STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL

HECTOR H. BALDERAS
ATTORNEY GENERAL

TANIA MAESTAS
Deputy of Civil Affairs

SONYA CARRASCO-TRUJILLO
Chief of Staff for Policy and Public Affairs

SHARON PINO
Deputy of Criminal Affairs

OPEN MEETING ACT COMPLAINT FORM

Under the Open Meetings Act ("OMA"), the Office of the Attorney General ("OAG") has the discretion and authority to enforce the OMA's provisions. NMSA 1978, § 10-15-3(B). Generally, the OAG reviews and issues determinations regarding whether public agencies have violated the OMA. All OMA complaints submitted to the OAG, including any attached materials and any correspondence regarding those complaints, are public records subject to public inspection. Additionally, OMA complaints and determinations from the OAG may be posted on our website.

All complaints submitted to the Office of the Attorney General will be reviewed for potential OMA violations. The OAG may dismiss those complaints that fall outside OMA's purview and those for which no remedy is available under OMA, or forward OMA complaints to another appropriate agency for resolution. Please note that the OAG does not represent complainants in suits against public bodies.

OPEN MEETING ACT ("OMA") COMPLAINT FORM

New Mexico Office of the Attorney General

Open Government Division

Your Contact Information:

First Name: Heath Last Name: Haussamen

Address: PO Box 16607

City: Las Cruces State: NM Zip Code 88004

Phone Number: (575) 644-5129

Email: heath@haussamen.com

Name of Public Body that is the Subject of this Complaint (including city/town, district, county or region, if applicable): New Mexico Spaceport Authority

Specific date(s) of OMA violation(s): May 4, 2017

ALLEGED VIOLATIONS OF THE OMA BY THE PUBLIC BODY: Please select from the following list the violations you allege the public body committed. Check all that apply.

DEFICIENCIES IN NOTICE OF THE MEETING

___Notice did not comply with the deadlines or procedures for meeting notices adopted by the public body, or with the reasonable notice requirement in the OMA

___ Notice did not include date, time, and/or location of the meeting

___ Notice was not published or posted in a place and manner accessible to the public

___ Notice did not include an agenda or information on how the public may obtain a copy of the agenda

___ A meeting was reconvened by the public body, but notice of the date, time, and place of the reconvened meeting was not placed on or near the door of the place where the original meeting was held or in at least one other location appropriate to provide public notice

AGENDA

___ Agenda was not available seventy-two (72) hours prior to the meeting

___ Agenda did not include a list of specific items the public body intended to discuss or transact at the meeting or the items listed and acted upon were not listed with reasonable specificity

___ Public body took action on items that were not listed on the agenda

___ In a reconvened meeting, the public body discussed or took action on items not appearing on the agenda of the original meeting

MINUTES

___ The minutes did not contain the date, time, and/or place of meeting, the name of all members of the public body attending the meeting and those absent

___ The minutes did not contain a description of the substance of all proposals considered during the meeting or a record of any decisions made and votes taken

X ___ A draft copy of the minutes was not available within ten (10) working days of the meeting

___ The minutes were not approved, amended, or disapproved at the next meeting where a quorum of the public body was present

CLOSED MEETINGS

___ The public body did not follow the required closing procedures to close a meeting (*e.g.*, did not list the items they were going to discuss in the motion to close, or the motion to close did not contain the provision of law permitting the closing of the meeting)

___ The public body closed the meeting to discuss an issue not covered by one of OMA's exceptions

___ Matters not stated in the motion to close were discussed in the closed session.

___ Final action was taken by the public body in the closed meeting

CONDUCTING/DISCUSSING BUSINESS OUTSIDE OF AN OPEN MEETING

___ A quorum of the public body formulated policy, discussed public business, or took action outside of an open meeting

___ A "rolling quorum" was used to discuss public business (*i.e.*, a quorum may exist even when the members are not physically present at the same place, such as discussing public business in a series of telephone or email conversations

___ A committee was created by the public body that constitutes a policymaking body that formulated recommendations that were binding on the public body or otherwise established policy for the public body, outside of an open meeting

DETAILED EXPLANATION OF ALLEGED OMA VIOLATIONS: Please provide a description of the actions taken by the public body that violated the OMA, including specific dates and times, and why you believe the OMA has been violated.

I filed an IPRA request by email on May 4, 2017 for minutes of the Spaceport Authority's March 29 meeting. My request went unanswered. When I spoke with Spaceport CEO Dan Hicks by phone on May 18, he apologized for the lack of response and said the draft minutes weren't yet ready, though OMA required that they be ready by April 8. Hicks provided the draft minutes to me the next day, on May 19, 2017. I believe OMA required that the minutes be available for inspection weeks before they were made available on May 19, so the delay violated OMA.

ADDITIONAL INFORMATION: Please attach any documentation or evidence you have regarding the alleged OMA violation.

