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Archives Advisory Board Meeting Minutes- January 15, 2009

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ARCHIVES ADVISORY BOARD
Minutes
January 15, 2009
Secretary of State Conference Room – Nash School
Augusta, Maine

Board members present: Sumner Webber (Chair), Susan Bulay, Twila Lycette, Lyman Holmes, Elaine Stanley

Maine State Archives staff members present: David Cheever, Barry Marshall, Nina Osier, Matthew Revitt (volunteer)

Members of the public present: Bruce Smith, Ann Chapman

Chairman Webber called the meeting to order at 10:05 a.m. Bruce Smith, an attorney from the Drummond Woodsum law firm, and Drummond Woodsum staff member Ann Chapman stated that they were attending on behalf of a client, the Maine School Management Association. The Board received their written comments on its draft revision of Rules for Disposition of Local Government Records during the comment period after a public hearing held on October 23, 2008. Mr. Smith stated that schools are unable to adhere to the current rules covering records retention, despite increased awareness of the need to do so, because those rules are too complex and too confusing to apply. Drummond Woodsum provided a seminar on the subject, and found it difficult to present the necessary material because of that complexity. The intent of Drummond Woodsum's comments is to streamline the records retention requirements for schools, not to shorten retention periods. Mr. Smith also said that he would prefer to separate the school retention schedule from that used by other local government agencies.

Ms. Chapman said that presenting record series alphabetically is not as logical as grouping like series together, and that updating is needed because the current series are based on the practices of one school department some years ago. She recommended cutting the number of categories for ease of use.

Ms. Bulay asked which schools the Maine School Management Association represents, and Mr. Smith replied that it represents the K – 12 public schools. Ms. Osier clarified that private school records retention may be regulated by the Dept. of Education, but not by the Archives Advisory Board.

Ms. Lycette expressed her preference for format continuity throughout Chapter 10, instead of reformatting the school records section only, and Mr. Smith offered Drummond Woodsum's help in accomplishing this. Ms. Bulay asked if Drummond Woodsum could not provide its clients with a reformatted version of the rules instead of asking that the rules themselves be reformatted, and Ms. Chapman said that it would be just as easy for the Board to adopt the revised format.

In response to a question from Ms. Lycette, Ms. Osier explained that the Board decided not to adopt the draft put out for public hearing on October 23, 2008 in order to consider the changes proposed by Drummond Woodsum. Based on advice from the Attorney General's Office, the Board would now have two options for proceeding. It could abandon its October 23, 2008 draft and start the rulemaking process over with a new draft, or it could revise the October 23 draft and advertise another comment period (with or without holding another public hearing).

Ms. Bulay stated that she would like the series to be alphabetized, as they are in the current rule. Mr. Cheever suggested that the rule be indexed, and that an appendix arranged by retention period be added. Ms. Stanley suggested that the Maine School Management Association create its own publication of retention periods for school records, based on and agreeing with Chapter 10.

Ms. Lycette moved that the rulemaking process be suspended until Chapter 10 is reformatted, and Ms. Stanley seconded the motion. The motion was approved, and Mr. Smith and Ms. Chapman left after receiving the Board's thanks for their participation.

Ms. Lycette moved to accept as presented the minutes of the October 23, 2008 meeting, and Ms. Stanley seconded. The motion was approved.

Mr. Marshall stated that the Dept. of Marine Resources submitted a summary of archival information included in Schedule 1619, Series 22, 23, 24, 25 and 26, a condition the Board set before approving amendments of those records' disposition from Archives to Destroy. He said that the summary provided does not appear to be in compliance with the March 23, 2008 agreement between DMR and the Board on this matter. That agreement allowed boxes of records already in the holdings of the Maine State Archives to be released to DMR for inventory and for scanning of some records not scanned before accession. DMR then returned the boxes to the Archives. Mr. Marshall stated that he considered the boxes initially to be full, but were returned one-half to one-quarter empty. Mr. Marshall expressed concern that documents may have been removed before the boxes were returned.

