

**MINUTES OF THE**  
**SANTA FE COUNTY**  
**ETHICS BOARD**

**March 6, 2017**

**Santa Fe, New Mexico**

This meeting of the Santa Fe County Investment Committee was called to order by Carol Thompson at approximately 2:05 p.m. on the above-cited date in the County Legal Conference Room on the second floor of the County Administrative Building located at 102 Grant Avenue, Santa Fe, NM.

Roll was called and a quorum was indicated with the presence of the following members present:

**Members Present:**

Carol Thompson  
Peter Dodds  
MacKenzie Allen

**Member(s) Excused:**

Linda Ramos  
Michael Rosenblum

**Staff Present:**

Geraldine Salazar, County Clerk  
Tony Flores, Deputy County Manager  
Lisa Katonak, Staff Liaison  
Cristella Valdez, Assistant County Attorney

**VII. Introduction of Ethics Board Members**

Those present introduced themselves and described their backgrounds.

**III. Approval of the Agenda**

The agenda was accepted by consensus. [Items were addressed out of order.]

**IV. Approval of Minutes: June 2, 2015**

It was established that one need not be present at a meeting to vote on the minutes. Mr. Allen moved approval and Mr. Dodds seconded. The motion carried by unanimous voice vote.

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**V. Election of Chair**

Mr. Dodds nominated Ms. Thompson as chair. There being no other nominations Carol Thompson was named Chair by acclamation.

**VI. Election of Vice Chair**

Chair Thompson nominated Mr. Dodds. There were no other nominations. Peter Dodds was elected Vice Chair unanimously.

**VIII. Introduction of Legal Counsel**

Legal Counsel Cristella Valdez introduced herself, as did County Clerk Geraldine Salazar, who said this is an important committee. Clerk Salazar voiced her support for exclusion of the employees from the board's purview. She noted anyone can make accusations and it is unfair for the accuser to remain anonymous. She listed her responsibilities, saying elected officials need to be held to the highest possible ethical standards. She distributed an organizational chart of the County showing that elected officials are not subordinate to the Commissioners or the County Manager. [Exhibit 1] She said it is the duty of the elected officials to be honorable.

Mr. Allen agreed that complaints should not be anonymous, but by the same token there should be protection against retaliation. He noted that not everyone is honorable. Ms. Valdez indicated Section 26 of the ordinance specifically prohibits retaliation against anyone making a complaint in good faith.

**X. Review of Santa Fe County Code of Conduct Ordinance**

Ms. Katonak welcomed everyone and explained that Michael Rosenbaum and Linda Ramos were unable to attend the meeting because of the short notice. She gave descriptions of their backgrounds.

Tony Flores, Deputy County Manager introduced himself and thanked those present for taking on the challenge.

Chair Thompson stated that in the past this board worked hard to make changes to the code. An ordinance was never passed due to a number of circumstances including an intervening election. She commended staff for their guidance.

Mr. Dodds asked why there had been such a long hiatus after the last meeting. Chair Thompson said no complaints have been received. Mr. Allen said the articles in the newspaper implied that complaints had been deflected. Ms. Katonak said the newspaper essentially turned a non-story into a story. She noted employees are included under the provisions of the Code of Conduct but they are dealt with through the Human Resources Department. Ms. Valdez said that is made clear in Section 23. The Ethics Code is adopted by reference into the employee handbook. Only the enforcement provisions differ.

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Ms. Katonak stated at this point the ordinance has become outdated. The Commission has expressed an interest in clarifying the campaign finance regulations and in expanding the definitions. Clerk Salazar pointed out there could be conflicts with the state law and this needs to be looked into in order to avoid double jeopardy. Mr. Allen asked if there were unique conditions in the County that would preclude using the state regulations. Clerk Salazar said this was something that needed to be established. She added that having an ethics ordinance provides a means of educating people as to what is proper.

As far as being out of date, Ms. Katonak mentioned that there were references to a County Surveyor, a position that no longer exists.

#### **IX. Robert's Rules of Order**

Ms. Valdez reviewed portions of rules of procedure as established in Resolution 2009-2 that were pertinent to this board, including quorum, duties of the chair, order of business, noticing requirements, cross examination in adjudicatory matters, etc. She specifically mentioned that rolling quorums and ex parte communications were prohibited.

She described the process following an adjudicatory hearing based on a complaint.

