

**State of Tennessee**  
**Public Records Commission**  
**MINUTES**

September 10, 2014 at 1:00 PM  
Legislative Plaza, Room LP-29, Nashville, TN

**Public Records Commission Members:**

Chairman – Tre Hargett, Secretary of State – *present*  
Secretary – Robert E. Oglesby, Commissioner, Department of General Services - *present*  
Justin Wilson, Comptroller of the Treasury  
David Lillard, State Treasurer  
Robert E. Cooper, Jr., Attorney General  
Joseph Barnes, Director of Legislative Office of Legal Services  
Ann Toplovich, Tennessee Historical Society – *present*  
Eddie Weeks, Legislative Librarian of Legal Services – *present*  
Rick Dubray, Office of the Treasurer – *present*  
John Greer, Representative of the Comptroller of the Treasury – *present*

**Welcome**

The Public Records Commission met this day at 1:00 PM in Legislative Plaza, Room LP-29, Nashville, TN with the noted Public Records Commission members present. Secretary of State and Chairman of the Commission, Tre Hargett, called the meeting to order promptly at 1:00 PM. He noted a quorum and requested action on the following matters as presented.

**Approval of Minutes from May 27, 2014**

1. Mr. Weeks notes one typographical error from the May 27th Minutes.
2. Page 4.b: The second line reads, “The Records Directors comments” and there needs to be an apostrophe added before the ‘s’.”
3. Chairman Hargett entertains a motion to approve the minutes with the noted typographical change. The motion is properly moved and properly seconded; the minutes are approved as amended.

**Consent Agenda**

1. With no discussion on the subject, Chairman Hargett entertains a motion to approve the consent agenda. The motion is properly moved and properly seconded; the consent agenda is approved.

**RDA's for Discussion**

1. Chairman Hargett requests that Mr. Callaghan explain how an item ends up not on the consent agenda.
  - a. Mr. Callaghan responds, “When the agency submits the RDA, it’s reviewed by Records Management, Library & Archives and the Audit Division of the Comptroller. Those bodies present any comments or questions they have to the

agency, who then has the chance to respond providing the information or an explanation, and then if everyone is in agreement and it matches the requirements, the RDA will go on the consent agenda. Then at any time during the agenda setting meeting, if a staff member or Public Records Commission (PRC) member questions the RDA, it'll then come off the agenda.”

- b. Chairman Hargett thanks Mr. Callaghan for his explanation.
- 2. RDA 2175: Federal Highway Billing Package for the Department of Transportation (TDOT)**
- a. Request to retire RDA
  - b. Retention was set for 50 years
  - c. The RDA covered a 6 month period in 1988, when they were converting from the Detran system to the Stars system.
  - d. Discussion:
    - i. When discussing the process of reviewing RDA with TDOT, Mr. Callaghan reports that TDOT found that these records were most likely destroyed in 2001 or 2002 during their annual destruction because they have RDA 1969 - Federal Highway Administration Billing Packages with a 12 year retention policy. So they no longer have these records.
    - ii. Because they no longer have these records, it would make sense to retire the RDA. But the PRC needs to discuss before we move forward so that the process is clear.
    - iii. There are TDOT representatives present for any questions. Chairman Hargett requests the TDOT representatives to offer any comments they might have.
    - iv. Jennifer Hurstack, Director of Finance for TDOT, and Don Haley, Fiscal Director for Finance under Ms. Hurstack & RDA Representative for the Finance Office, come forward to the microphone.
    - v. Haley comments, “RDA 1969 is our Federal Highway Bill that we currently use which has a 12 year retention period. This RDA 2175 (the original RDA) was set up as a onetime retention of 6 months, which we no longer have records for.”
    - vi. Chairman Hargett says “You’ve heard the description. Any further questions or comments?”
    - vii. Mr. Weeks asks, “Do the records still exist in the Detrans system?”
    - viii. Mr. Hayley responds with a no, and Ms. Hurstack explains further, “The Detrans system died a long time ago.”
    - ix. Mr. Weeks then asks, “Why were these given 50 year retention as opposed to 12 years?”
    - x. Hurstack responds, “There is no explanation given that the gentleman who mostly backed this decision is deceased.”
    - xi. Commissioner Oglesby then asks, “What are your plans (may it be templates or policies put in place) to minimize this from happening in any Department moving forward?”
    - xii. Mr. Callaghan responds that they have been working with TDOT’s Central Records Area to consolidate the RDAs to reduce overlap and therefore confusion. Mr. Callaghan encourages anyone who has questions

to refer them to their Records Officers or the Records Management Division (RMD) for consultation focusing on visiting agencies to educate and train.

