

MINUTES OF THE
SANTA FE COUNTY
ETHICS BOARD MEETING

Santa Fe, New Mexico

July 22, 2021

I. Call to Order

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. at the Santa Fe County Administrative Complex, 100 Catron Street in the Johnson Street Conference Room, Santa Fe, NM 87501.

This meeting was held in a hybrid format with participants appearing in person and virtually.

II. Roll Call

Roll call indicated the presence of a quorum as follows:

Members Present:

Carol Thompson, Chair
Greg Coplans
Judith Kaye
Jonelle Maison
Michael "Rosey" Rosanbalm

Member(s) Excused:

None

Others Present:

Lisa Katonak, Manager's Office
Hank Hughes, District 5 Commissioner
Cristella Valdez, Assistant County Attorney
Kevin Lockhart, Assistant County Attorney [virtual]

Those present introduced themselves:

Jonelle Maison, is a retired senior bill drafter for the Legislative Council Service and continues to assist in billing drafting.

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Greg Coplans, introduced himself as a retired lawyer and for the past 25 years worked for a high-tech company that did business with countries high on the corruption index, and served as the chief ethics officer.

Judith Kaye worked at LANL as the lead in the science education programs, internal training, and human resources as well as speech writer to the then director and lastly chief of staff. LANL presented complexities with ethical issues in administration and scientific matters.

Rosey Rosanbalm retired after a 20-year career in the US Air Force and 17 years with the Pentagon. He has been on the committee for four plus years.

Carol Thompson, has been a resident of Santa Fe for over 42 years with a background in marketing and promotions for radio and newspaper. She has served on the board for five years.

Staff and Commissioner Hughes introduced themselves as well. As the executive director of New Mexico Coalition to End Homelessness, Commissioner Hughes stated he met with the Ethics Board in 2020 for advice and has recused himself from a number of votes that could be perceived as a conflict of interest.

It was noted that the County contracts with an attorney who serves as the ethics officer.

III Approval of Agenda

Upon motion by Ms. Maison and second by Mr. Coplans the agenda, as published, was unanimously [5-0] approved by voice vote.

IV. Election of Ethics Board Chair

Mr. Rosanbalm nominated Carol Thompson and she confirmed she was willing to continue to serve. Ms. Maison seconded. There were no other nominations and Ms. Thompson was declared Chair by acclamation.

V. Election of Ethics Board Vice Chair

Chair Thompson nominated Mr. Rosanbalm to serve as vice chair and he accepted the nomination. Ms. Maison seconded and by acclamation, Mr. Rosanbalm was declared Vice Chair.

VI. Approval of November 2, 2020 Meeting Minutes

Chair Thompson pointed out that she and Mr. Rosanbalm were the only members present at the meeting in question and asked whether that would create a voting issue. Mr. Coplans said that according to Roberts Rules, any board member can vote to approve the

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minutes even if that member was not present at the meeting. Any individual may abstain from voting.

Mr. Rosanbalm moved to approve the minutes. Mr. Coplans seconded and the motion passed by unanimous voice vote.

VII. Review of Santa Fe County Ethics Board; Roles and Responsibilities

No complaints have been forwarded to this Board.

Ms. Valdez said the Code of Conduct covers employees, elected officials, appointed officials and volunteers; however, the jurisdiction for review of violations of the Code of Conduct for employees falls under the purview of the County's Human Resources (HR) Department. This Board's concerns reside with elected officials, appointed officials and volunteers.

Chair Thompson pointed out that this board did provide advisory opinions regarding a potential perceived conflict of interest for Commissioner Hughes and then Deputy Treasurer Manzanares. Mr. Rosanbalm said those requests for opinion were proactive and very welcomed.

Speaking from her experience as a lawyer with the County, Ms. Valdez said the Code of Conduct is utilized and she confirmed that all employees receive a copy of the Code of Conduct and training on its precepts.

Mr. Coplans said the firm he worked for had policies with examples in very plain English. Not having complaints/whistleblowers is not necessarily a good thing. Training is important and Commissioners set the tone at the top. In the private sector there is a tremendous amount of fear among employees about raising concerns because of potential retaliation. The policy can say retaliation is not tolerated, but the worry is real. The company had an online portal and anonymous complaints were permitted.

VIII. Review of the Open Meetings Act (OMA)

Ms. Valdez provided the board members the reference guide for how to conduct meetings and an overview of key points of the OMA and the rules of order. She highlighted that any time there is a quorum of this board it must be noticed to the public and the public has to be able to attend – virtually or in person – and have advance notice of the topics to be discussed. It is important that members refrain from discussing issues that will be raised at the meeting, especially when a decision will be made.

