

MINUTES OF THE
SANTA FE COUNTY
ETHICS BOARD MEETING

Santa Fe, New Mexico

August 8, 2017

I. This meeting of the Santa Fe County Ethics Board was convened by Chair Carol Thompson, on the above-cited date at approximately 1:30 p.m. in the Santa Fe County Legal 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
MacKenzie “Mac” Allen [early departure]
Linda Ramos
Michael “Rosey” Rosanbalm

Member(s) Absent:

None

County Staff Present:

Lisa Katonak, Manager’s Office
Tony Flores, Deputy Manager
Cristella Valdez, Assistant Attorney

III. Approval of Agenda

Upon motion by Mr. Dodds and second by Mr. Rosanbalm the agenda was unanimously [5-0] approved.

IV. Approval: July 6, 2017 Minutes

On page 7, the vote regarding the following change: “Any Elected Official, Appointed Official, Employee or Volunteer shall have a duty to, ~~or and a~~ member of the public may submit a complaint alleging unethical conduct” Passed by majority 2-1 vote, not as the minutes stated without opposition.

With that correction, Mr. Dodds moved to approve and Mr. Allen seconded. The motion passed without opposition.

Deputy Manager Flores said he understood that staff was treated with disrespect at the previous meeting and he asked that that not be repeated in the future.

Deputy Manager Flores said this board is considered “quasi-judicial.” charged to make recommendations to the BCC on ordinance changes and to act as an advisory board or judge/jury on ethics complaints. In the event a board member is unable to be impartial or fair regarding an issue, that member is required to recuse. Regarding *ex parte* communications, Mr. Flores said outside of a noticed meeting the board members cannot discuss proposed ordinance changes. All decisions and discussions need to occur at the noticed meeting. Emails and phone calls are an inappropriate venue to discuss board business.

Regarding excused absences, Mr. Flores said the only entity that has the authority to deem an absence “excused” is the Board of County Commission.

Mr. Dodds said the discussion at the previous meeting had been robust but there was no disrespect. Mr. Allen said he took exception to Mr. Flores’s comment that disrespect had been shown and if voices were raised it was part an enthusiastic exchange. Manager Flores said he appreciated the board members’ candor about last month’s discussion but it was his obligation as Deputy County Manager to advise this Board that it was perceived by County staff as disrespectful.

Ms. Katonak said she has received emails from board members that are copied to all the Board members and that is considered a rolling quorum.

Deputy Flores excused himself from the remainder of the meeting.

VI. Review of the 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]

Assistant Attorney Valdez reviewed Board directives from the previous meeting. She noted that those items highlighted in green track recent changes.

Section 4. Definitions

F. “Campaign Fund” means contributions received for a political purpose.

Ms. Valdez said she incorporated State language in the definition.

Action: Mr. Dodds moved to approve and Mr. Rosanbalm seconded the motion.

Mr. Allen said he was “offended” by the characterization of the last discussion and he no longer wanted to participate in this process. He said his written resignation would follow.

The motion passed by unanimous [4-0] voice vote.

A. “Special Election” means the period beginning on the day the Board by resolution issues a proclamation calling a special election and ends on the day of the special election.

ACTION: Mr. Dodds moved to approve and Ms. Ramos seconded. The motion passed without opposition.

Section 19: Disclosure

C.3. Ms. Valdez said at the last meeting there was discussion regarding the elimination of “fiancé or fiancée, boyfriend or girlfriend” and the insertion of “or domestic partner.” She said the County’s human resource attorney expressed concern with the elimination of “boyfriend, girlfriend” and how that aligns with the *Employee Handbook*. The Handbook will prohibit discrimination based on spousal affiliation or marital status. State law prohibits discrimination based on spousal affiliation and the elimination could be perceived as discrimination.

Mr. Dodds asked whether removing “or” and inserting “and” would remedy the discriminatory issue.

Mr. Rosanbalm suggested domestic partner would address any ambiguity. The terms boyfriend and girlfriend appear to be too ambiguous. The *Employee Handbook* is not addressing the same contextual issues within this section. Not speaking to the Handbook issue, Chair Thompson said she would prefer the ordinance cover all possibilities. Mr. Rosanbalm pointed out that that this section excludes the candidate from reporting on gifts and “girlfriend” and “boyfriend” are too ambiguous to be reinstated.

Ms. Valdez said the relationship to the *Employee Handbook* is that the disclosure form is a term and condition of employment. Employment shall not be affected based on one’s marital status, etc. If C.3. is perceived discriminatory, it could be a risk to the County.

Mr. Dodds agreed that boyfriend and girlfriend were too loose of terms to allow the candidate to exclude from reporting contributions from.

ACTION: Chair Thompson moved to reinstate “boyfriend, girlfriend.” Ms. Ramos seconded. The motion failed by a 2-2 vote with Mr. Rosanbalm and Mr. Dodds voting against.