- xiii. Chairman Hargett comments, “We’ve discovered that the default was 99 years or 50 years of retention but with no good reasoning behind it. So we tend to keep it longer than a shorter period of time with no rhyme or reason.”
- xiv. To follow up on that point, Commissioner Oglesby asks, “What consideration was given to retaining these records for 50 years in lieu of the federal requirement of 10 years?”
- xv. Mr. Haley responds that he is not aware of the reason.
- xvi. Commissioner Oglesby then asks, “Do you evaluate the space requirement when figure retention among other factors?”
- xvii. Mr. Callaghan responds, “Yes, that is actually one of the things built in the required RDA Worksheet looking at annual accumulation and current volume. We also discuss budgeting for OIR costs and plan for storage space and costs when making these decisions.”
- e. With no further discussion, Chairman Hargett entertains a motion for approval. The motion is properly moved and properly seconded; RDA 2175 is retired.

**3. RDA 2837: Building and Finance Committee Certificate for Department of Economic & Community Development (ECD)**

- a. Request for revision.
- b. Retention remains 30 years.
- c. Remains paper/electronic forms.
- d. After they had submitted and we made our comments, they informed Records Management that the Building and Finance Committee no longer exists. However, they still need to maintain the record for the remainder of the retention period.
- e. So the recommended approval for the record series is that the RDA is marked inactive so it’s noted there is no room for growth.
- f. David Goodman, Attorney and last serving Secretary on the Committee from ECD, comes forward for comments.
- g. Discussion:
  - i. Chairman Hargett asks if there are any further comments. Mr. Goodman responds saying he has no comments but can answer any questions.
  - ii. Commissioner Oglesby asks, “What function did the Business and Finance Committee serve?”
  - iii. Mr. Goodman responds, “They approved certificates of public purpose and necessity where a community of under 300,000 people wanted to issue general obligation bonds to fund a private construction project like an industrial park (certificate was required)”.
  - iv. Commissioner Oglesby then asks how this is handled now, he said, “Who serves this function now?” Mr. Goodman responds there is no function now.
  - v. Chairman Hargett asks, “Did the statute change where this is not required?”

- vi. Mr. Goodman responds saying he isn't aware if the statute has been revised to show the wind-down of the committee. Chairman Hargett confirms, "You are saying the committee was sunset?" Mr. Goodman responds saying he has no knowledge of anyone else doing this. There isn't anyone performing this function.
  - h. Chairman Hargett entertains a motion on RDA 2837. The motion is seconded and the RDA is approved.
4. **RDA 11029: Local Government Planning Advisory Committee for Department of Economic and Community Development (ECD).**
- a. Request for a new RDA
  - b. The records series includes planning records from all over the state. The agency explains that these records impact the property rights and thus should be maintained permanently.
  - c. The agency's proposal is to convert the records to microfilm to be put into storage; TSLA provides a long term solution.
  - d. Mr. Callaghan has spoken with TSLA who agrees with using microfilm, but that as the agency is the one creating the finding aid and doing the microfilm that they would be better for the microfilm to be stored at the records center, and that the agency be responsible for handling the request. Mr. Callaghan agrees as long as the microfilm is turned into long term storage at the state records center in a vault.
  - e. Mr. Callaghan suggests to approve the RDA with the following changes:
    - i. The retention period to be changed to 10 years.
    - ii. Disposition notes would reflect that these records be maintained in paper form for 10 years in agency. Then scanned and converted to electronic format, then to microfilm. Then the electronic and microfilm versions will be reviewed to make sure they are accurate and in good condition before the records are destroyed. Microfilm master be sent to state records center for permanent retention. The agency will maintain paper or electronic copy as needed to be available for review.
  - f. Discussion:
    - i. Chairman Hargett asks, "Who is responsible for verifying the documents have been scanned properly before the written document is destroyed?"
    - ii. Callaghan responds, "The agency is and they are subject to audit. And the Records Management Division has requested recommendation on audit's council."
    - iii. Commissioner Oglesby asks, "Did I understand they will be converting to electronic format in 10 years or doing that sooner?" Callaghan states that the agency wants it in paper format in agency for 10 years and at that time they will convert. If they get some in electronic it also reflects that. But paper format isn't destroyed for 10 years.
    - iv. Commissioner Oglesby asks, "What is the volume of these paper records and their storage capacity? And where are they being stored now?" Chairman Hargett responds that there are 28 cubic feet in paper and 7.5 gigabyte electronically. With annual accumulation being .1 of a cubic foot.
    - v. Commissioner Oglesby asks, "Are they being stored on site?" Mr. Callaghan responds saying yes they are on site.