The following items were noted:

- Anyone can bring a complaint forward under the Code of Conduct
- When the Board meets in its adjudicatory capacity, ex parte communications is an issue
- All of the County ordinances are on the County's website

- Agendas are generally established by staff with input from the chair as well as members
- Rolling quorums may constitute a violation of the OMA
- Typically, the meeting can continue without a quorum, but no action can be taken until the quorum is reestablished

IX. Review of Santa Fe County's Rules of Order for Meetings

Ms. Valdez highlighted the following points:

- In compliance with the OMA, action and discussions are restricted to the noticed agenda items
- No member may take part in any deliberation, testimony or vote on any matter in which there is a conflict of interest

In addition to the County's Code of Conduct, the State has a Governmental Conduct Act which now applies to counties and provides a second layer of compliance to follow. This Board has made an effort to be consistent with the State's act and Campaign Financing Laws.

Chair Thompson pointed out that when the state adopted its Governmental Conduct Act, the then Assistant County Attorney enumerated the items that needed to be re-addressed in the County's Code of Conduct and that took a few years. When that was completed and ready for BCC review and action, the BCC chose not to see it and wait until after an election cycle.

Ms. Valdez assured the Board that there will always be representation from the County Attorney's Office at these meetings.

X. Review of Ethics Board Work Plan

Ms. Katonak said as a newly constituted Board the new members can establish their own schedule and work plan. The County Manager has identified the County Code of Conduct Ordinance as a priority.

Ms. Valdez said the majority of the ordinance revisions had been presented orally to the BCC a few years ago. As required by state statute, a request for approval for authorization of publication and title and general summary was presented to the BCC in 2014 and they declined to authorize publication. Ms. Katonak recalled that the land use ordinance was under review at that time. This board has been working on the ordinance since then.

Words capitalized in the ordinance are those contained in the definitions which is a common convention.

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Ms. Katonak cautioned against reinventing the wheel and recommended a focus on strengthening the ordinance substance. The BCC and Manager's Office are eager to review and move the document forward.

Observing that the draft ordinance with its stepped changes in different colors was difficult to follow, Mr. Rosanbalm moved to utilize the ordinance draft without colors and ink-marked "ETHICS BD DRAFT 3-7-19" as the baseline. Mr. Coplans seconded and that motion passed without opposition.

A discussion ensued on scheduling meetings and forwarding the document to the BCC. The BCC meets twice a month and packet material for the agenda item is required to be submitted two weeks prior to the meeting date.

Commissioner Hughes said the County Manager has suggested the Ethics Board present the draft ordinance to the BCC to allow for input prior to requesting authorization to publish title.

Ms. Maison indicated her changes were of an editing nature and other than wordsmithing, the substance was not an issue. Chair Thompson said changes need to be addressed in this forum to ensure there is agreement. In the past, editorial changes were accepted by the board and passed on to the legal counsel.

A discussion regarding the time required to discuss substantive versus editing issues ensued.

Mr. Coplans recognized that the draft ordinance reflects a lot of work and his suggestions clarify points and he felt an overall review could be accomplished within a meeting or two.

Ms. Katonak said the board can hold a special meeting which requires 72 hours notice. A recommendation was made to hold two meetings in August and make a presentation to the BCC in September.

To avoid a rolling quorum, counsel recommended presentation of the draft to the BCC during a meeting. A formal presentation to the BCC can provide communication about substance issues in an open meeting. The presentation is an opportunity to receive BCC feedback for this board to redraft the ordinance. Once publication of title and general summary is issued, the ordinance is in the BCC's sphere and open to public comment.

Having discussed scheduling there was consensus and availability to meet on August 2nd at 1:30 and again on August 19th at 1:30.

The board agreed that counsel continuity was important for the process and Kevin Lockhart confirmed he was available for those two dates.

[Commissioner Hughes thanked the board for their work and excused himself from the remainder of the meeting.]

There was a tentative goal to present the draft to the BCC at the September 28th meeting with materials provided to the Manager's Office two weeks before the 28th.

XI. Review and Possible Approval of Amendments to 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 Funds

The following are observations regarding the draft ordinance:

Section 4. D: Anything of Value...:

- How were the “does not include...” substances deemed “not of value”
- There is always an exception to the prohibition and usually those things have a nominal value
- Difficult to quantify an endorsement; however, it is a benefit and has value
- The definition states inclusion of all matters, whether tangible or intangible and that excludes endorsements
- The federal standard is \$20 for meals and \$50 from the same source in any 12 months; this draft permits the acceptance of a daily \$100 meal
- A suggestion to apply de minimis standard was offered
- Endorsements can lead to a quid pro quo
- If D is unenforceable perhaps it should be eliminated
- Does the definition prevent corruption and do the right thing?
- This language was carried through from the original document
- The Governmental Conduct Act 10-16-13.3 defines anything of value as, “any money, property, service, loan or promise but does not include food and refreshments with the value of less than \$100 consumed in a day.” Alcoholic beverages are prohibited
- Draft a limit to the \$100 a day from the same entity within a certain period
- Mr. Lockhart was requested to research this issue to ascertain whether the language is in any state or federal guidelines for review at the next meeting
- The state's Campaign Finance Act governs and applies to all elected officials in the state. It may not be necessary to include financing within ethical conduct when compliance to the State Act is required
- The entire section on endorsements can be removed because they are covered in the Act

[Mr. Rosanbalm excused himself from the remainder of the meeting.]

