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**MINUTES OF THE**  
**SANTA FE COUNTY**  
**ETHICS BOARD MEETING**

**Santa Fe, New Mexico**

**August 23, 2013**

This meeting of the Santa Fe County Ethics Board was convened by Chair Adair Waldenberg, on the above-cited date at approximately 3:07 p.m. at 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 Roybal, County Manager staff  
Bernadette Salazar, County HR Director  
Katherine Miller, County Manager  
James Yeager, Sheriff's Department  
David Griffith, New Mexico Coalition of Public Safety Officers  
Sam Chavez, AFSCME  
Ignacio Dominguez, RECC

**III. Approval of Agenda**

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

#### **IV. Approval of May 23, 2013 minutes**

Ms. Roybal stated Diane Garrity was listed as Ethics Board Contract Counsel. That should read County Contract Ethics Official.

Mr. Baca moved to approve the minutes with that correction and Mr. Mittle seconded. The motion carried unanimously [4-0] with Mr. George abstaining.

#### **V. Presentation: Parliamentary Procedure and Open Meetings Act Procedures by Assistant Santa Fe County Attorney Willie Brown [The minutes are prepared verbatim]**

MR. BROWN: Madam Chair, members of the board, good afternoon. I was going to say good morning because it feels like the first thing in the morning even though it's not. I asked, after the last meeting, I spoke with the County Attorney and reported back my impressions of the last meeting and the meeting before, and I asked whether or not should give kind of a presentation, because my observation of the last two meetings, and I thought they were – I don't want to use the word contentious but unnecessarily prolonged in part because of the procedures that we use that were sometimes less than parliamentary and sometimes I thought were inconsistent with the Open Meetings Act. So I thought I would very quickly go over, some basics. And just really look – I would just point you to references, things that perhaps had not occurred to you that applied.

CHAIR WALDENBERG: It was an open meeting so how could it be inconsistent with the Open Meetings Act.

MR. BROWN: Well, I'm going to –

CHAIR WALDENBERG: Okay. You're going to elaborate on that.

MR. BROWN: Yes. Okay. You got my outline, such as it is, and it's really to point you to sources. So the first one, and I brought a copy. You've probably all seen this document or this booklet or book before and it's from the Robert's family -

MR. MITTLE: Sorry. You know we don't follow Robert's Rules in here.

MR. BROWN: Yes. Correct.

MR. MITTLE: And the newly adopted procedure [inaudible]

MR. BROWN: Yes, and that's in here. It's on the list.

MR. MITTLE: Okay. Just so you know we don't follow Robert's Rules of Order.

MR. BROWN: Yes. [inaudible]

MR. MITTLE: Actually, I take a little bit of umbrage. I didn't know we were having an issue as members of this committee with communication. I realize sometimes we may not follow the procedure that we adopted two years ago but I didn't know that this was an issue. If you were upset at the tenor of the meeting I'm not going to apologize for the committee, but I didn't know it was an issue.

CHAIR WALDENBERG: I think we had a good and lively discussion and there are bound to be different points of view; those are always welcome in this

committee, but I sort of agree with David that it's nice to follow Robert's Rules of Order but the most important thing is that we get our job done the best way we can to serve our community, our constituents. So you should proceed but did anyone else find – my other two colleagues. Leon.

MR. YOUNG: My only comment, Madam Chair, we're here to discuss things and were we to follow Robert's Rules of Order which I can understand we don't have to, but that would inhibit any discussion that we're trying to have. And we will have issues – we have them right now – we will have issues that require discussion and open discussions and if somebody thinks feels that we're out of order based on Robert's Rules or something like that and I think first we've got to learn the federal Code of Ethics and the state Codes of Ethics and all that rather than some parliamentary procedure that may not be appropriate.

CHAIR WALDENBERG: Mr. Baca, would you like to comment?

MR. BACA: As far as parliamentary rules, I don't know a lot of them so actually I welcome this, but if at any time we're in violation of the Open Meetings Act, be it through our discussion as a board or through other means I would like to know, so if you have an example of where we violated it –

CHAIR WALDENBERG: We should know at the time. It should be brought to our attention immediately so we can rectify it.

MR. YOUNG: Not retroactively.

MR. BROWN: Madam Chair, I'm not here to be accusatory or offend anyone. This is just a general discussion. I would say at the outset that the Robert's Rules of Order do not apply. However, even the Board of County Commissioners rely on Robert's in tough situations where certain things that they want to do or that they have an understanding of are not covered by the ordinance that applies to procedures before the Board of County Commissioners. I've been before the legislature and the rules don't apply there and they pull out the Robert's to see what Robert's says. It's something, if you look at as a reference, you don't have to include anything that it says but it's been around since the 1860s and it's worth having for a reference point. That's the only reason I put it in here.

MR. YOUNG: Madam Chair, may I just comment on what Mr. Brown just said, you either use it or you don't. It's not situational. It's kind of like ethics. Either you are or you aren't. It's not situational. So you can't use it at some time of you're stuck with Robert's Rules, if we have a problem sometimes with the ethical and sometimes with something else. No. We either use it or we don't and I don't care either way, but using it is just not situational.

CHAIR WALDENBERG: I would like all the board members to feel comfortable. If they're uncomfortable with the procedure or discussion to let us know, because the chair has some prerogatives to do stuff but if I don't know if you guys would like some intervention or to change things then I can't do it. I can only do it if I feel it. So I would encourage you to speak up if you have a problem with anything that's going on.

MR. BROWN: Okay. Very good. And the second source, continuing with sources, the second source is the resolution that I noticed in my outline, the Resolution 2009-2 and you can see for yourself, the resolution establishing the rules of order for meetings of the Board of County Commissioners of Santa Fe County and for certain specified committees, rescinding Resolution – well, rescinding the prior resolution. And

I've provided you with a link to that. I think it's in your packet. So this does apply to you. And it has things like motions and disqualifications and was very intrigued by in the last meeting, somebody raised the issue about stating the reason for when a member disqualifies him- or herself and it may prejudice the rights of the person against whom charges are pending in ethics. And I tried to find a reference to that, and that is not in this resolution. So there might be an example where reference to Robert's might provide some guidance, whether or not you wish to follow. But it doesn't say anywhere, however, I will say this. The BCC follows that process. That's exactly what they do. You have to explain your disqualification of record. And likewise, I've been to many legislative committees and they follow that too. But you can recommend that it be deleted. That's your prerogative.