- vi. Ms. Toplovich mentions, “I notice it says 92 county growth plans. Since there are 95 counties, is this a possibly typo or are the other 3 metro areas? This needs to be mentioned in the description for clarification.” Mr. Callaghan comments that the other 3 are metro areas, and he will add this to the disposition notes as part of the suggestion.
- vii. Commissioner Oglesby asks, “Is there any discussion between your team and the department to determine that it makes sense to keep the paper on site versus offsite storage?”  
Mr. Callaghan responds, “We did discuss this with agency on why they needed it onsite. They explained it was because they wanted to be able to pull up the original documents (especially for the legislature), in case there needs to be additions to the documents as they go along. They explained they had a good business need for that, and we stated our recommendation was to look at alternatives. So yes, it is discussed. And we even questioned retention period and they responded with that it affects property rights.”
- viii. Commissioner Oglesby states, “We are trying to reduce paper storage in our buildings, so either converting to digital if accessing often, or offsite storage if not. But we do need to make sure we have access to the material in a timely fashion. If that is the case, then we suggest they convert it to digital, otherwise offsite storage may make sense. Are they preparing a business case as to why they need this in house versus the cost of retrieval when storing with Records Management?”
- ix. Mr. Callaghan explains that at this point the process is discussed when we ask the question and listen to the explanation.
- x. Commissioner Oglesby responds, “We have had similar conversations in other commissions about what is the appropriate authority of the body or individual to make those decisions and it’s up for further discussions.”
- xi. Chairman Hargett agrees saying, “This is an on-going discussion as Records Management meets with other departments and agencies on determining what the appropriate amount is.
- xii. Mr. Callaghan responds, “Yes one thing I do discuss is costs for renting/leasing and records holding costs versus storing at the state records center and retrieval costs (which can be less expensive than converting to digital depending on how often you access them).”
- xiii. Chairman Hargett, “You have heard Ms. Toplovich’s recommendation of changes, and Mr. Callaghan concurs to change the detail reflect the counties not included in this RDA.”
- xiv. Mr. Weeks has further discussion. He comments, “The RMD recommendation says transfer to TN State Library and Archives (TSLA), are you saying the microfilm will not go to them now?”
- xv. Mr. Callaghan responds, “Yes, I spoke with TSLA yesterday and they thought it was a better fit to store at the State Records center for permanent retention.”
- xvi. Mr. Weeks then asks, “Will a copy be kept by the agency as well?”

- xvii. Mr. Callaghan responds, “That Records Management Division’s recommendation is that any time an agency creates microfilm is to have two copies - one in agency and one at the other location.”
- xviii. Mr. Weeks asks, “Is this reflected in the new RMD Director recommendations?”
- xix. Mr. Callaghan says they will execute the change in wording.
- xx. Chairman Hargett clarifies, “The recommendation given does not match the book. I will interpret the motion to reflect the oral presentation and not the recommendation that is shown here in the book. Mr. Weeks agrees.
- g. With no further discussion, Chairman Hargett entertains a motion for approval. The motion is properly moved and properly seconded; RDA 11029 is approved.

