

MINUTES OF THE
SANTA FE COUNTY
ETHICS BOARD MEETING

Santa Fe, New Mexico

January 11, 2018

I. This meeting of the Santa Fe County Ethics Board was convened by Chair Carol Thompson, on the above-cited date at approximately 2:00 p.m. in the Santa Fe County Manager's Conference Room, County Administration Building, Santa Fe, New Mexico.

II. Roll call indicated the presence of a quorum as follows:

Members Present:

Carol Thompson, Chair
Peter Dodds
Michael "Rosey" Rosanbalm

Member(s) Absent:

Linda Ramos
[One Vacancy]

County Staff Present:

Lisa Katonak, Manager's Office
Cristella Valdez, Assistant Attorney

III. **Approval of Agenda**

Upon motion by Mr. Dodds and second by Mr. Rosanbalm, the agenda was unanimously [3-0] approved as published.

IV. **Approval: December 7, 2017 Minutes**

Mr. Rosanblam noted on page two, he was listed as both the movant and seconder of a motion. It was determined that Mr. Dodds supplied the second.

With that correction Mr. Rosanbalm moved to approve. Mr. Dodds seconded and the motion passed by unanimous [3-0] voice vote.

V. **Approval of Final Proposed Changes: Santa Fe County Code of Conduct Ordinance, Including Campaign Financing; Political Activity; Proper Uses of Campaign Funds; Prohibited Uses of Campaign Funds; and Disbursement of Surplus Campaign Fund** [*Draft Ordinance on file with Manager's Office*]

Ms. Katonak said that while she was not present at the meeting where Deputy Manager Flores updated the County Commission on this board's progress regarding the status of

the ordinance, she understood the BCC wanted to see key succinct points -- a high level summary, before publishing title and general summary.

[Items in these minutes highlighted in bold, identify those points the board deemed appropriate for inclusion in a high level summary.]

The review process will include a feedback exchange between staff and the Commissioners, and those comments will perhaps be presented to the board for adjustment.

Cristella Valdez, Assistant Attorney, suggested reviewing those items recommended for changing at the previous meeting. The County Attorney is reviewing the document and his comments will come back to this board.

Mr. Rosanbalm likened the presentation to the Pentagon; a six-inch document is reduced to a one-page brief with the key points.

Section 7. B. The board requested that staff review this section in conjunction with the Human Resources Manual. In consultation with the County's labor and employment law attorney, the position is to mirror the language on harassment from the HR Manual. The HR Manual has been negotiated with the unions.

Ms. Valdez explained that there will be time following the January 30th BCC for dialogue and changes to the proposed ordinance.

In regards to the board's methodology, the BCC should be made aware that State law was mirrored.

This ordinance does not affect employees nor does it accept anonymous complaints.

The ordinance was reviewed on a page by page basis and Ms. Valdez pointed out typographical and grammatical changes that were made.

Page 3, definition of "candidate" was modified to address the board's concern and "special" was eliminated. The word "election" on the last sentence was a typo. It was noted that a successfully recalled position is filled by appointment.

Improved definitions were added and deleted as appropriate.

The HR Manual's definition of harassment was included.

Section 11. G: The Ethics Board may issue advisory opinions ... as to whether there is violation of this Ordinance...

Section 15. A: County community centers or senior centers can be used for political purposes.

Regarding Section 18, County Legal Department would prefer leaving the Elected Official, Appointed Official, Employee or Volunteer in the section rather than potentially creating an enforceability gap, stated Ms. Valdez.

Section 17. C provides consistency with the Governmental Conduct Act.

Section 19. E. was clarified as requested by the board.
Section 19 A for consistency do not capitalize state.

Section 20. C. 3 was amended to agree with the board's points and the BCC will be made aware of the modifications regarding reporting requirements.

Section 21, the changed language was taken directly from the Secretary of State's regulations.

Section 22. 4. E, prohibits use of campaign funds to pay penalties and costs, Ms. Valdez said although state law does not address this, the Secretary of State regulations have specific provisions that funds cannot be used for paying fines.

Section 23 A.5 and B: A discussion regarding NM Representative Steve Pearce's challenge regarding use of his campaign funds occurred and how it may apply to this section. The federal court found he could use his congressional campaign funds for his state governor campaign.