So that's the second reference that I had. And of course the third one is the Open Meetings Act itself. I understand that was provided to you in your materials. It's a very brief act but it has a lot of information in it. And simultaneous with that is the next link, there's a link where you can always access it online, it is the Compliance Guide from the Attorney General. And just on that point, if you ever go to the AG's website you will get this homepage with Mr. King on the homepage, his picture, and it's on your screen and of course it's in living color. And if you look on the right, as you look at the page, the left column, that's a drop-down menu but it's a staying put drop-down menu and in there you've got choices, so if you click either Governmental Conduct Act or in this case, the Open Meetings Act, you will actually get a .pdf document which looks something like this. And so if you wanted to own the document you could double-click at the very bottom, there is an Adobe Acrobat .pdf, so if you double-click that then the entire thing will open up and you can save it into your computer, essentially.

CHAIR WALDENBERG: And I believe Steve Ross gave us each a copy of it at some point. You gave a review of it, I know.

MR. BROWN: The Compliance Guide.

CHAIR WALDENBERG: No, the Open Meetings Act.

MR. BROWN: It's like a three-page, and it's attached, so this being the Compliance Guide, so this is where the AG has cited cases they've interpreted. And the last thing, I was looking for something else a couple weeks ago and then lo and behold, I found that the AG had adopted a Governmental Conduct Act Compliance Guide and I believe that's brand new. And I think it has like a main 2013 publication date. And I didn't hear of any advertisements. I think we talked about that a year ago. Not a year ago but it was last week we talked about the Governmental Conduct Act and how in 2011 legislation it was made applicable to local governments, municipal or county governments.

And so going along with what I said before, some observations I made, and I do know that under the Open Meetings Act everything is geared toward a quorum of the body. So in this case it would be three members. And so when you take official actions three members have to vote on a particular issue. In my observation, at least the past few meetings, it was that one or two members would urge certain, I guess change in the draft resolution that was under consideration – I guess it's ordinance amendment that was under consideration, and that would carry without a vote. And likewise, changes were urged on staff that, next time we want certain language appearing and that would not come from a vote of the quorum. So you really have to vote on everything substantive

and certainly if you see this should not be in here; it should be a semi-colon. That's a minor change. But if you're changing a word that changes the substance of the meaning of text.

Like, we had a huge discussion about whether or not employees are covered. Putting the word "employee" has substantive change. I know that's unresolved but that's the types of things you have to vote on. So that was my observation, that you all own any changes, well, changes like recommendations to the BCC.

MR. MITTLE: And actually I compliment the chair and I don't take exception. Mr. George couldn't come for a vote and the chair asked basically that we defer until we had a full committee. I do understand what was going on. I think we decided just to defer until – at the wish of the chair.

MR. YOUNG: We waited three months for your arrival.

CHAIR WALDENBERG: I don't think it was his schedule necessarily, but my preference is clearly to have everyone present for very important votes, and sometimes I will take consensus if everyone agrees, and if we have to, we can take formal votes at that point, but that's going to slow things down quite a bit, and ultimately we do vote on the entire set of changes that goes to the County Commissioners so everyone will have the opportunity to vote, and I'm hoping that will be unanimous. It may not be.

MR. BROWN: Madam Chair, if I may just sort of add one amendment to my comments. The other thing, at least in the last two meetings that this was sort of driven home to me by interactions with the legislature and committees and the meetings of the Fire and Public Education Commission and State Board, is how, when you conduct a meeting and how to address essentially the chair, that all comments must go through the chair and I notice that some individuals – and maybe I was guilty of that too a couple of times when we just talk directly to a person who would raise a point and a debate would ensue, but that's not the accepted parliamentary procedure and that's somewhat is a breakdown of decorum when you do that.

CHAIR WALDENBERG: I prefer having lots of discussion. That's my collaborative kind of style. If someone is talking to someone else everyone else is in earshot and they part of that discussion. I can control it more but I prefer a free-flowing discussion, and I understand it may not follow Robert's Rules but it can stifle discussion if everything has to go through the chair.

MR. MITTLE: Madam Chair, if I might.

CHAIR WALDENBERG: Please.

MR. MITTLE: One of the overriding principles of Robert's Rules of Order is to make sure that everybody has an opportunity to speak, and everybody gets to speak before somebody gets to speak a second time. Actually I find in this setting because maybe I speak more than others is that there does seem to be the opportunity for everybody to speak and everybody to have their opinion expressed before moving on to the next topic. And underlying Robert's Rules, that's really what they're trying – that's the central principle of the rules.

MR. YOUNG: And Madam Chair, if I might.

CHAIR WALDENBERG: Yes.

MR. YOUNG: I agree. We don't want to stifle discussion. We want open discussion of the issues. And by: you're out of order, or one of these things it really ends up, and we've all probably been in enough meetings where we've seen that, stifling

discussion. And ethical issues are not simple. It's not – for example, it's not a simple violation of a law or a rule in the workplace. There are issues behind that and we need open discussion, meaningful discussion, not to be inhibited by somebody invoking a rule of procedure. So I agree.

CHAIR WALDENBERG: I appreciate your input but I also appreciate my colleagues' wish to have a free-flowing discussion and to be able to make comments. I want everyone to feel comfortable commenting, replying, as need be. I've learned a lot just from sitting and listening to my colleagues and I would like to continue doing that. So – if you find that you think it's getting out of hand, then you're welcome to question the chair but the chair might respond, I'd like to continue the discussion the way it is. And if we have a problem with that we'll have to resolve it.

But I think it's very important for everyone to speak, to have their questions answered and to feel comfortable speaking. That's the most important thing for me, including the public, I might add, when the time comes.

MR. BROWN: Shall I proceed to the next item?

CHAIR WALDENBERG: Please. Sorry that didn't get a warm, fuzzy reception.

MR. YOUNG: Well, from the board it did.

CHAIR WALDENBERG: See, we don't always agree.

