

MINUTES OF THE
SANTA FE COUNTY
ETHICS BOARD MEETING

Santa Fe, New Mexico

March 13, 2014

This meeting of the Santa Fe County Ethics Board was convened by Chair Adair Waldenberg, on the above-cited date at approximately 3:00 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
Bill Heimbach
Carol Thompson

Member(s) Excused:

William Peyton George

Others Present:

Erik Aaboe, Manager's Office
Willie Brown, Assistant County Attorney
Lisa Katonak, Manager's Office
Bernadette Salazar, HR Director

III. Approval of Agenda

Mr. Baca moved to approve the agenda as published. His motion was seconded by Ms. Thompson and passed by unanimous [4-0] voice vote.

IV. Approval of Minutes: January 10, 2013

Mr. Baca moved to approve the minutes as published. His motion was seconded by Chair Waldenberg. The minutes were approved without opposition.

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CLERK
RECORDED
3/13/2014

V. Process For Appointing/Reappointing Members of the Ethics Board

Mr. Aaboe said the County advertised through press releases and the County website for the board positions. Staff received the required forms and documents from the two Board members with expiring terms as well as other community members. At the February 25th meeting, Ms. Thompson and Mr. Heimbach were selected and appointed by the BCC.

Ms. Katonak mentioned that in addition to newspaper listings some of the Commissioners' constituent service liaisons publish a community newsletter bulletin that advertised the positions. Ms. Thompson applied through that venue.

Mr. Aaboe confirmed that staff recommended the appointments of Ms. Thompson and Mr. Heimbach. He added that staff recommendations are not necessarily accepted by the BCC.

Mentioning that neither the Ethics Board chair nor any of its members were asked for feedback on the recommendations, Ms. Waldenberg said as a common courtesy the Board should have been made aware of the staff recommendation.

VI. Introduction of New Board Members

Mr. Heimbach provided his employment information in New Mexico noting that 30 years ago he was the reporter for the *Santa Fe New Mexican* covering Santa Fe County and recently retired from Los Alamos Lab where the last three years there he served as the government liaison and attended and interacted with the County Commissioners.

Ms. Thompson said she currently works part-time for the Santa Fe Chamber of Commerce. Her career included 18 years in radio and a few years as the promotions director at the *Santa Fe New Mexican*. She currently serves as the Rancho Viejo Homeowner Association president.

Chair Waldenberg thanked the new members for coming forward to serve on the board and was confident their Santa Fe experience will serve the County well. She commented that staff are terrific.

VII. Expression of Gratitude for Past Board Members – David Mittle and Leon Young for their Service

Chair Waldenberg said Mr. Mittle, a lawyer and local businessman, and Mr. Young, a nationally known ethics expert, both brought valuable perspectives to the board and were disappointed they were not reappointed.

Chair Waldenberg said the County is very grateful that they served for two years and she added they were never afraid to disagree.

VIII. Selection of Chair and Vice Chair

Chair Waldenberg nominated Estevan Baca as chair. Mr. Heimbach seconded and Mr. Baca was elected chair by unanimous voice vote.

Mr. Baca nominated Bill Heimbach to serve as vice chair. Ms. Thompson seconded and Mr. Heimbach was elected vice chair by unanimous voice vote.

Mr. Baca assumed the role of chair for the remainder of the meeting and thanked Ms. Waldenberg for her leadership.

IX. Review, Discussion and Approval of Recommended Amendments to the Board of County Commissioners to amend the Santa Fe County Code of Conduct Ordinance

Assistant County Attorney Willie Brown apologized for his late appearance explaining that he was attending a meeting regarding the County's new land use code. In the aftermath of the Board's recommendation to the BCC the County Attorney reviewed the changes and found a number of items that require further review. At this point, legal staff has not determined how these items will be addressed. As an example, Mr. Brown noted that under "anything of value" the term "political activities" has not been defined in the code and there are other provisions that require more review and definition. Election rights and due process require more review. With the land use zoning map and code issues ongoing, he said the ethics items will be reviewed in April

Mr. Aaboe said following legal review, the BCC will need to approve publication of title and general summary before any formal action can be taken.

Appreciating legal's involvement in the zoning maps, Mr. Heimbach expressed concern that if the Code of Conduct is pushed out too far it will fall during the campaign season which may complicate the situation.

Ms. Waldenberg said it behooves the County to expedite its review of any constitutional issues and enact the ordinance before the election is in full swing. She noted Mr. George would be traveling in May and she requested the review be accomplished in April for his participation. Mr. Brown said he would do his best.