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INSPECTION OF PUBLIC RECORDS ACT COMPLAINT FORM

Under the Inspection of Public Records Act ("IPRA"), the Office of the Attorney General ("OAG") has the discretion and authority to enforce the IPRA's provisions. NMSA 1978, § 14-2-12. Generally, the OAG reviews and issues determinations regarding whether public agencies have violated the IPRA. All IPRA complaints submitted to the OAG, including any attached materials and any correspondence regarding those complaints, are public records subject to public inspection. Additionally, IPRA complaints and determinations from the OAG may be posted on our website.

All complaints submitted to the OAG will be reviewed for potential IPRA violations. The OAG may dismiss those complaints that fall outside IPRA's purview and those for which there is no remedy available under IPRA, or forward IPRA complaints to another appropriate agency for resolution. Please note that the OAG does not represent complainants in suits against public bodies.

INSPECTION OF PUBLIC RECORDS ACT ("IPRA") COMPLAINT FORM

New Mexico Office of the Attorney General
Open Government Division

YOUR CONTACT INFORMATION:

First Name: Heath Last Name: Haussamen

Address: PO Box 16607

City: Las Cruces State: NM Zip Code: 88004

Phone Number: (575) 644-5129

Email: heath@haussamen.com

IPRA REQUEST TO THE PUBLIC BODY:

Name of the Public Body that is the subject of this complaint (including city/town, county or region, if applicable): New Mexico Spaceport Authority

Format of IPRA Request: x Written _____ Oral

Date IPRA Request was Submitted to the Public Body: May 4, 2017

Date of all Responses Received from the Public Body: May 18 (phone)
May 19 (written)

ALLEGED VIOLATIONS OF IPRA BY THE PUBLIC BODY: Please select from the following list the violations you allege the public body committed. Check all that apply.

RECORDS

_____ No records were provided.

_____ The agency provided some but not all of the records responsive to the request.

_____Records were provided, but they were not responsive to the request.

_____The public body does not have custody or responsibility for the records, and the records custodian did not forward the request to the proper custodian.

_____The request was for records in electronic format and although the records are available in electronic format, the copies of the public records were not provided in an electronic format.

DENIED REQUESTS TO INSPECT PUBLIC RECORDS

_____Although some records were provided, the custodian did not include a written explanation for denying the production of exempt records or for redacting confidential information from records.

_____No records were provided and the records custodian did not deliver or mail a written explanation to the requester within fifteen (15) calendar days after receiving the request that included a description of the records sought, the names and titles of each person responsible for denying the request, and a description of the reasons for the denial.

NOTICE

_____Public body did not post in a conspicuous location at its administrative office or on the public body's website a notice setting forth: the rights of any person to inspect the public body's public records, the public body's responsibility to make public records available for inspection, the procedures for requesting inspection of public records, the procedures for requesting copies of public records, and/or reasonable fees for copying public records

DEADLINES (For purposes of deadlines imposed by the IPRA, the date the request is received is not counted)

X_____Inspection was not allowed within three (3) business days and the public body did not timely send a written "three-day letter" to the requester explaining when the records would be available or when the public body would respond to the request.

_____The public body did not allow inspection or otherwise respond to the request within fifteen (15) calendar days from the date the custodian received the request.

FEES

_____The public body charged fees in excess of $1.00 per printed page for documents 11"X17" or smaller, or charged fees that exceeded the actual costs to copy the records.

_____The public body did not provide a receipt upon request.

DETAILED EXPLANATION OF ALLEGED IPRA VIOLATIONS (Required): Please provide a description of the actions taken by the public body that violated the IPRA, including specific dates and why you believe the IPRA has been violated.

I filed an IPRA request by email on May 4, 2017 for minutes of the Spaceport Authority's March 29 meeting. My request went unanswered (no three-day response). When I spoke with Spaceport CEO Dan Hicks by phone on May 18 (I called him), he apologized for the lack of response and said the draft minutes weren't yet ready, though OMA required that they be ready by April 8. Hicks provided the draft minutes to me the next day, on May 19, 2017. I believe the lack of response to my written request violated IPRA.

ADDITIONAL INFORMATION: Please provide a copy of your original inspection request (if written), and any documentation or evidence you have regarding the alleged IPRA violation.

Heath Haussamen <heath@haussamen.com>

IPRA request

1 message

Heath Haussamen <heath@haussamen.com> Thu, May 4, 2017 at 11:08 AM
To: "IPRA, NMSA, NMSA" <NMSA.IPRA@spaceportamerica.com>
Cc: "Hicks, Daniel, NMSA" <daniel.hicks@spaceportamerica.com>

Hello,

Under the state's Inspection of Public Records Act, I wish to obtain copies of the following documents:

- Your agency's current IPRA policy.

- The agenda and minutes for all meetings at which the policy was discussed, approved, and/or amended. This does not need to include the agenda and minutes from the Dec. 7, 2016 meeting, as those documents are online and I already have copies.

- Minutes from the March 29, 2017 meeting. If these minutes have not been approved yet, I'm requesting them in draft form.

I request that you provide these documents in electronic form if possible. Please let me know of any costs before making copies.

Thank you.

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Heath Haussamen
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Facebook: /haussamen
haussamen.com

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