#### **V. Follow-Up Items from the Last Meeting**

- A. The BCC Minutes Requesting Creation of the Ordinance**
- B. The BCC Minutes Adopting the Code of Conduct Ordinance**
- C. History of Code of Conduct Ordinance in the County**

MR. BROWN: Okay. At the last meeting the chair asked for some follow-up items and they're listed under VI. and the County Attorney was – I guess he was going to address those. He was here at the last meeting because he was – he's part of the history of this, so I'm the pinch-hitter. So I was there and so let's go through some of these minutes. I think you have them before you. And the first one is the June 29, 2010. If you look on the agenda, page 6, item [XIV. F.] 6 on page 6 of June 2010 agenda is earmarked for this item. And this is really the launch of, like I said, the new and improved draft of the Code of Ethics that was under consideration by the County.

At that point they were talking mostly about I guess financial interests vis-à-vis that the County Governmental Conduct Act did not apply at that point and that's correct in 2010, yet with the way it was written according to the County Attorney, the drafting was such that the County was going to abide by the Governmental Conduct Act, the financial disclosure part of that.

And then we move to the next item which is August 10, 2010, and for that agenda item, on page 4 of that, [XII. E.] 2 is the title of – the publishing of title. And this one, the actual minutes, I went through those a week or so ago, there was discussion of retaliation, lots of discussion about *ex parte* communication and a difference of opinion how that was to apply and I guess what came out in that was that they spoke to the counsel for the New Mexico Association of Counties and how that was – there was case law, I guess, or they advised county governments to comply with the prohibition against *ex parte*

communication in the formation of public policy. And I think they were talking about County Commissioners.

And the last one, I don't have the agenda, but it's September 28, 2010, the actual vote took place and there was huge discussion about the dynamics about how employees would be treated in the Code of Ethics, and it kind of swung both ways. They also discussed sworn complaints versus non and they included that they would have sworn complaints. But on thing that I was looking at on page 55 of the minutes where Commissioner Vigil was speaking, her very first sentence, she says, "Mr. Chair, we've created such a focus on employees when in fact the overriding issues on ethics transparency in these kinds of ordinances are more affected by appointed, elected officials or volunteers." And that is the culmination of several pages of minutes of discussion that they had, of whether or not employees would be considered subject of investigation under the code.

And then there's a shift in the discussion in these minutes where it became apparent that – I guess there were certain events that gave rise to the focus that we're not really looking at employees in potential investigations under this new revised Code of Ethics, but elected officials and there was a reason for that.

CHAIR WALDENBERG: None of us – that's the really relevant piece of information and that was not in our packets as far as I recall. The actual minutes from that September – we got June and we got –

MR. BROWN: You don't have September?

CHAIR WALDENBERG: No. That's what we were looking for, especially since in the discussion of the stuff we had there was a five-person committee and then there was a three-person committee, but we were all wondering, because that's the very relevant piece about employees that we needed to read.

MR. BROWN: I apologize. [inaudible] Do you mind getting my copy that has all the markings on it?

CHAIR WALDENBERG: I don't care what copy we get. I don't know how much we're going to be able to discuss it since we didn't receive it in advance, but it would be good for us to have it. [These were subsequently provided as Exhibit 1]

Because that sounds exactly like the discussion I was looking for and the minutes we received didn't have that. There was no discussion of employees. There was no discussion – and it seemed odd, because I knew they had approved the three-person committee, which we later revised. So I knew that we were missing something. But I didn't know that we were missing a discussion of employees, because that was particularly relevant. So I guess we should proceed.

MR. BROWN: Insofar as this item that was all I had. There was – that you had not seen apparently – discussion under this last one where the BCC actually voted on the Code as we know it now. They decided, and as I understood what they were saying is that employees would not be subject to investigation under the Code of Ethics, and the reason for that was the focus point was always elected officials, and I guess to a certain extent appointed officials and that's what I gleaned from reading this. And it talked about confidentiality and labor relations of concerns.

CHAIR WALDENBERG: It would be good to read that.

MR. BROWN: And I thought that you had gotten it in the packet.

CHAIR WALDENBERG: Right. Is there anything else about the history that you think you'd like to tell us?

MR. BROWN: The last thing which I was not really prepared to talk about was –

CHAIR WALDENBERG: We had the minutes but –

MR. YOUNG: Madam Chair, may I make a comment?

CHAIR WALDENBERG: Yes, Mr. Young.

MR. YOUNG: I understand none of us has seen any of this but we're – there's an issue between an employee and an elected official so it cannot be an absolute. I mean in general the employees – HR deals with employees, Human Resources, but there are issues between employees and elected officials and there are all over – in federal government, and state – look at San Diego. In federal government, state government, city government – whatever. So it cannot be presented as an absolute, that we never deal with an employee per se. If you know what I'm saying? Am I being clear?

MR. BROWN: On that point, that's not what I was saying, I don't think. No one has ever said that an employee cannot file an ethics complaint if that's the concern. And certainly we would support such an interpretation of the Code as it currently exists. What we're saying is that the intent of the Commissioners in reading the minutes and how we, the staff has interpreted the Code up to this point is it would be a classified employee could not be investigated by this board, by the committee. Any employee.

MR. YOUNG: Well –

MR. BROWN: Well, any employee subject to HR's jurisdiction.

CHAIR WALDENBERG: Right. Not be appointed officials.

MR. BROWN: Commissioners draw salaries so I guess they are technically employees also.

CHAIR WALDENBERG: Right. Appointed officials as well. Mr. Mittle, do you want to weigh in on this issue? Or do you want to wait to see the documents?

MR. MITTLE: Madam Chair, I think I'll defer my comments --

CHAIR WALDENBERG: Okay. Mr. Baca? Mr. George? Go ahead.

MR. MITTLE: What the Commission did, I'll defer to that as we go through the history, as a lawyer I'm sure you're aware of all this. The ordinance itself is ambiguous on the role of employees vis-à-vis this board and the purview of the board investigating complaints, and I think that's where the conflict is and I think the conflict is even noted by HR in the discussion three months ago that being brought forth before us was HR discussing with the employees what the Code of Ethics is. If there's no body to enforce the Code of Ethics it becomes totally irrelevant for the employees. The employees as I understand the position from HR, would be subject to whatever their union contract was. If that's the case then they shouldn't be burdened with excessive ethics. The ethics should be incorporated into their union contract or their grievance procedures. So it's kind of even – I think it's unclear in the County how to deal with these issues. I don't think the Commission understands what they have developed and I think that's what our role is, is partly to bring these issues forward.