The general rule is that counties cannot prohibit activities that are allowed by state law.

Mr. Rosanbalm recommended highlighting the board's decision that campaign funds cannot be used for a different campaign/position. He appreciated there may be a conflict with state and/or federal law and suggested the BCC could make the determination whether they wanted it or not. Chair Thompson said she was uncomfortable recommending language that is in conflict with state law; rather, the board should work to comply with state law. Mr. Rosanbalm reminded the Chair that the board discussed this in depth and by motion limited the use of campaign funds.

A discussion on the previous vote regarding this section occurred and it was noted that the vote was not unanimous.

There was agreement that the County Legal Department will evaluate this section before highlighting it as a key point and lacking Legal's support it will come back to this board.

Ms. Valdez pointed out that campaign funding for county officials is primarily governed by state law. Most of the enforcement and reporting provisions are directed through state law by the Secretary of State.

Section 25.A - Employees are not included, a complaint must be “sworn” and there is an affirmative duty to submit a complaint alleging unethical conduct.

It was noted that as a definition, “affirmative duty” in the first sentence needed to be capped.

The section clarifies the role of the CCEO, County’s Contract Ethics Official

Inclusion of a form for sworn complaint.

D. The appeal process is delineated

F. Clarifies and delineates the hearing process

Section 25 D last sentence eliminate “this.”

Section 26 D. Sworn Complaint should be capped.

It was noted that this board lacks subpoena power and “compel” is used instead.

Section 30.A.2 The term “public reprimand” was discussed and amended to read: “A written public reprimand in the public record.”

It was noted that all findings of this board are matters of public record. Ms. Katonak suggested the public reprimand may correlate to a filing with the County Clerk’s Office.

If the term “censure” or “written censure” or “written reprimand” is retained, add it to the definitions.

Ms. Valdez said if the board wants a written record that an individual violated the Ethics ordinance, the findings of fact and conclusions of law would serve that purpose. However, if the desire is to have a document circulated in the public domain a written reprimand would be used.

While discussing Section 30, it was determined that Section 26 items G and H were redundant [Section 25.I.11] and thus removed.

Regarding 30, D, Ms. Valdez said the language that cites a violation of this ordinance as a misdemeanor is a required provision for the courts. Also noted in D, “in” was repeated in the last line.

Item 1 through 4 of 30, are the penalties the board may impose. The board has the discretion to decline imposing a penalty.

Ms. Valdez said that the language in Section 26 G and H may be more appropriate in Section 25 and she was given authority to add it where necessary.

Section 25. I. 11 to include the County Manager and where appropriate the DA in the second to the last sentence.

Section 25. I, 10 Include “majority vote” at the end.

Correct citation on 25.I. 11 to 30.A. in two places.

Section 30 A. include the word "penalty."

Chair Thompson moved to eliminate Section 26 G and H, and include the items listed above for Section 25. Mr. Rosanbalm seconded and the motion passed by unanimous voice vote.

Ms. Valdez explained that the findings of fact and conclusions of law would be presented to this board as an order at a meeting following the Board's decision.

Regarding "written public reprimand," the board authorized Legal staff to rework the language to better represent the board's desire.

Ms. Katonak said the name of the BCC chair and the County Attorney will be changed at the end of the ordinance.

VI. Matters from the Board

Another meeting may be scheduled in February, 2018.

VII. Matters from the Public

None were present.

VIII. Adjournment

Having completed the agenda and with no further business to conduct the meeting was declared adjourned at 4:50 p.m.

Approved by:


Carol Thompson, Chair

Respectfully submitted by:

Karen Farrell, Wordswork

COUNTY OF SANTA FE) ETHICS BOARD MINUTES
STATE OF NEW MEXICO) ss PAGES: 6

I Hereby Certify That This Instrument Was Filed for
Record On The 24TH Day Of October, 2018 at 04:52:31 PM
And Was Duly Recorded as Instrument # 1870936
Of The Records Of Santa Fe County



Deputy  Witness My Hand And Seal Of Office
Geraldine Salazar
County Clerk, Santa Fe, NM

DRAFT

subject to approval