Mr. Cheever said that the summary provided by the Department appears to contain less detailed information than what is available on the Dept. of Marine Resources web site. Ms. Osier recalled that DMR's express concern was the intermingling of public information and confidential information on some of the documents. DMR did not want the documents to be accessioned in the future for fear of confidentiality breaches. According to the Attorney General's Office, because DMR's confidentiality statute was passed after the Archives and Records Management Law with its 50-year rule, DMR's statutory restrictions must be followed in perpetuity despite that 50-year-rule. DMR maintained that its summary provides all pertinent nonconfidential information, and that DMR therefore fulfilled its side of the agreement with the Board .

Susan Bulay moved that the report is not a sufficient replacement for the archival record series on which it is based. Elaine Stanley seconded that motion. After discussion, Ms. Bulay amended her motion to state that the existing retention schedule for those archival record series should be allowed to stand. Ms. Stanley seconded, and the Board approved the amended motion.

Ms. Bulay asked Mr. Marshall whether he could identify those documents that were expected to be present in the returned boxes. Mr. Marshall agreed to perform an inventory. Ms. Stanley asked for any legal remedies available to the Board and to the State Archivist should an agency fail to comply with the Archives and Records Management Law . Mr. Cheever explained that different attorneys at the Office of the Attorney General represent different state agencies.

Ms. Stanley suggested that the information available at the DMR web site should be printed, and Mr. Marshall said that he would do this. Ms. Osier agreed to put this matter on the Board's agenda for its next meeting.

Mr. Marshall stated that the information included in S-1685, Series 31 becomes part of the Maine State Government Annual Report. This series was tabled by the Board on October 23, 2008. Mr. Holmes moved that the disposition of Destroy for Series 31 be approved. Ms. Lycette seconded, and the motion was approved.

Mr. Marshall answered questions asked by the Board about S-1672, Series 50 and S-1685, Series 91, which were approved on October 23, 2008. He then presented new series for the Dept. of Public Safety. Mr. Holmes moved that all of these new series should be approved for the dispositions requested, Ms. Stanley seconded, and the motion was approved.

In other business, Mr. Cheever called the Board's attention to "Maine Things Considered" as broadcast by MPBN on January 14, 2009. This piece, prepared by author and reporter Colin Woodard, concerned retention of municipal government campaign finance reports. Mr. Cheever also briefed the Board on the recent retirement of Director of Archives Services Sylvia Sherman, whose vacant position will be held open to meet budget curtailment requirements, and on the current storage situation (compact shelving installed; Greenlaw annex filled). He noted that there is money in the upcoming budget for a storage solution for the Maine State Archives and Records Center, but that the amount is insufficient for a new building. He described the agency's progress in supporting an Electronic Archival Description (EAD) initiative involving other repositories in the state, and said that New Century money can be used for this purpose. New Century funds can also be used to help the Legislature synchronize its audio and video

streaming of hearings over the Internet, and to fund a part time coordinator for the Civil War Sesquicentennial. The beginning date for that would be Election Day 2010.

Mr. Cheever told the Board that the State of Maine's appeal of the ruling against it on the Declaration of Independence ownership matter was heard recently by the Virginia Supreme Court, and that he expects a ruling before the end of February. He asked the Council of State Archivists to file an amicus brief, but that request was declined. At the annual meeting of CoSA (jointly with the Society of American Archivists) this summer, Mr. Cheever will present a session on replevin.

The Board set its next meeting for 10 a.m. on June 18, 2009. Ms. Stanley asked how many members the Board now has, and how many are required for a quorum. Mr. Cheever said that the five members present were all those now serving, although there are nine positions, and Ms. Osier said that a quorum is a majority of currently serving members.

Ms. Bulay moved for adjournment, Mr. Holmes seconded, and the meeting concluded at 12:35 p.m.

Respectfully submitted,

Nina M. Osier, Director
Division of Records Management Services