Some employees obviously believe the ordinance applies. They file complaints that are presented to this board. They may not make it to the board but they present complaints to the board. They should have obviously just gone to HR or to the union rep

and I think that's where the difference is. If it's not going to apply to employees then put all this language in their contract. Just leave this to appointed officials, elected officials and volunteers. But you can't have it both ways. You just can't have it both ways, in my humble opinion. And I apologize for --

CHAIR WALDENBERG: And I note for the record what I have said before, this committee has taken it upon itself to change the ordinance, to propose changes to the Commissioners, and so if we felt something wasn't right, or was ambiguous, we might propose a clarification or a change.

MR. MITTLE: Subject to a vote.

CHAIR WALDENBERG: Right. Exactly. Right. But just because the ordinance says something now doesn't mean that we cannot propose to the Commissioners and they can deny it. That would be okay. But we do have a prerogative to review and advise. Ms. Salazar.

MS. SALAZAR: Madam Chair, members of the board, I was present back at the meeting back in 2010 when the ordinance got adopted. I think I actually spoke about how employees would fall under the HR handbook. And it was always the understanding -- my understanding is that where there is an issue, a violation of the Ethics Ordinance it would fall under the HR handbook or the union contract. For the employees who have -- there's a mechanism for them -- for the County to address those issues. The intention of the ordinance was really to address the people that are appointed or elected to County government, that there's not a mechanism to address ethical issues or violations of rules or regulations. That would be our elected officials and appointed officials to different boards that serve on County boards. I as HR Director do not have jurisdiction over those people and so that was kind of the missing piece to addressing ethical issues. Other than that, every other employee, including at-will employees, there's a mechanism to address ethical issues or policy violations.

And as we spoke at the last meeting about the amendments that we talked about, yes, this was the discussion that occurred. So I think that was the missing piece, and the Ethics Ordinance does apply to employees, all employees, and we expect employees to abide by that, but if there is a violation the consequences fall under collective bargaining agreements or the HR handbook. So it's addressed. And they are actually in the HR handbook. So we do require employees to comply. So if you look at the HR handbook it talks about conflicts of interest. It talks about state statutes, required state mandates that employees are supposed to abide by, those types of things, and if those are not met there's consequences.

So I think we have addressed it pretty well in all of our union contracts and our HR handbook.

MR. BROWN: Madam Chair, if I may add to that, we talked about this, Ms. Salazar and myself, that, let's say that you recommended to the BCC that in no uncertain terms the Code of Ethics should apply to employees, and then the Board debated it, they would have to be told to consider the liability that it would impose on the County of now putting in employees. Collective bargaining agreements and language -- well, just the confidentiality on personnel matters which would in theory be added in public forum as soon as a complaint is filed against a County employee and it would take away the right of privacy which they now enjoy in their employment situation with the County. So they would have to understand that there might be labor union challenges

before the Labor Board – I can't remember what they're called – PEBA's. But there's the name for prohibited practices complaints before the Labor Board.

It would open a very huge can of worms. It would have many side effects of doing that and it was never intended – it was debated and discussed but never intended because it is fraught with some peril considering employees. All along what they were trying to fix were past practices of certain elected officials that are well known to the media and so on, and the understanding, what Ms. Salazar just said that there was nothing that the County could do. Because the only way you can address elected officials now is by a recall vote or if you're lucky and you get the ear of a prosecutor of the Attorney General to start a prosecution, if it's criminal wrongdoing to remove somebody from office. That's why they did this.

CHAIR WALDENBERG: Are there any comments from the board members or questions?

MR. YOUNG: Madam Chair, I'd like to know Mr. Brown's definition of a public forum.

MR. BROWN: Madam Chair, in what context public forum?

MR. YOUNG: Is this a public forum?

MR. BROWN: Yes.

CHAIR WALDENBERG: By definition. It's advertised and –

MR. YOUNG: Let me get clarification. If someone were to have an issue, whomever, if someone were to have an issue can't we go into executive session?

MR. BROWN: Madam Chair, you can't just decide to go into executive session. The Open Meetings Act is very clear under the circumstances in which you can go into executive session. Limited personnel matters – ethics cases are not really a personnel matter because you do not have the right to discipline, suspend, any employees in the County. So it would not be a personnel matter.

MR. YOUNG: Madam Chair, I understand what Mr. Brown is saying, however, personnel matters everywhere are always confidential. Always confidential. There are no exceptions.

MR. BROWN: Well, Madam Chair, all I can tell you is that I understand this Code of Ethics this is a public forum. You can not meet in confidence except if you're deliberating on an active case. That's the way the Code is currently written.

MR. YOUNG: And that's what I'm referring to.

MR. BROWN: So, deliberation – you can if there's a case before you and you're going to vote on – thumbs up/thumbs down on this individual, but just discussing matters on personnel, that is not confidential.

MR. YOUNG: Madam Chair, that's not what I was saying. I was referring to a deliberation on a case, which would be in executive session, not in a public forum.

CHAIR WALDENBERG: But presumably that case would be stated in the agenda.

MR. YOUNG: Well, yes. Absolutely.

MR. BROWN: And the hearing would be open.

CHAIR WALDENBERG: Right.

MR. YOUNG: And if it came to a hearing it would be open but the deliberations would be confidential in executive session. The adjudication would be in executive session.

MR. BROWN: Ms. Salazar perhaps should touch upon the current procedures in the personnel handbook.

CHAIR WALDENBERG: We'll get to that. I just want to clarify that any complaint goes to the County contract official first, so bogus complaints would presumably be ruled out. We might know about them but they would not have to be heard in a public forum, truly bogus. At least that's my understanding of the process. But do you want to go through the process for us?

- VI. D. An Outline Process of What Would Occur in Open and Closed Sessions**
- E. Handling Employee Ethics Issues While Staying within Union Agreements**

MS. SALAZAR: Madam Chair, members of the board, if you look at Section 24 of the current ordinance it talks specifically about the County Ethics Board specifically G, H and it states, If the County Ethics Board finds that an elected official, appointed official, or volunteer violated any provisions of this ordinance the County Ethics Board, upon a majority vote of the entire membership shall forward its written findings of fact and conclusions of law to the County Manager or, as appropriate, the district attorney for appropriate action.

So the current language takes the employees out of it. So that's clear and that's consistent with the discussion we just had relative to when the ordinance got adopted by the BCC. Employees are removed from that, from this part of the process and not included. Again, in 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 following penalties after the entry of the findings of fact and conclusions of law."