Ms. Katonak defined her role as liaison as helping the Chair put together an agenda, ensure a quorum will be present, and if there is a complaint, engage a neutral investigator.

Mr. Dodds asked what would occur if there was a complaint adjudication, could the members of the Ethics Board be sued. Ms. Valdez said she would look into that. Chair Thompson said she understood they were indemnified under an umbrella policy.

A discussion ensued about how complaints are received and by whom.

#### **XI. Discussion of the 2017 Ethics Board Work Plan**

Ms. Katonak said the Board of County Commissioners has requested a review of the ordinance. If changes are to be made a request to authorize publication of title and general summary of a new ordinance will go before the BCC and then it will be heard before a public hearing. Ms. Valdez stated that it is at the discretion of the BCC as to whether there would be one or two public hearings.

Clerk Salazar said there are currently two ethics ordinances in place. She recommended the Ethics Board review those – 2010-12 and 2011-9. She provided the members with copies of the Rules and Regulations for the County Ethics Board. *[Exhibit 2]*

Ms. Katonak indicated that the previously constituted committee had made substantial and substantive changes to those and this now exists in a heavily edited form with changes marked in various colors. She added that a punchlist was left by Willie Brown, the previous board counsel, of ten “must” items to be dealt with.

Ms. Katonak suggested a timeline for the boards work: April, May and June – review previous ordinances and revised draft; July – request that the BCC authorize publication of title and general summary of a new ordinance; public hearings – August to September. This would put a new ordinance in place by October.

**XII. Matters from the Board**

Various dates were put forward as potential dates for the next meeting and April 13<sup>th</sup> at 2:00 was tentatively decided upon, subject to the availability of the members currently not in attendance.

**XIII. Matters from the Public**

None were presented.

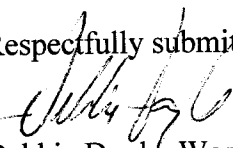
**XIV. Adjournment**

Having completed the agenda and with no further business to conduct the meeting was declared adjourned at 3:45 p.m.

Approved by:

  
Carol Thompson, Chair

Respectfully submitted by:


  
Debbie Doyle, Wordswork



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

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I Hereby Certify That This Instrument Was Filed for  
Record On The 19TH Day Of July, 2017 at 08:31:50 AM  
And Was Duly Recorded as Instrument # **1831356**  
Of The Records Of Santa Fe County

