

MINUTES OF THE
SANTA FE COUNTY
ETHICS BOARD MEETING

Santa Fe, New Mexico

December 4, 2013

This meeting of the Santa Fe County Ethics Board was convened by Chair Adair Waldenberg, on the above-cited date at approximately 3:05 p.m. in the Santa Fe County Legal Conference Room, County Administration Building, Santa Fe, New Mexico.

Roll call indicated the presence of a quorum as follows:

Members Present:

Adair Waldenberg, Chair
Estevan Baca, Vice Chair
William Peyton George
David Mittle
Leon Young

Member(s) Excused:

None

Others Present:

Willie Brown, Assistant County Attorney
Lisa Katonak, Manager's Office
Erik Aaboe, Manager's Office

III. Approval of Agenda

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

IV. Approval of Minutes: October 25, 2013

Mr. Baca moved to approve the minutes. Mr. Mittle seconded and the motion carried unanimously [5-0].

V. **Continuation of Review, Discuss and Possibly Vote on Recommending Amendments to the Board of County Commissioners Regarding the Santa Fe County Code of Conduct Ordinance Including the Role of the Contract Attorney**

In regard to the issue of the Board's ability to adopt rules and procedure, Mr. Mittle advocated using portions of the Administrative Procedures Act (APA) to meet the minimum requirements of due process that would afford any elected official, appointed official or volunteer every right to which they might be entitled.

Mr. Brown noted that applicability of Act 12-8-23, states it does not apply unless the legislature says so. He noted that he knows of no agency that uses this act and parts of the Act deal with rulemaking which has nothing to do with this Board.

Mr. Brown mentioned an issue with the issuing of subpoenas. He said an entity granting authority to issue subpoenas must have that authority and the BCC does not have the authority – implied or explicit – to issue subpoenas. Only an incorporated county could issue subpoenas. This point is still under discussion internally amongst staff.

Mr. Baca favored leaving the procedure within the code to assist an aggrieved party as well as future Board members.

Mr. Brown verified that the proposed new language was vetted within his office.

Mr. Mittle said there were sections of the APA that he cited at the last meeting and he felt particularly strong about the language to ensure that everyone has an opportunity for a full and fair hearing.

There was Board consensus to add: All parties should be afforded an opportunity for a full and fair hearing.

Mr. Mittle mentioned the APA language under 12-8-10B(3) giving the opportunity to be prepared, "...a short and plain statement of the matters of fact and law so that all parties have sufficient notice of the issues..." Chair Waldenberg noted that although the form covers most of it, it does not include a short and plain statement.

Mr. Brown pointed out that it is the Board bringing forward the complaint and standards of the complaint were located at Section 23 A.

At the beginning of J.A in Section 24, In order to provide a full and fair hearing to all parties the public hearing shall proceed as follows was added by consensus.

Mr. Brown highlighted changes made for consistency with the code. "Accused" was changed to "suspected."

Mr. Baca moved to approve sections H, I and J [J was reconsidered; see below] as modified. Mr. George seconded and that motion passed by majority [4-1] voice vote with Mr. Mittle voting nay.

Mr. Mittle asked about the written decision, how it is retained at the County and how it becomes a public document. He referred to the APA that he said was very clear on this matter.

Mr. Baca introduced a motion to reconsider the previous action regarding Section J.10. Mr. George seconded and that motion passed unanimously.

Following wordsmithing, Mr. Mittle moved to add a final sentence to Section J.10: A copy of the decision or order shall be delivered or mailed forthwith to the CCEO, the respondent, the County Clerk and the office of the County of the County Attorney. Mr. Baca and seconded and the motion passed by unanimous voice vote.

Referring to J.16, inclusion of language: In order to provide a full and fair hearing under this ordinance... was so moved by Mr. George. Mr. Young seconded. The motion passed without opposition.