**5. RDA 11040: Credit Union and Bank Charter Files for Department of Financial Institutions.**

- a. Request for a new RDA.
- b. Requesting permanent paper/electronic format with no cutoff date.
- c. Requested to be kept on agency servers.
- d. Mr. Callaghan’s concern was that keeping an active database within agency servers is that there can be potential problems when it comes to permanent retention. In addition, it did not meet the state’s electronic record policy.
- e. Discussion:
  - i. So Mr. Callaghan spoke with the agency recommending that it be put on an ECM system (an imaging system such as FileNet or equivalent) or they could cut off annually to capture that database and convert to microfilm then. The agency representatives are here. They will explain that they are working with procurement on acquiring an imaging or ECM system.
  - ii. Tracy White, Executive IT Director for Financial Institutions, and Christi Adams, Financial Analyst and Records Officer, come forward to the microphone.
  - iii. Chairman Hargett states, “The recommendation by staff is different than you had originally asked for. Do you have any comments about their recommendation?”
  - iv. Ms. White responds, “What we plan to do is a little different than how Kevin described it. We are looking for a long term imaging solution - centralized for their entire office. The Bank and Credit Unit Division want to keep these records permanently, we don’t have fear that the database will be overwritten because it’ll go through the same back up procedures that OIR provides today. So we’ll be applying best practices for backup.”
  - v. Chairman Hargett comments that it sounds like they have taken Mr. Callaghan’s recommendation and made it more global. Mr. Callaghan concurs.
  - vi. Commissioner Oglesby says, “I applaud you for your response.”
- f. With no further discussion, Chairman Hargett entertains a motion for approval. The motion is properly moved and properly seconded; RDA 11040 is approved.

**6. RDA 2459: Division of Post Secondary Schools Authorization Licensure Files for the Higher Education Commission.**

- a. Request to revise the RDA

- b. Requesting to change the retention period of 2 years and permanent retention, to 2 years and destroy
- c. When the RDA was originally approved in 1996 and was asked to be stored on microfilm until the school closed, and then this was changed in 2005 to be permanent.
- d. Mr. Callaghan spoke with State Archives and they agree these do not need to be kept for historical value and may be destroyed after 5 years.
- e. Mr. Callaghan's recommendation is that if approved, then we should look at changing the agency retention to 5 years and destroy because these are records that they re-do the licensure every year. But audit's recommendation said 5 years, and there is merit to that. Higher Ed is present and I don't believe they had any objection to the 5 year.
- f. Julie Woodruff, Division of Post Secondary Schools for the Higher Education Commission, comes forward. She states that, "For the record, we agree with the recommendation."
- g. Discussion:
  - i. Mr. Weeks comments, "I have a concern on what is within this RDA. I understand that it's both initial authorization and continuing re-authorizations and apparently 11 other things. Can you go over what is in this RDA?"
  - ii. Ms. Woodruff responds, "Yes, there are a large number of the items listed in the RDA in particular. Generally what the division does is authorize postsecondary, non exempt non educational institutions. The way that process works is institutions file an initial authorization application, which is how they receive their first initial authorization. Thereafter they are required to annual file their re-authorization application, which contains a lot of the same information as what was in the original authorization. So we do get repetitious information or new information each year depending on what has happened with the institution within the past year.
  - iii. She continues, "Additionally the initial application may contain some of the other applications you have listed here, for example: #3 is the school personnel application for agent permit applications. They may be filed as part of an initial or re-authorization. They also may be filed individually during the year. So if an institution hires new school personnel, they may submit the school personnel application sometime other than during reauthorization. But these are all general applications we get time to time regarding an institution's authorization status with our agency."
  - iv. Mr. Weeks tries to clarify, "What is in the reauthorization is also in the authorization?"
  - v. Ms. Woodruff responds, "For the most part, yes. There are some differences but it's only because that school has already been authorized. So there might be some new information in the re-authorization in addition to what was required in the original."
  - vi. Mr. Weeks then questions, "Do we need a separate RDA for the initial authorizations and then items 2-11?"