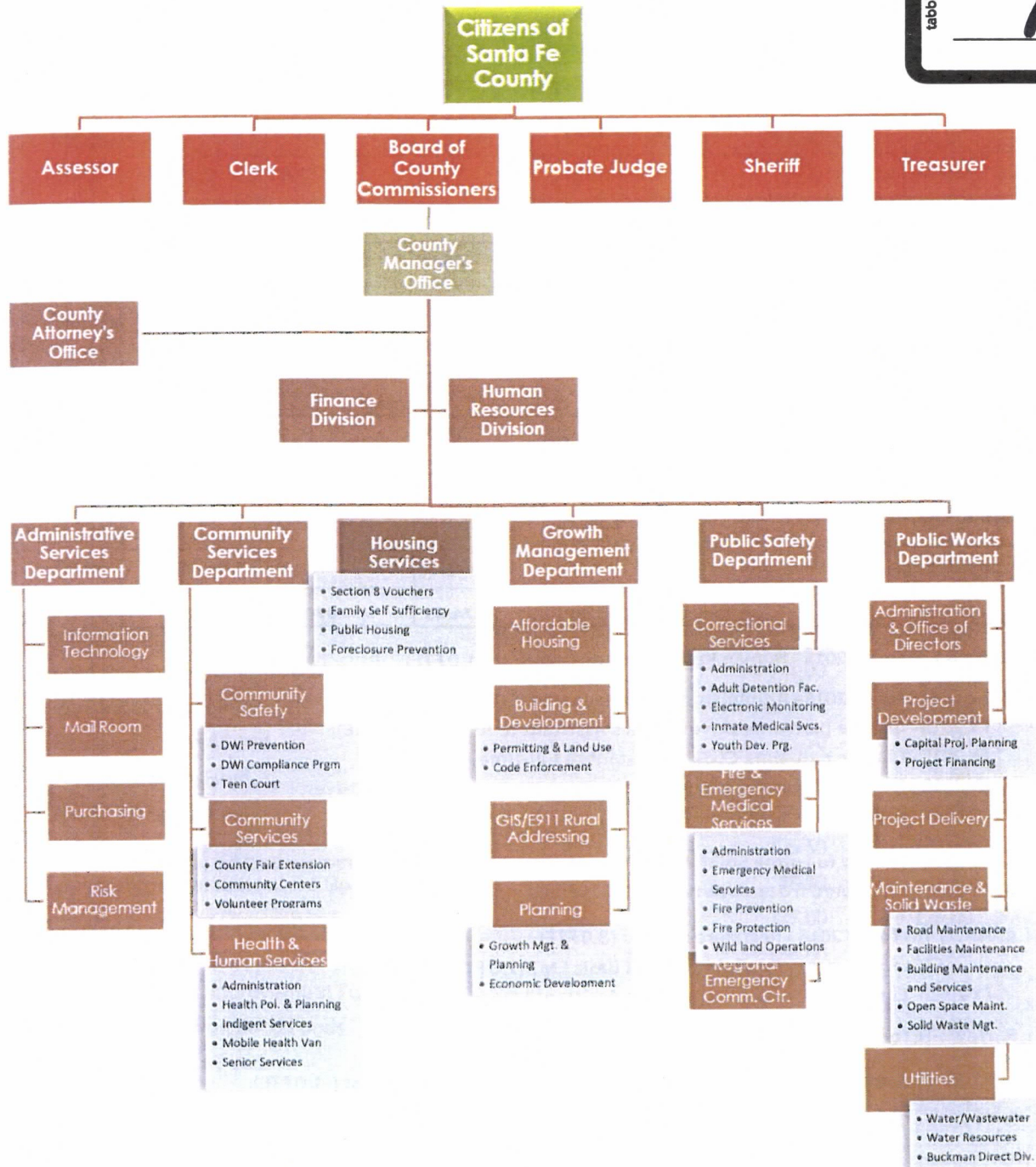
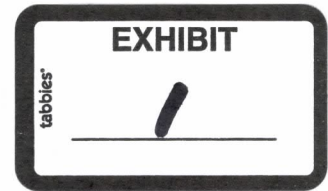
Witness My Hand And Seal Of Office  
Geraldine Salazar  
Deputy  County Clerk, Santa Fe, NM

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Fiscal Year 2016 Budget

Chapter 8 ORGANIZATION BUDGETS, OBJECTIVES AND PERFORMANCE



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Figure I-1 Organization Chart



## **RULES AND REGULATIONS OF THE SANTA FE COUNTY ETHICS BOARD**

### SECTION 1. INTRODUCTION

Pursuant to the authority granted by Ordinance No. 2010-12, the Santa Fe County Ethics Board (hereinafter referred to as the "Board") issues the following Rules and Regulations for its conduct and for interpretation and enforcement of Ordinance No. 2010-12 (hereinafter referred to as "the Ordinance").

In the event that these Rules and Regulations are in conflict with the provisions of the Ethics Ordinance, the provisions of the Ordinance shall prevail.

### Section 2. ADVISORY OPINIONS

A. Procedure. The Board shall issue advisory opinions from time to time, pursuant to the following procedures:

1. A request for advisory opinion shall be submitted to the Board by serving the request with the County Attorney's Office. The County Attorney's Office will forward all such requests to the County's contract ethics official and to the Chair of the Board.
2. The Board may require the individual requesting an opinion to provide additional information and to appear before the Board to respond to questions related to the request.
3. The Board shall review the request for an advisory opinion during a meeting of the Board. The individual requesting an opinion may attend such review hearing. The Board may require the individual requesting the opinion to answer questions or provide additional information or documentation at the review hearing. The Board may modify the recommended advisory opinion submitted by the subcommittee.
4. Each advisory opinion shall be issued only after a majority of the entire membership of the Board has voted in favor of the advisory opinion.

#### B. Public Hearings and Public Record

1. The Board shall comply with the inspection of the State of New Mexico Public Records Act and the State of New Mexico Open Meetings Act.
2. All advisory opinions approved by the Board shall be filed with the County Clerk and, upon filing, shall be a public record.