In response to the comment that some of the items that were flagged for review have been in the code for a long time, Mr. Brown said Mr. Ross read it through as one complete document.

Mr. Brown identified the materials highlighted in yellow are the recent recommendations by this board to the BCC and the green, the last amendment from 2011

adopted by the Board. The idea is to amend and restate the ordinance so there is one ordinance. He reviewed the recent recommendations and identified which language was from the Governmental Conduct Act.

Following Mr. Aaboe's advisement that the County no longer has the elected position of surveyor, Ms. Thompson moved to eliminate "County Surveyor" from Section 4. J. Mr. Heimbach seconded and the motion passed by unanimous [4-0] voice vote. Staff was authorized to remove any reference to surveyor from the document.

Mr. Brown said the County Attorney questioned the language "including a Candidate for those positions" in 4.J because 4.E contains a definition for Candidate.

Upon staff's recommendation, Ms. Thompson moved to remove from 4.J. "including a Candidate for those positions" and Ms. Waldenberg seconded adding a friendly amendment that insures candidates are covered elsewhere in the document. The motion as amended passed without opposition.

Mr. Brown identified the language in Section 8 as verbatim from the Governmental Conduct Act and directs what happens when an individual leaves government employment.

Section 23 reporting and resolving ethics violations, was greatly expanded by this board and Mr. Brown reviewed the changes. Anonymous complaints are not allowed, however, if the complaint is specifically addressed to this board the complaint would be seen but no action taken.

Ms. Waldenberg said the BCC did ask why the board was modifying the ordinance if there has never been a case, to which she responded it is better the code be sound and effective before a case is presented. Also, with all of the procedures outlined in the proposed ordinance it becomes transparent.

A question arose regarding the removal of an Ethics Board member for "just cause" and whether additional language was required.

Ms. Waldenberg moved to direct legal counsel to review Section 24 L to insure that "just cause" was sufficient. Mr. Heimbach seconded and the motion passed by unanimous [4-0] voice vote.

New language was added to Section 26, non-retaliation, to mirror the HR Handbook to include intimidation and sets out consequences if someone retaliates.

On page 22, bottom of the page "form" was written twice.

Chair Baca noted on Section 17 B, the word "not" should be removed: Effective November 3, 2010, no Candidate, Elected Official, Appointed Official, Employee or Volunteer shall ~~not~~ accept any campaign contribution in excess of \$2,300..."

X. Review, Discussion and Approval of the Santa Fe County Ethics Complaint Form

Chair Baca said the boxes are now click-able and user friendly in that sense. He said he found the formatting difficult noting that on page 3 under General Prohibitions, item/box 12 extends to the next page and it was recommended that a page break occur between boxes 10 and 11.

The title "Non-County Benefit" was replaced with "Improper Personal Gain."

Ms. Waldenberg said she was uncomfortable with the use of the word "enemies," and Mr. Brown said it was taken directly from the Code.

A discussion of whether item/box 8 under General Prohibitions would be more appropriate under campaigning. It was decided to postpone action pending more information regarding the definition of candidate in the ordinance.

Chair Baca's suggestion to provide each heading with its own line and the corresponding boxes to follow beneath was accepted by the Board.

On page 1, in the "note" box, Mr. Heimbach corrected the last line to read "...were a witness to the activity complained about."

Staff was commended for their work on the form and asked to bring back a corrected copy for action at next month's meeting.

XI. Matters from the Board

Returning to the question of the timing of the ordinance, Mr. Heimbach said a Commissioner running for office may prefer to act on the ordinance following the June primary to avoid an appearance of self-dealing. Action in June would get the ordinance in place for the general election but not before the June primary.

As long as it has met legal review, Chair Baca advocated getting the ordinance before the BCC as soon as possible.

A review of the calendar for action on the ordinance was reviewed and the Board scheduled its next meeting Thursday, April 24th, 3 p.m.

XII. Matters from the Public

None were presented.

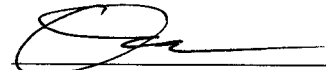
XIII. Matters from Staff

None were presented.

XIV. Adjournment

Upon motion by Ms. Waldenberg and second by Ms. Thompson, Chair Baca declared this meeting adjourned at 4:45 p.m.

Approved by:



Estevan Baca, Chair
Santa Fe County Board of Ethics

ATTEST TO:


COUNTY CLERK

7-11-2014

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 15TH Day Of July, 2014 at 01:09:05 PM
And Was Duly Recorded as Instrument # 1741413
Of The Records Of Santa Fe County


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