And then it goes on to talk about what those penalties might be. So in the current language, employees are excluded from that process, because again, they're going to bump over to the Human Resources process or collective bargaining in which they will go through their processes in that manner, whether it be progressive discipline or whatever their contract calls for. So the current language is clear about that.

In the last meeting there was a lot of discussion about having employees be considered in this process and I have talked about the concerns that I have making that change. And so I think the request was to provide an outlined process of what would occur in open and closed sessions. So in your packet I've provided an item D. For item D, is our HR handbook, and it talks specifically about when there's a violation basically of any policy to the Ethics Ordinance what process will occur, if it's found that a violation has occurred.

So if you go to page 24, at the end of the page it talks about approved determination hearing, and it specifically states who will be present during that hearing. Also attached to item D are the rest of the – or I'm sorry, item E. We also have five collective bargaining agreements with five of our unions here at the County, and for the New Mexico Coalition of Public Safety Officers for Corrections, basically the same process, a little bit different language, but it specifically states who will be present during a hearing. That is on page 12 of that contract.

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For the Santa Fe County Deputy Sheriffs Association, it's the same regulation. It's on page 26 that they talk about things specifically outlining who is required to be present and who shall be present during that hearing.

For the Santa Fe County Firefighters Association, Local 4366, that's outlined on page 10, specifically stating again who shall be present during that hearing.

MR. YOUNG: Where on page 10?

MS. SALAZAR: Page 10, Section H towards the bottom of the page, the second to the last sentence.

Then we have our New Mexico Coalition of Public Safety Officers, specifically our dispatch center. Theirs is on page 12, Section 3, again specifying who's required to attend the hearing.

Last but not least we have our agreement between the County and our AFSCME union. Page 17 of the contract, Section 2. There it goes into a little more detail that says "All disciplinary matters shall be held in strict confidence by the employer and the union. Discussions with employees regarding disciplinary action shall be conducted in private." And then it goes on to say that the employee may elect to have union representation during any time in the disciplinary process. So there it goes into even more detail about the confidentiality of a hearing process when there's a violation of any policy within the County. So those are the six documents that outline that basically this process is not an open process and if we did open it up we would be violating employees' rights and not only employees' rights but we'd be violating five collective bargaining agreements and be subject to prohibited practice complaints from the State Labor Board as well.

So with that, that goes to item E, Handling Employee Ethics Issues While Staying within the Agreements. Also in your packet I submitted some of the sections of the Public Employees Bargaining Act, specifically 10-7E-17, the Scope of Bargaining, and it basically states that once you have an agreement in place the employer shall bargain in good faith on wages, hours and all other terms and conditions of employment, and other issues agreed by both parties.

So we've entered into negotiations with all five unions regarding the process that will occur if a violation is found to have happened, so we've already negotiated that in multiple contracts and so any changes to that would require opening that up again. So we can't just impose something on the unions without it being subject to bargaining, all five of the unions. Also in the packet it talks about how certain meetings are closed. Those negotiation sessions are closed meetings per state statute, and in addition, I included a section about public employers, when you would be deemed to have committed a prohibited practice, that's 10-7E-19. That would be Section F, refusal to bargain collectively in good faith with the exclusive representative, or refusing or failing to comply with a provision of the Public Employee Bargaining Act or board, or refusal or failure to comply with the collective bargaining agreement.

So those things are in place. If we were to implement this we would be in violation of all three of those, therefore there would be a prohibited practice against us, probably from all five unions, I would imagine.

MR. BROWN: And Madam Chair, along that line, in addition to the PEBA, which she read the section of the Public Employees Bargaining Act, PEBA has adopted about five rules that interpret this. [inaudible] due process procedures. I have

practiced before the Labor Relations Board in Albuquerque and they really mean what they say in disturbing collective bargaining agreements.

CHAIR WALDENBERG: But it could be a bargaining item down the road.

MR. BROWN: It could be.

MS. SALAZAR: Madam Chair, maybe they would like to comment.

CHAIR WALDENBERG: We could either have them comment or comment at the end under Matters from the Public, but I'm assuming they would be opposed to it. That would be a correct assessment. They could nod their heads. You'd like to hear? Perfect. Would anyone like to speak? They should sit where they feel comfortable.

JAMES YEAGER: Madam Chair, you'll have to excuse me. I have some allergies going on here. I just came from Las Cruces. But I work at the Santa Fe County Sheriff's Office. I've been our union president for almost four years now. We have a very good relationship with the County and also James. He's from the State Board. I'm also on the State Board for the New Mexico Coalition of Public Safety Officers. But this is – I think what you guys have going on is good. It's great. But that's why we have these contracts, and I urge you to look into PEBA, the Fair Labor Standards Act very closely, because these regs that we have within these contracts are very clearly stated, whether it be for privacy or whatever the case may be and as I was listening to some of the comments earlier about open forums, there can be some pretty intensive investigations, such as Bernadette has said, our mechanisms – I haven't looked at everybody's contract but at least for ours, it's very clear, it's a very concise mechanism of discipline. I can say that almost every discipline with our department has our union representative.

So with that said, I'm not going to sit here and say no, no, no, no, no. But I want you guys to educate yourselves on those Acts and be very clear about them, and as Bernadette said, and you can see the heads nodding back here, and we do talk. I talk with the guys in communication more because they're in our same building, but you see the guys from AFSCME here and we're all in agreement with this and as I spoke with Bernadette, you're looking at a severe violation of the four corners of our collective bargaining agreements.

So like I said, I like what you guys are doing. I like the idea behind it, but we have these contracts for a reason and we fight for them, sometimes, a couple times a year, just to have these particular rights be put in place. So once again, I don't know if anybody wants to elaborate further on that but before my nose runs – I thank you for your time.

CHAIR WALDENBERG: Well, thank you for coming. Is there anyone else that would like to speak?

DAVID GRIFFITH: Madam Chair, committee members, my name is David Griffith. I'm as James said, president of the New Mexico Coalition of Public Safety Officers. And I bring up the transparency of your process, I can't say how much we respect that and after looking at the ordinance and debating the issue we really support what you're doing, especially in the area of our elected officials. But I do believe that we have a great working relationship with the County as reviewed in your material there.