- vii. Ms. Woodruff says that she'll leave that to Mr. Callaghan to decide, but she believes the retention would be the same.
  - viii. Mr. Callaghan responds agreeing that 5 years would be sufficient.
  - h. With no further discussion, Chairman Hargett entertains a motion for approval. The motion is properly moved and properly seconded; RDA 2459 is approved.
- 7. RDA 11042: Division of Post Secondary Schools Complaint Files for the Higher Education Commission**
- a. Request for new RDA
  - b. Recommended retention period be 5 years in compliance with the Record Division of the Comptroller's Audit Division as opposed to the original 2 year recommendation.
  - c. Then also updating the disposition notes within the RDA to reflect the change in retention period.
  - d. Ms. Woodruff concurs.
  - e. Discussion:
    - i. Mr. Weeks asks, "When the complaint is officially closed, is there an appeals process and is there a limit to when the appeal could happen? How do you know when it's actually closed?"
    - ii. Ms. Woodruff responds, "We close it within our Division, we do provide for any rights of further review in our closure letter. At that point, any rights to appeal are concluded within those 2 years that we had initially recommended. So certainly the 5 years is sufficient coverage."
    - iii. Mr. Weeks clarifies, "But the retention begins when the complaint is closed? The two year starts to run at that time." Ms. Woodruff says, "Correct, so we will have the record for 5 years after the date it is closed based on the recommendation."
  - f. With no further discussion, Chairman Hargett entertains a motion for approval. The motion is properly moved and properly seconded; RDA 11094 is approved.

**Records Management Update**

- 1. Mr. Callaghan, Director of Records Management Division presents the Records Management Update:
  - a. Records Dispositions Authorizations (RDA): Records Management continues to meet with TSLA and Audit to review the RDAs submitted. In the last 14 months, the PRC has approved 292 RDA creations, revisions or retirements. We are continuing to work on that number.
  - b. The Destruction Application that went live this spring has created those destruction reports for agencies for records stored at Richards and Richards. These reports are generated for the RDAs that have been approved by the PRC per your instruction. Within the last 6 months, 2605 cubic feet have been destroyed.  
The Records Holding Report: all but 2 agencies have turned in their reports. So we are looking to submit the Grand Summary in early October.
  - c. In June, we held training for the Records Holding Report. So we are back on schedule for that.

- d. Between January and June, we've conducted 7 classes for the records officers. We held one with Library and Archives for Historical Records in June that was very productive and informative. We are improving that communication with TSLA which will be beneficial for all the records officers.
- e. We've also begun to conduct training classes for specific agencies. We had 2 this summer for the Records Officers, Coordinators, IT personnel, General Counsel, or anyone the agency felt they needed a better records understanding.
  - i. Department of Safety had approximately 90 people at their training.
  - ii. Department of Economic and Development had around 30 attend.
  - iii. We are looking to work with other agencies in the fall.
  - iv. In addition, we will go over some of the basics for new Records Officers, and some additional classes in January.
- f. We have a new analyst on our team, Amy Joe Stanfill, joined us in June. She has degrees and experience in archives, film and records management.
- g. Christi Poston has retired from Department of Environment and Conservation at the end of August. She was with the state for over 30 years, and was involved in records management.
- h. Jack Jackson is going to retire at the end of September. He is another long-time Records Officer.
- i. Chairman Hargett goes on to ask, "Since you said you destroyed over 2000 cubic feet of documents, what does it cost to store a cubic foot?"
- j. Mr. Callaghan responds, "A cubic foot costs approximately \$4.50 for the agency storing it per year. Half of that goes to Richards and Richards. The other half of that charge supports Records Management. After approving 96 (94) RDAs, there will be even more money saved in the near future."
- k. Chairman Hargett commends Records Management's efforts and running a lean and mean operation. He asks, "Your expenses are billed back to the agencies? And they pay for Records Management. But it is to be noted, agencies were not billed for a full quarter (3 months) last year due to your efforts. So thanks for your stewardship of taxpayers' dollars."

### **Closing Remarks**

1. Chairman Hargett asks if there is any further discussion or comments.
2. Hearing none, Chairman Hargett entertains a motion to adjourn. The motion is properly moved, and properly seconded. The Commission is adjourned promptly at 1:41pm.

