

MINUTES OF THE
SANTA FE COUNTY
ETHICS BOARD MEETING

Santa Fe, New Mexico

October 19, 2017

I. This meeting of the Santa Fe County Ethics Board was convened by Chair Carol Thompson, on the above-cited date at approximately 2:05 p.m. in the Santa Fe County Finance Conference Room, Bokum 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
Michael "Rosey" Rosanbalm

Member(s) Absent:

[One Vacancy]

County Staff Present:

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

III. **Approval of Agenda**

Upon motion by Mr. Rosanbalm and second by Mr. Dodds, the agenda was unanimously [4-0] approved as published.

IV. **Approval: September 21, 2017 Minutes**

Mr. Dodds moved to approve as submitted. Ms. Ramos seconded and the motion passed by unanimous [4-0] voice vote.

SFC CLERK RECORDED 12/21/2017

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

Having missed the previous meeting, Mr. Rosanbalm had some comments and suggestions on Section 24. On subsection A, he found the wording redundant and suggested it read:

“Any Elected Official, Appointed Official, or Volunteer has an affirmative duty to submit a complaint alleging unethical conduct to the County Ethics Board, and member of the public or employee may submit a complaint alleging unethical conduct to the County Ethics Board by delivering to the County Attorney’s Office a sworn complaint alleging facts, which, if proven, would constitute a violation of this Ordinance.”

A discussion ensued regarding the wording of subsection A that refers to how a complaint is submitted. Ms. Valdez pointed out that if a sample form is included in the Code any changes would be required to go through the ordinance process. She said Section B.1. describes what occurs at the County Attorney’s Office.

Mr. Rosanbalm said he has submitted letters to County Commissioners and not received any acknowledgement. If someone submits a complaint there should be feedback provided, particularly if there were deficiencies in the submittal. Ms. Katonak said it is important the complainant be informed of how the process works and how long it takes, and this should be on the form itself.

It was agreed to put “sworn complaint” in the definitions section, specifying the complaint must be sworn to be true under penalty of perjury, and shall contain a valid mailing address, etc. Ms. Valdez said there are a number of endorsements that notary publics use.

Mr. Flores noted not every complaint comes to the Ethics Board. He said complainants are given guidance and the clock starts ticking on the timeframe, in the case of HR issues.

Ms. Valdez stated this section should state clearly that the CCEO first makes a threshold determination whether a complaint will go to HR or the Ethics Board, and she offered to modify Section 24.C to outline the procedure through numbered steps.

ACTION: Mr. Rosanbalm moved to include “sworn complaint” under the Definitions, and Mr. Dodds second. The motion carried without opposition.

ACTION: Mr. Rosanbalm introduced a motion to streamline Section 24. A as described above on page 1 in italics, revise 24. Mr. Dodds seconded. The motion passed by unanimous [4-0] voice vote.

Under 23.F.2.b, Mr. Rosanbalm suggested removing “or the County Ethics Board can” as being redundant.

ACTION: So moved Mr. Rosanbalm, followed by a second by Mr. Dodds. The motion carried by unanimous [4-0] voice vote.

Referring to Section 24.G, Mr. Rosanbalm asked why the Claimant does not have a right of being given a notice and redress. Ms. Valdez said it is the Respondent that needs an assurance of due process.

Ms. Valdez said Section 24. K, “The hearings shall be open to the public but may neither be filmed, videotaped nor photographed” directly conflicts provisions of the Open Meetings Act, specifically 10-15-1.A, which states, “Reasonable efforts shall be made to accommodate the use of audio and recording devices.” The Attorney General’s interpretation underlines this provision. Ms. Valdez recommended that 24. K be removed entirely.

ACTION: Mr. Dodds moved to remove 24. K. Mr. Rosanbalm seconded and the motion passed without opposition.

Ms. Valdez requested further direction on 24. C, regarding making a threshold determination of which procedure a complaint would follow. She reminded the board that employees are subject to the provisions of the ordinance but not the procedure and process. Mr. Flores said clarification is essential so that there is quick action to allow HR to act in a timely manner. Ms. Valdez reviewed the current process.

ACTION: Chair Thompson moved to reword 24. B to strike the phrase “who will determine whether a complaint states a claim under this Ordinance,” leave B. 1 and 2 as they are, and allow Ms. Valdez to reword C to clarify that the CCEO makes an initial threshold determination, and use numbering to outline the procedure for making a complaint. Mr. Dodds seconded and the motion carried unanimously.

Ms. Valdez noted that sections G and H were switched per comments made at the previous meeting and she reviewed the changes suggested and now incorporated. She clarified that the verbatim minutes constitute the official record of any hearings. She asked whether the board preferred to include the mention of audio recordings in 24. I. 8, since it could be construed as superfluous. Mr. Dodds said the provision was for information purposes. There was consensus to leave the reference in.

Ms. Katonak noted that there had been a request to review the section on gifts, and some ambiguity remained on Section 25.H.