I'd like to bring up the impact on the employee. Sometimes an employee could be subject to an investigation which the employee might have done something that if it were

reviewed by people that are not subject matter experts it might look wrong. I choose my words carefully. And I'll use the example of the use of force. Okay? If we watch television and we look at the use of force it looks bad. Okay? Any amount of use of force is going to look bad. But when you have a review process that's in place and you have subject matter experts that look into the use of force and they determine it to be a justifiable use of force, that closes the issue. Okay? If we were to open it up and delay the investigation longer, subject the employee to undue stress, then have a situation that gets reviewed by the media and by the press, it often may have adverse reactions in the community and we don't want that.

On the other hand, I want to reinforce the fact, again going back to public safety, that police officers are now subject to review at the state level by the New Mexico Law Enforcement Academy. So regardless of discipline taken or not taken at the agency level it's still reviewed at the state level. And an officer can have their license suspended and/or revoked permanently.

So we've given you just a few examples following up on your briefing there. I think we have a really good process in place and I would hate to see our relationship damaged and cause other legal actions that are [inaudible]

CHAIR WALDENBERG: Thank you. Anybody have any questions of him?

SAM CHAVEZ: I'm Sam Chavez from AFSCME Council 18. An issue that nobody touched on is Weingarten. Any employee under collective bargaining is subject to Weingarten and for an Ethics Board to be able to investigate the employee, how are you guys going to cover Weingarten for that employee? Because you can't do it.

MR. MITTLE: I don't know what Weingarten is.

MR. CHAVEZ: It's the right to a representative.

MR. BROWN: I can explain, Madam Chair.

CHAIR WALDENBERG: Please.

MR. BROWN: My experience with Weingarten rights – Weingarten rights, it's a constitutional case Weingarten versus some employer many years ago, and what the case stands for the proposition and it's a very persuasive and important labor right that all employees enjoy who are members of a labor union unit. And what it says essentially is if you are called into a manager, supervisor's office and they intend to discuss a matter for which you might be disciplined, they must inform you of your Weingarten rights, that you have the right to representation at that meeting, but only if the possibility of discipline is being considered for imposition and no other circumstance. The gentleman is correct that if employees were brought into this Code and were considered for, I guess for discipline vis-à-vis the investigation and what have you, at some point that employee would have to be administered Weingarten rights.

CHAIR WALDENBERG: Thank you. Would anyone else like to speak?

IGNACIO DOMINGUEZ: My name is Ignacio Dominguez. I work with the Dispatch Center here at the County. To elaborate on what James had said earlier, we are also covered by the New Mexico Law Enforcement Academy. They monitor our license, so we're subject to, I guess, another set of ethics as well, to where that we do anything in our private life is a violation of those ethics, our license is therefore in jeopardy as well. So we can have our licenses suspended and/or revoked completely. Without that we are unable to maintain our position with the County Dispatch Center.

And like James said, we work really closely with HR. We have our steps. It's very, very detailed as to when a violation occurs, what the process is and what the next step is. If there's a continuation of the violation what the following step would be and the nature of that. Thank you.

CHAIR WALDENBERG: Thank you. Anyone else? Members of the committee, do you have any further questions?

MR. YOUNG: Madam Chair, not a question but I don't think it's the intent, the intention of anyone on this board to intrude on anyone's rights as an Ethics Board we have certain responsibilities. As an appointed Ethics Board we have certain responsibilities. I can appreciate from my ongoing experience all the bargaining units agreements and all that. We can't get into that and I don't think – even accidentally, we can't get into that and I don't think anybody on this board – correct me if I'm wrong, colleagues – wants to. That's not the point. The point is and as you know my current experience is more on the federal level, but like the IG hotline and things like that. A lot of things go, get lost in the cracks or whatever, and all we want to make sure, I think, is that whatever we have works.

We are an independent board. The counsel is our staff, our admin people, so to speak, but the board itself, my understanding is that we are independent, but trust me, we're not – I believe we all understand bargaining unit agreements. I've worked with them, I know them, and you have to adhere to them. And I know from the – I sit on the Postal Service Council and I know with the eight unions and I know this isn't like that. But that's why nobody can make a decision over there. But – well, it's true. But anyway, but – and confidentiality, I think that is paramount. Absolutely paramount. And that's why I said earlier, all personnel issues everywhere are totally confidential and there are no exceptions. We have to remember that. We read something in the *New Mexican* – not much, but we read stuff in the *New Mexican* that should never even be in the paper.

CHAIR WALDENBERG: I think that's part of the problem.

MR. YOUNG: Yes, the *New Mexican*. And we have authority over that. So we can do things – no, seriously, confidentiality I find is not adhered to very well. And I always say, when I speak to groups and all that, if you're unsure whether something is confidential or not, assume it is. Because you don't get into trouble for what you don't say. And I think that's one of the things we have to emphasize and re-emphasize. Thank you.

CHAIR WALDENBERG: Does anyone else have any comments? First of all, on behalf of the committee, thanks for coming and for all you do for the County. What we're striving for is to make you feel comfortable when you see ethical violations. It sounds like you are comfortable and that actually is quite good to hear. It's important. It's a protection for you as well as for the citizens of the County. So we appreciate your input. It's been very helpful. I think we've learned something from it and we appreciate the time you took to come. Thank you.

Should we go on? What's the sense of the committee?

MR. YOUNG: As opposed to?

CHAIR WALDENBERG: Well, we could continue discussing this issue or we could go on to other issues. Do you feel like you've heard enough and have a sense?

MR. BACA: Yes, I just have a question that's just in my mind right now. All these unions approved of the ordinance, right? As written?

MS. SALAZAR: Madam Chair, Member Baca, I don't believe that they approved the ordinance. We went through a series of public meetings and there was room and time for public comment, but there's not necessarily a process where each collective bargaining unit approves the ordinance.

CHAIR WALDENBERG: Ms. Salazar, each employee does sign off that they have read and understand the ordinance and gets training on it. Is that correct?

MS. SALAZAR: Madam Chair, yes. When the training takes place then they sign an acknowledgement but they don't approve the ordinance.

MR. BACA: So it applies to the employees. They sign off on it. It applies to them and they know it, but the unions haven't approved it?

MR. YEAGER: May I speak on that? Just so you guys know, and you may not know this, anything that's in our collective bargaining agreements, if it's not clearly stated in our agreement, then we fall back on the Human Resources handbook. And every year we'll go through like different types of training and stuff, and we still have to be aware of the rules and regulations that are set forth in the Human Resources handbook. So if it's not clearly stated in any one of these respective contracts and you get one of those kind of sticky issues that's not clearly stated in there, we refer back to that handbook. So I don't know if you guys were aware of that also.