Mr. Young recommended the following for the last sentence of Section 24 C: In addition, the Ethics Board shall also have the authority to make recommendations to the Board of County Commissioners regarding the frequency, the wording and the categories of those individuals best served by ethics training. Mr. Mittle seconded and the motion passed without opposition.

Referring to 24.E, Mr. Brown recommended striking E entirely and for integrity of the pagination maintaining E as a placeholder. So moved by Mr. Baca and seconded by Mr. Mittle. The motion passed by unanimous voice vote.

It was noted that that the V for volunteer under J should be capped.

Mr. Mittle moved to accept K. Mr. Baca seconded and that motion passed by unanimous voice vote.

Mr. Brown said the language added to L was to address the Chair's concern regarding just cause.

Mr. Young moved to approve L striking rationally and capitalizing Board Member. Mr. Mittle seconded and that motion passed without opposition.

Following discussion on the value of independent counsel for the Board, Mr. George moved to strike the entirety of Section 24.O. Mr. Baca seconded and the motion passed by majority [3-2] voice vote with the Chair and Mr. Young voting against.

Mr. Young moved to strike the word household and replace it with family at 27 B.1.b. Mr. George seconded and the motion passed by unanimous voice vote.

Section 27. B. 2 regarding recusals, Mr. Brown said he understood disclosing a recusal contemporaneously with declaration is done to inform the public.

Mr. Baca moved to approve the proposed language on Section 27. B.2. Mr. George seconded. The motion passed by majority [4-1] with Mr. Mittle opposing.

Referring to Section 29, Mr. Brown reviewed his proposed clarification language.

Mr. George moved to accept the proposed language to Section 29. Mr. Young seconded and that motion passed by unanimous [5-0] voice vote.

VI. Approval of the Ethics Complaint Forms/Procedures:

The following changes were offered to both forms:

- Re: ACTION ON ETHIC COMPLAINT ~~WHETHER TO PROCEED OR TO DISMISS~~
- Your complaint, ~~together with~~ andCounty Contract Ethics Officer ~~was~~ were...
- Cc: ~~Target~~ Subject of the Complaint

Mr. Young moved to approve the changes as listed above. His motion was seconded by Mr. Baca and passed by unanimous voice vote.

There was consensus that a form be developed for the notice of hearing and Mr. Brown said he would do so as well as a draft complaint form for the public.

VII. Review of Quarterly Report Presented by the Chair

Mr. Aaboe suggested a combination of the quarterly report with a presentation of the proposed changes to the ordinance at the BCC's January meeting. The deadline for material submission for the BCC's January 14th meeting is December 31st.

VII. Matters from the Board

The next meeting was scheduled for January 10th at 3 p.m. to review the amended ordinance for presentation to the BCC.

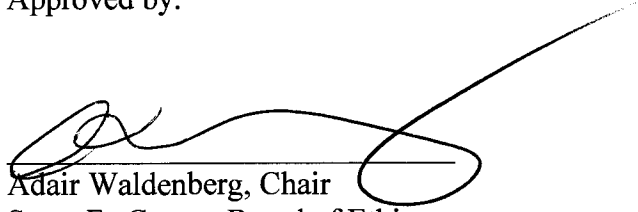
IX. Matters from the Public


None were presented.

X. Adjournment

Upon motion and second, Ms. Waldenberg declared adjourned at 5:00 p.m.

Approved by:


Adair Waldenberg, Chair
Santa Fe County Board of Ethics


TEST TO:
Geraldine Salazar
COUNTY CLERK
8-14-2014

Respectfully submitted by:

Karen Farrell
Karen Farrell, Wordswork

ETHICS BOARD MINUTES
PAGES: 5

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

I Hereby Certify That This Instrument Was Filed for
Record On The 18TH Day Of August, 2014 at 10:13:19 AM
And Was Duly Recorded as Instrument # 1743739
Of The Records Of Santa Fe County

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



FILED FOR RECORDING 8/14/2014