attorney General might circulate to all Commissioners official and helpful guidance on these statutes that might serve as training materials for Commissioners, as well; Deputy Attorney General Jimenez agreed to do so.

Next Meeting

The Chair announced that the next meeting would likely need to be held soon, possibly within the next two weeks. The Commissioners briefly discussed whether it should be before or after the upcoming general election.

Adjournment

Without objection, the meeting was adjourned.