The discussion turned to the definition of "Volunteer" on page 4 and whether casual volunteers, such as those who "just show up" to assist on weeding and cleanup are included under the provisions of the Ordinance. Ms. Katonak explained that people appointed to boards and committees are required to sign disclosure and conflict of interest forms. Ms. Valdez said there are volunteers in a position to grant favors that could constitute conflicts of interest. She added the definition of "Volunteer" reduces the purview from everyone in the county. It was suggested that an additional clause be added to define the volunteers in question are those who have acknowledged that they are aware of the Ordinance, apart from the liability/risk management concerns.

ACTION: Upon motion by Mr. Rosanbalm and second by Mr. Dodds, the language under the definition of "Volunteer" would read something to the effect "...who provides services for the County as a volunteer, and has signed an acknowledgement that they agree to abide by the Ordinance..." The motion passed without opposition.

Turning to Section 25, subsection H, there was an initial motion to add #4. Any combination of the above, however, this was subsequently clarified and replaced by Section 30, Penalties. 25. H. was determined to read:

"H. If the County Ethics Board finds, upon a majority vote, that a candidate, Elected Official, Appointed Official, or Volunteer has violated this Ordinance, the County Ethics Board may impose any of the penalties as defined in Section 30." [See below.]

Ms. Valdez noted that it is possible 25. J referring to advisory opinions might be revised in the future contingent upon what is determined about gifts.

Ms. Valdez advised that in Section 26, Right of Appeal, that the word "Employee" be struck, and there was consensus to accept that change.

A discussion ensued regarding Section 28, *Ex Parte* Communications, and whether there should be specific reference to the County's Sustainable Land Development Code, or whether that is too restrictive. Mr. Rosanbalm and Mr. Dodds believed the reference should be more generic. Ms. Valdez stated *ex parte* communications refer specifically to bodies acting in a quasi-judicial capacity, i.e., this board and the Planning Commission.

ACTION: Chair Thompson moved to amend the wording to read: "An Elected Official or Appointed Official designated to hear an administrative adjudicatory matter pursuant to any County ordinance including but not limited to the County's Sustainable Land Development Code. Ms. Ramos seconded and the motion passed without opposition.

Ms. Valdez suggested that this Section 28, including both subsections A and B (Recusal), be moved to after the Section 9, Prohibited Financial Interest, and before erstwhile Section 10, Conflicts of Interest, Disclosure, as it is more closely related to those issues.

ACTION: Ms. Ramos made a motion to move Section 28 to follow Section 10 and Mr. Dodds seconded. The motion passed by unanimous voice vote.

Turning to Section 30, Penalties, it was determined that this made portions of 25. H redundant, and that this would now end "...may impose any of the following penalties after the after the entry of written findings of fact and conclusions of law as defined in Section 30."

ACTION: So moved Ms. Ramos, seconded by Mr. Dodds.

Additionally, there were some inconsistencies. It was agreed that \$300 fines could be assessed for each separate violation. Ms. Valdez explained the distinction between violations of the Ordinance and the Santa Fe County Code of Conduct, which is treated in 30. B.

SECTION 30. PENALTIES.

A. A person who violates this Ordinance is subject to one or more of the following:

1. a civil fine of up to three hundred dollars (\$300.00) for each separate violation of this Ordinance;
2. a ~~public reprimand~~; a written finding of censure; or
3. a recommendation to the District Attorney or other appropriate governmental entity that the violation be pursued in criminal or other proceedings; and
4. a recommendation to the ~~Board~~ District Attorney that proceedings to remove the person from elected office be commenced pursuant to NMSA 1978, § 10-4-1 *et seq.* (1909, as amended).

ACTION: Ms. Ramos moved to change public reprimand to written finding of censure, Mr. Dodds seconded and the motion carried unanimously.

Ms. Valdez suggested adding "or other appropriate governmental entity" to 30. A.3.

"Board" in 30.A.4 was deemed to be a typo.

There was consensus to drop "of County Commissioners" on three occasions in Section 29, since "Board" appears in Definitions, leaving the reference in the title.

VI. Matters from the Board

The next meeting was tentatively scheduled for Monday, November 13th at 2 p.m. The subject under discussion will be clarifying "Gifts." A secondary meeting option was mentioned as November 9th.


VII. Matters from the Public

None were presented.

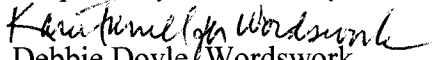
VIII. Adjournment

Having completed the agenda and with no further business to conduct the meeting was declared adjourned at 5:05 p.m.

Approved by:


Carol Thompson, Chair

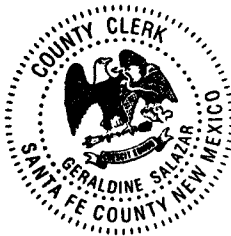
Respectfully submitted by:



Debbie Doyle, Wordswork

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

I Hereby Certify That This Instrument Was Filed for
Record On The 21ST Day Of December, 2017 at 02:15:13 PM
And Was Duly Recorded as Instrument # **1844452**
Of The Records Of Santa Fe County



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

SFC CLERK RECORDED 12/21/2017