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### C. Advisory Opinion Requirements

1. Each request for an advisory opinion shall concern some provision of the Ordinance that is claimed to be subject of multiple interpretations, vague or unenforceable. An advisory opinion may pertain to a particular person and may be filed instead of a formal complaint pursuant to Section 23 of the Ordinance.
2. The request for an advisory opinion shall be only about prospective conduct, or application of the Ordinance, not past or present actions.
3. The request must be about a real or potential conflict the requesting individual is facing.
4. All material facts must be revealed in the request.
5. The individual who is issued an advisory opinion is the only one who may use the opinion as a defense.

The Board may include in the advisory opinion that the individual must take particular actions or refrain from certain conduct in order to be eligible to use the advisory opinion as a defense to any future complaint.

### D. Advisory Opinions as a Defense

1. A person who receives an advisory opinion may rely on the opinion, so long as: the Complaint is filed against that person based on the same facts that are the basis for the opinion request; the person may raise the advisory opinion as a defense in response to the Complaint or any portion of the Complaint; the Board may determine if the opinion was followed and whether the Complaint is based on the same facts revealed in the opinion request; if both are found, the Board shall dismiss the Complaint or that portion of the Complaint that pertains to the advisory opinion.
2. In the event the Board finds that material facts were omitted by the person in requesting the advisory opinion, that the person did not follow the advisory opinion, or that the complaint involves material facts other than those that are the basis of the advisory opinion, the Board shall not dismiss the Complaint solely on the basis of the advisory opinion, however, the person may use the advisory opinion as part of his defense.
3. Advisory opinions may be used by both Complainants and Respondents as precedent, but such opinions are not binding on the Board unless it is an opinion found by the Board to have issued to and followed by the Respondent pursuant to this section.

## Section 3. COMPLAINT AND HEARING PROCESS

### A. Complaints and Violations

1. A Complaint pursuant to Section 23 of the Ordinance that alleges a violation of the Ordinance shall be made in writing by the filing of a sworn complaint alleging facts which, if true, would constitute a violation of the Ordinance. The Complaint should include detailed factual

- allegations concerning the alleged violation, including information concerning the nature of the violation, the specific section or sections of the Ordinance claimed to have been violated, the factual circumstances of the alleged violation, relevant information about the alleged violation such as the time and place when the violation occurred, together with the names of any witnesses to the alleged violation.
2. The Board will not hear a Complaint that is not sworn as described in Section 23 of the Ordinance unless subsequent investigation by the County contract ethics official reveals admissible evidence of a violation of the Ordinance. Complaints may, at the election of the person filing the Complaint, be accompanied by verified affidavits pertaining to material elements of the Complaint.
  3. A copy of the Complaint shall be served on the Respondent within ten (10) days after the Complaint is served upon the County Attorney's Office.
  4. The Respondent shall be permitted to file an Answer to the Complaint within thirty (30) days of the date the Complaint is served on the Respondent. The Answer of the Respondent shall be sworn in the same manner as the Complaint. The Answer shall include a response to each allegation in the Complaint. The Answer shall be filed with the County Attorney's Office by each Respondent. Each Respondent shall send a copy of his/her Answer to each Complainant by first class mail and certifying that such mailing occurred on or before the date the Answer was filed with the County Attorney. Failure to timely file an Answer, or filing an unsworn answer, may be construed by the Board, depending on the totality of the circumstance, as an admission of allegations. A default judgment may be entered, as appropriate.
  5. The Board will not set for hearing any Complaint charging a violation alleged to have occurred more than one (1) year prior to the date the Complaint or confidential report.
  6. Each Complaint shall be filed in accordance with the Ordinance. After the complaint is delivered to the County's contract ethics official, a copy of the Complaint shall be immediately delivered to each member of the Board.
  7. Each Complaint shall be reviewed by the Board at a preliminary hearing. After reviewing the complaint, the Board shall either set the Complaint for hearing, summarily reject the Complaint if it does not, on its face, state a violation of the Ordinance and notify the complainant in writing of the of rejection and the reasons therefore, or request that further investigation of the Complaint be accomplished by the County's contract ethics official.

#### B. Summary Dismissals

Any Board member who requests that the Complaint be considered at a preliminary hearing shall so notify the County's contract ethics officer within fifteen (15) days of that Board member's receipt of the Complaint. If the County's contract ethics officer receives such notice, a preliminary hearing shall be scheduled and the summary procedure provided hereafter shall not apply to the Complaint. If the Board agrees to a dismissal, the County's contract ethics official shall prepare an order of dismissal, which the Chair shall be required to sign. The Respondent shall be given notice of all actions taken pursuant to this section. The County's

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