CHAIR WALDENBERG: And it's part of the handbook. Is that right?

MR. YEAGER: Correct. I believe so.

CHAIR WALDENBERG: Ms. Salazar, do you have a comment?

MS. SALAZAR: Madam Chair, yes. We have – any time there's a policy that's changed we have a lot of review period and take comments from all employees so that we can be better informed of what the concerns are, of what might and might not work. So Mr. Yeager is correct in that. Anything that's not addressed it does fall back to the HR handbook. But then those employees get the opportunity to have comment and feedback on those rules as well.

CHAIR WALDENBERG: Does that answer your question? Anyone else? Should we go on then? Is that the sense of the committee? Ms. Salazar, do you want to go over the distinction between at-will appointed officials and other employees?

#### **VI. F. A Distinction Regarding At-Will/Appointed Officials and Other Employees**

MS. SALAZAR: Yes, Madam Chair, members of the board. In your packet I drafted a real short memo giving the definition of each. So basically, under Section 2.1 of the HR handbook, a classified employee is an employee who has completed the probation period, and basically what that means is they have all the rights when it comes to an appeal process, if there's disciplinary action recommended against that employee.

Section 2.9 explains what an unclassified, at-will employee is, and that's an employee who may be terminated at any time, with or without cause. Therefore unclassified, at-will employees are not protected by the grievance procedures set out herein and may not appeal disciplinary action. The County Manager's approval is

required for the termination of an unclassified, at-will employee who is not the Undersheriff, the Chief Deputy Treasurer, the Chief Deputy Assessor, the Chief Deputy Bureau of Elections, or the Chief Deputy Clerk. Those employees are selected strictly from that elected official by that elected official.

So basically, everybody, even if they're an at-will employee they're employees. The appointed person or people within the County are going to be those appointed by the Board to serve on different committees – when I say Board I mean the Board of County Commissioners – to serve on different committees within the County. Currently we have 32 committees and 33 boards. So when we look through the ordinance and it talks about appointed board members or appointed officials, that's going to be these individuals, because again, this is where the County Manager, HR, or other management at the County does not have jurisdiction over these people; they're like elected officials. There's no jurisdiction. So we have to have a mechanism to address ethical violations.

So with those 32 committees and 33 boards that would constitute – I didn't do a count but I would say close to 100 members, easily, not including the volunteer firefighters, I believe. Right now, there's probably about another 150. So there's a lot of individuals that are under the ordinance to include the penalties and the hearings and all this stuff that we talked about in Section 24 of the current ordinance. So there's a lot of individuals that are covered in that section if we take out the employees that have the mechanism to address these possible ethical violations.

So basically, that's the definition.

MR. MITTLE: Are any of them union?

MS. SALAZAR: Which ones? Oh, no. They're not –

CHAIR WALDENBERG: They're committee and board members.

MS. SALAZAR: They're not employees. They're appointed officials so they won't be included –

MR. MITTLE: If you're elected can you be a member of the union?

MS. SALAZAR: No.

CHAIR WALDENBERG: No.

MR. MITTLE: Oh. What about the County Manager?

MS. SALAZAR: The County Manager cannot be a part of the union but the County Manager is an employee of the County.

MR. MITTLE: The County Manager is not part of the union.

CHAIR WALDENBERG: Right.

MS. SALAZAR: So basically, Member Mittle talked about the County Manager. If there were any issues with an at-will employee to include the County Manager the Board of County Commissioners are basically the County Manager's –

CHAIR WALDENBERG: Boss.

MS. SALAZAR: So she has five supervisors. They would address any violation with that position because it is considered a County employee position.

CHAIR WALDENBERG: Mr. Mittle, do you have any other?

MR. MITTLE: No.

CHAIR WALDENBERG: Okay. Mr. George? Mr. Baca? Mr. Young? That's very helpful. It's also helpful to know the number of committees and the number of boards. Thank you for providing that.

MR. YOUNG: You didn't talk about G, did you?

CHAIR WALDENBERG: No, we haven't gotten – G is next up. Mr. Brown, is G yours?

## **VI. Determination of Why “Immediate” Family Was Used within the Ordinance**

MR. BROWN: Madam Chair, members of the board, no, it's not mine. I saw for the first time the materials on it. I remember what was said last time was the language that's in there in the – what do they call it? The combined ordinance with the amendments in it with language that the BCC put in there.

CHAIR WALDENBERG: And some of it we had recommended to the BCC.

MR. BROWN: At the prior – one of the board meetings. So to me it is what it is. That's what we wrote it on.

MS. SALAZAR: Madam Chair, may I ask a question?

CHAIR WALDENBERG: Sure.

MS. SALAZAR: That's the item that was added during the amendment to the original ordinance.

CHAIR WALDENBERG: Right.

MS. SALAZAR: So if I recall correctly these were recommendations by the board.

CHAIR WALDENBERG: That's my recollection too.

MS. SALAZAR: By the Ethics Board.

CHAIR WALDENBERG: Ethics Board.

MR. YOUNG: And Madam Chair, can someone define “immediate”?

MS. SALAZAR: Immediate means spouse, domestic partner, child, a sibling, a parent, a grandparent, a grandchild, like in-laws and like step relationships.

CHAIR WALDENBERG: And I think we had some reference at some point to consanguinity.

MR. YOUNG: What are you reading from?

MR. BROWN: Madam Chair, Mr. Young, this is Ordinance [inaudible].

CHAIR WALDENBERG: When we amended it, in my recollection and Mr. Baca, correct me if I'm wrong, and Mr. Mittle was probably there at the time. We were trying to make the definition of immediate family member consistent within the ordinance and include the in-laws and things like that. That was the purpose of the definition.

MR. BACA: I believe in one section it said immediate and in the other section it did not.

CHAIR WALDENBERG: That's correct. Yes.

MR. BACA: So we decided to define immediate.

CHAIR WALDENBERG: This way and make it consistent. I think the financial interest section had a different definition is my vague recollection.

MR. MITTLE: Except as I recall, immediate family member is not used in the ordinance and that was my objection at the time.

CHAIR WALDENBERG: I think we ended up spelling it out when we used it rather than using the definition. Because immediate to me suggests something different than the definition we had. I have to go back to the original revised –

MR. YOUNG: And Madam Chair, I think "immediate" also means different things to different people.