Mr. Rosanbalm asked whether the BCC would know that this section sustained a great deal of discussion. Ms. Valdez said the ordinance will go before the Board for authorization to publish title and general summary. The Board will receive this board’s

proposed ordinance as well as staff advice regarding legal issues. If the BCC elects to publish title and general summary there will be a public hearing.

Section 22: Disbursement of Surplus Campaign Funds

A.3 An “Or” was added, after A.3, and because A. 5 and 6 were deleted, the “or” was removed after A.4.

Section 24: Reporting and Resolving Alleged Ethics Violations

At the previous meeting section A was reworded to read: Any Elected Official, Appointed Official, Employee or Volunteer shall have a duty to submit a complaint and a member of the public may submit a complaint alleging”

Ms. Valdez said she discussed this change with the County’s labor and human resources attorney to determine whether there was a conflict of the collective bargaining agreement. The County has six collective bargaining agreements and the attorney felt making it mandatory for an employee to submit a complaint would require a change to the terms and conditions of employment and would require reopening bargaining negotiations. To eliminate the collective bargaining issue, employees would either have to be removed from the mandatory requirement and replaced with a permissive ability to submit complaints. Ms. Valdez said if it is the board’s desire to maintain the employees within the mandatory requirement, staff recommends carving out those employees and positions that have confidentiality and other privileged information, i.e., attorneys.

Mr. Rosanbalm said he felt strongly that an employee, aware of an ethics violation, should be required to report it. He said an employee should have “an affirmative duty” to report.

Originally the text allowed that employees “may” report, and Mr. Dodds said it lacked teeth.

Ms. Ramos asked whether the reporting of an ethical violation was already covered within mandatory reporting requirements. The state has reporting duties. Ms. Valdez said there are categories of mandatory reporting for certain behavior.

Mr. Dodds said eliminating employees essentially takes out the group of those most likely to witness a violation.

Ms. Ramos recommended tabling this item until staff ascertains whether this type of requirement already exists within the agreements. Chair Thompson agreed and said it was important the board forward thoroughly researched recommendations.

Mr. Dodds introduced: Any Elected Official, Appointed Official, Employee or Volunteer shall have a duty to the extent they are legally permitted to do so submit a complaint and a member of the public may submit a complaint alleging”

Ms. Valdez reminded the board that there are employee privileges that are mandated by licensing boards and laws that will need to be carved out. She said further review is necessary.

Mr. Dodds introduced the following motion with the caveat that staff may improve upon the wording and Mr. Rosanbalm seconded: “Any Elected Official, Appointed Official, Employee or Volunteer ~~shall have~~ has an affirmative duty to the extent they are legally and professionally permitted to do so to submit a complaint alleging unethical conduct. A member of the public may submit a complaint alleging...”

During discussion, Ms. Ramos recommended a separate sentence for the public. That language was incorporated above.

Ms. Valdez said the language may not address the collective bargaining issue and expressly stating the “agreement” may be necessary.

To address staff concerns, Mr. Dodds suggested “collective bargaining and other contractual agreements.”

The motion was restated as follows:

“Any Elected Official, Appointed Official, Employee or Volunteer ~~shall have~~ has an affirmative duty to the extent they are legally and professionally permitted to do so in accordance with collective bargaining and other contractual agreements to submit a complaint alleging unethical conduct. A member of the public may submit a complaint alleging...” Staff was granted authority to wordsmith where deemed necessary.

The motion as amended passed by unanimous [4-0] voice vote.

It was agreed that the above motion would be revisited at the next meeting.

VII. Matters from the Board

Mr. Rosanbalm suggested the Board contact Mr. Allen and urge him to reconsider his resignation.

Ms. Katonak said there is a protocol that is followed for board/commission resignations and appointments that is forwarded to the BCC.

Mr. Dodds said there was no disrespect shown at the previous meeting and instead it was robust discussion drawing out different views.

Chair Thompson pointed out that with an even number of board members the likelihood of a tie vote increases. She asked that staff expedite filling the vacancy.

VIII. Matters from the Public

None were presented.

IX. Adjournment

Having completed the agenda and with no further business to conduct the meeting was declared adjourned at 3:30 p.m.

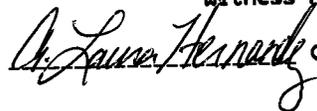
Approved by:


Carol Thompson, Chair

Respectfully submitted by:

Karen Farrell, Wordswork

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
ETHICS BOARD MINUTES
PAGES: 6
I Hereby Certify That This Instrument Was Filed for
Record On The 12TH Day Of October, 2017 at 10:45:31 AM
And Was Duly Recorded as Instrument # 1838639
Of The Records Of Santa Fe County

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

