

MINUTES OF THE
SANTA FE COUNTY
ETHICS BOARD MEETING

Santa Fe, New Mexico

September 21, 2017

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 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
Linda Ramos

Member(s) Absent:

Michael "Rosey" Rosanbalm
[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 the Chair, the agenda was unanimously [3-0] approved as published.

IV. Approval: August 10, 2017 Minutes

A typo was noted and Mr. Dodds moved to approve as corrected. Ms. Ramos seconded and the motion passed by unanimous [3-0] voice vote.

V. 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]

Section 24: Reporting and Resolving Alleged Ethics Violations

Assistant Attorney Valdez said she reviewed Section 24 in relation to the County's AFSCME bargaining agreements. The agreement contains a section that sets out that the employer and the union encourages employees to report waste, fraud and misuse of authority, violation of laws or other improper activities, etc. That language is mirrored in all of the bargaining agreements and supersedes any other language. The agreements "encourage" rather than make mandatory.

Mr. Dodds pointed out that the language agreed to last month included to "the extent they are legally and professionally permitted" to address the bargaining agreements. Ms. Valdez agreed. She indicated that the ordinance does impact employees because they are subject to all but the enforcement which is delegated to HR. Previously it was "permissive" that the elected official, appointed official, employee or volunteer would report an infraction and the recent draft cites it as mandatory which is contrary to the agreement.

Following discussion, the section was rewritten as follows:

"Any Elected Official, Appointed Official, ~~Employee~~ or Volunteer has an affirmative duty to the extent they are legally and professionally permitted to do so and only to the extent allowed by collective bargaining agreements or other contractual agreements, to submit a complaint alleging unethical conduct to the County Ethics Board by delivering to the County Attorney's Office a signed complaint sworn to under penalty of perjury to be true, that alleges facts which, if proven, would constitute a violation of this Ordinance. Any member of the public or employee may submit...."

ACTION: Ms. Ramos introduced the language above as a motion and Mr. Dodds seconded. The motion passed by unanimous [3-0] voice vote.

Ms. Valdez noted that with the removal of "employee," "to the extent they are legally and professionally permitted to do so and only to the extent allowed by collective bargaining agreements or other contractual agreements" becomes unnecessary language.

ACTION: Mr. Dodds moved to remove that language. Ms. Ramos seconded and the motion passed without opposition.

"Any Elected Official, Appointed Official, ~~Employee~~ or Volunteer has an affirmative duty ~~to the extent they are legally and professionally permitted to do so and only to the extent allowed by collective bargaining agreements or other contractual agreements~~ to submit a complaint alleging unethical conduct to the County Ethics Board by delivering to the County Attorney's Office a signed complaint sworn to under penalty of perjury to be true, that alleges facts which, if proven, would constitute a violation of this Ordinance. Any member of the public or employee may submit...."

Ms. Valdez provided an overview of the complaint process and noted the language highlighted in yellow on pages 16 through 19 (Section 24. B-K) represents the process.

A discussion ensued regarding anonymous complaints which have the ability to harm the respondent and must be sworn. It should be a signed, sworn complaint.

Ms. Valdez offered to review the statute of limitations for misdemeanors (B.2) to verify that the listed one year was accurate.

It was requested that staff review and ensure there were the appropriate commas in C which were difficult to see with the underline.

The committee questioned the wordiness of D and Ms. Valdez divided the components and indicated they were necessary.

ACTION: Upon motion by Mr. Dodds and second by Ms. Ramos, Staff was unanimously directed to add “public” before hearing throughout the section.

It was noted that I.10 refers to deliberation during an executive session. Ms. Valdez outlined the specificity of the subjects that can be discussed in closed session and that any action must be taken in open session.

Items A through K were added to ensure transparency throughout the complaint process.

Ms. Valdez noted that item F establishes due process protection for whom the complaint has been alleged against.

ACTION: Ms. Ramos moved to reverse the order of items G and H. Mr. Dodds seconded and the motion passed without opposition.

ACTION: Referring to item G (previously H), for clarification “by the CCEO” was added as follows: A Respondent whose complaint is recommended for dismissal by the CCEO shall be given So moved by Ms. Ramos and seconded by Mr. Dodds. The motion passed by unanimous voice vote.

ACTION: G: A Respondent whose complaint is recommended for dismissal by the CCEO shall be given a notice and an opportunity to be present at the Ethics Board to receive an explanation from the Board why the complaint is being considered for dismissal.” So moved by Mr. Dodds and seconded by Ms. Ramos. The motion passed by unanimous voice vote.

I.5: A semi-colon rather than a period should be added to the end of the phrase.

I.6: Correct the section to read the “Respondent” not the CCEO.

ACTION: Ms. Ramos introduced the following changes subject to fine-tuning by staff:

I.8: Add “audio” – hearing shall be audio recorded by the County for note taking purposes

Mr. Dodds seconded and the motion passed without opposition.

A discussion ensued regarding K and it was recommended to be amended as follows: "The hearings shall be open to the public but may neither be filmed, videotaped, recorded nor photographed." However, Ms. Valdez said she preferred to further investigate the limits regarding items I.8 and K to determine why it was included and what the intent was before making additional changes.

Sections 25 to 30 remain for review. Ms. Katonak said following this Board's review of the ordinance it will be forwarded to the County Attorney for review and revisited by this Board if the attorney deems necessary. Otherwise it will be forwarded to the BCC.

VI. Matters from the Board

The next meeting was tentatively scheduled for Thursday, October 19th at 2 p.m. It was mentioned that an additional hour may be necessary at that meeting.

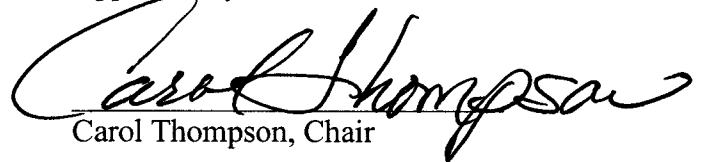
VII. Matters from the Public

None were presented.

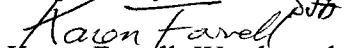
VIII. Adjournment

Having completed the agenda and with no further business to conduct the meeting was declared adjourned at 4:05 p.m.

Approved by:


Carol Thompson, Chair

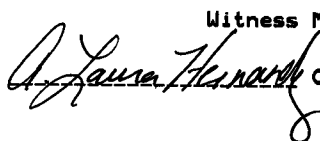
Respectfully submitted by:


Karen Farrell, Wordswork



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss ETHICS BOARD MINUTES
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I Hereby Certify That This Instrument Was Filed for
Record On The 14TH Day Of November, 2017 at 01:08:01 PM
And Was Duly Recorded as Instrument # 1841346
Of The Records Of Santa Fe County

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