General comments:

Caution regarding the use of state references/citations was offered in that when state law changes the ordinance is amended by reference without review.

The County ordinance can be more restrictive than state law but cannot prohibit something expressly allowed by state law.

Mr. Coplans offered to forward his redline and proposed language to Ms. Katonak as the point person and she will pass it to Mr. Lockhart.

The document needs to be readable by any employee and make sense.

As a policy issue, if there is agreement to rely on the State's Campaign Finance Act, Section 4, items D, G, H, L, O, U and CC, could be eliminated. Mr. Lockhart was charged to review those subsections for elimination. Ms. Valdez noted Sections 19 and 22 regulate campaign funding and Section 20 has language regulating the behavior of candidates and treatment of their employees. Deletion of the definitions may impact those sections particularly those not related to campaign financing.

Following a discussion, Mr. Lockhart said he would review Section 19 and the Board can further discuss Section 22.

Campaign finance violation is a legal issue.

If a complaint is filed regarding a campaign finance issue, Ms. Valdez said there may be concurrent jurisdictions over enforcement of the County's ordinance with the state.

Section 4.T: Financial Interest – [this came up at the end of the meeting and is added here for continuity]

Ms. Valdez noted that in the past the Board requested amending this section to match state law; however, that has unintended consequences and becomes too broad. The definition would affect Sections 7 and 10. She recommended retaining the earlier language which identified contractors, sale of real or personal property, relationship with a person or business whose interest may be affected, etc.

Section 15: Misuse of County Property and Resources for Private Gain or Personal Advantage

- Prohibits the occasional and limited use of County property and resources for personal purposes – Is taking one notebook okay and five not?
- It would be a private gain and personal advantage to take pens, notebooks, etc. but according to the section if the misuse does not interfere with public duties and not done often it's not a violation
- The Employee Handbook should be reviewed
- Any changes to language that governs employee behavior that alters the terms or conditions of employment have to be negotiated
- LANL prohibits any use of the lab's resources for personal benefit – period
- Whenever "employee" is included, the language must be consistent with the Employee Handbook

- Misuse by an employee would go to HR

Section 16: Misuse of County Property or Resources for Political Purposes

- Any misuse should be prohibited, not just for political or private/personal gain
- Use of County property for a political fundraiser is not allowed

Mr. Lockhart was asked to research the sections that cite “employee” throughout the document in comparison to the Employee Handbook.

Ms. Valdez confirmed that this Board can recommend changes that affect employees. She wanted the Board to be cognizant that when those suggestions alter the conditions and terms of employment that the language has to be negotiated. This ordinance is intended to cover the conduct of all employees.

Section 4. S: Family

- Change “Individual” to “Person”
- Define the degree of consanguinity

Section 4.V: Immediate Family

- Lacks consistency with another section
- Definition requires broadening

Section 8: Conduct Avoiding Impropriety

- **A:** Amend first sentence, Shall avoid improper conduct or conduct that creates the appearance...
- **B & C:** The phrases conflict “shall not knowingly engage” and “shall refrain” conflict. Striking “knowingly” would correct that

Section 10: Prohibited Financial Interest in County Business

Ms. Valdez indicated that staff has requested clarification regarding language in A, “decision-making capacity.”

Section 12: Conflict of Interest, Disclosure

- **B:** There was support to eliminate “when such actions are based on prejudice or favoritism”
- Does the Employee Handbook have a section on nepotism?

Elected officials have hiring power and can manage their own offices at the County

Section 14: Duty to Report Improper Offers

Mr. Coplans indicated he has edits for this section and others that he will forward to Mr. Lockhart.

XII. Matters from the Board

Ms. Katonak confirmed that she will serve as the contact point for the Board and she will forward all information to Mr. Lockhart.

The packet material can be made available to the Board in advance of the meeting.

XIII. Matters from the Public – None was presented

XIV. Adjournment

Those present wished Ms. Valdez the best in her new position.

Upon motion by Ms. Maison and second by Ms. Kaye, and unanimous voice vote, this meeting was declared adjourned at 5:10 p.m.

Approved by:


Carol Thompson, Chair


Respectfully submitted by:


Karen Farrell, Wordswork

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STATE OF NEW MEXICO) ss PAGES: 9

I Hereby Certify That This Instrument Was Filed for
Record On The 9TH Day Of August, 2021 at 08:44:33 AM
And Was Duly Recorded as Instrument # 1961880
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Katharine E. Clark
Deputy  County Clerk, Santa Fe, NM