CHAIR WALDENBERG: Right. And think that's why we chose to spell it out in greater detail. I have to go back and look.

MR. BACA: So did we add immediate?

CHAIR WALDENBERG: It's in the ordinance but it's not used, I think.

MS. SALAZAR: It's as amended in 2011.

MR. MITTLE: And then the vice versa, is family –

MR. BROWN:[inaudible]

CHAIR WALDENBERG: Is it in the political contributions?

MR. BROWN: It's in the campaign funds –

CHAIR WALDENBERG: Yes, that's what I was going to guess.

MR. MITTLE: And then the question became whether we use the definition of family.

CHAIR WALDENBERG: Yes, we had K as family and then S is immediate family in the version. I've got so many versions of this thing that it's hard to – let me get back to 2009 which was before the last revision. I guess I'd have to go back and take another look at the ordinance as a whole. Well, for the purposes of the agenda is that inadequate discussion of why immediate family was used? Mr. Mittle? Mr. Baca?

MR. BACA: I don't remember why it was on the agenda.

CHAIR WALDENBERG: Yes, I can't remember. I think I wanted it on the agenda because it came up in some context and I can't remember the context now. Mr. Mittle had a concern that [inaudible] was not used.

MR. YOUNG: My concern is that it's too broad. I mean – I'm sorry. My concern is that it not be too broad, and immediate family, I think if all of us in this room were to right down what immediate family means we'd probably come up with – what are there? 12, 14 people, we'd come up with 14 different definitions from everybody. I recall one of the items I read it referred to cousins, step-cousins, cousins-in-law. That's too much.

CHAIR WALDENBERG: I think it's defined in the ordinance.

MR. BROWN: It is.

MR. YOUNG: It is too much.

CHAIR WALDENBERG: Right. No, no. It's defined in the ordinance so what immediate family means in the context of this – do you want to just read it?

MR. BROWN: Yes. This is – I didn't change it. I integrated it too, but the original definition in the 2011 amendment was, "meaning a spouse, domestic partner, child of a sibling [sic], a parent, a grandparent, a grandchild, like in-laws and like step-relationships."

CHAIR WALDENBERG: And was there additionally a definition of family? Could you read that one too?

MR. BROWN: A family means an individual's spouse, domestic partner, parent, child, sibling, and like in-laws, by consanguinity or affinity, and persons related or unrelated living within the household.

CHAIR WALDENBERG: Right.

MR. YOUNG: So it could be a renter.

CHAIR WALDENBERG: Living within the household. I think –

MR. YOUNG: Could it be a renter?

CHAIR WALDENBERG: I don't think that was the intent. I think the intent was someone living with someone.

MR. BROWN: Who is related by consanguinity – blood or by marriage.

CHAIR WALDENBERG: And affinity.

MR. YOUNG: Madam Chair, if I may. I understand that part, but it's got to be clear, because I can live in somebody's household and pay rent, but I'm living in the household. So we have to get the leaseholder out of it.

CHAIR WALDENBERG: I think if you read it one more time, because I don't think the leaseholder is there.

MR. BROWN: No.

CHAIR WALDENBERG: It's the consanguinity and affinity.

MR. BROWN: Right. That's what triggers those persons. It probably could be better written but that's – I knew what they meant. That means an individual's spouse, domestic partner, parent, child, sibling and like in-laws by consanguinity or affinity, and persons related or unrelated living within the household.

MR. YOUNG: It's the unrelated part.

CHAIR WALDENBERG: Yes.

MR. BROWN: And maybe if the "by consanguinity or affinity" came at the end it might be clearer.

CHAIR WALDENBERG: At the end. I think it may be better. I think that's right. I think when we go through the amended Code of Conduct I think it would be good to have that at the end, because that was the intent of what we talked about. Do you have any other issues, amendments, that you haven't finished going over, Mr. Brown? With us? Amendments to the Code?

MR. BROWN: Madam Chair, members of the board, I'm not sure. I thought we kind of – I remember we had some discussion of some of the changes suggested by Mr. Mittle, and then Ms. Garrity had some suggestions and I was looking through the minutes from the last time and reading some of her – one change that she had, but I thought I went through all of the changes that I had. I was explaining in some respects there were changes in that integrated one that we had before you, the May 13<sup>th</sup> one, that were merely iterations of the amendment.

CHAIR WALDENBERG: Right. They're not new.

MR. BROWN: Yes. The ones at the beginning were the ones that, based upon the April meeting I had put in based upon discussion from you and other members. And it's mostly Section 24 of the ordinance.

CHAIR WALDENBERG: I think when we actually vote we're going to need a clean copy with all the changes in it. Do the members think that's appropriate?

MR. YOUNG: Absolutely.

CHAIR WALDENBERG: Because I think somehow, the various iterations. I would like to raise one issue if there's nothing else on the ordinance, and that is the role of the contract attorney official. The County contract official. In the past – Ethics Official. In the past that person has attended our meetings and advised us. In the ordinance that person's role is limited to cases that come up. So I open it up for discussion amongst the board members about whether it is helpful and desirable to

recommend to the Commissioners to have that person attend the meetings and have input. Mr. Mittle?

MR. MITTLE: [inaudible] It seems to me that before we get to rewriting the ordinance or anything else it seems to me the issue is whether to even ask the Board of County Commissioners whether employees are subject to the ordinance. The ordinance as it's reading now, Section 23, Any elected official, appointed official, employee or volunteer, etc. may submit a complaint. What we are being told is that a complaint of an employee to an employee or a complaint by an employee about an official, is not going to be subject to the County Ethics Board, which may very well be what the intent of the whole thing is. To me, we're way – we're arguing what the Board – which is outside or our purview. If the Board of County Commissioners say we want employees out that might definitely affect how we deal with the Diane Garritys of the world, in the ordinance, or how they should be dealt with. It's also how we deal with immediate family and all these other issues. But one of the basic issues and conflicts here – I mean I personally think employees should be subject to the purview of the Ethics Board. But it's not my decision. It's totally not my decision.

And the way the ordinance reads now, it's confusing. I know that there's been issues with complaints not coming to this board. To me it's in – I understand what HR is saying. I understand what the Attorney's Office is saying. I understand what the unions are saying, that we shouldn't even raise the question. And this board can take a vote. If three people should say we shouldn't even raise the question, let it be. But until that's done I don't want to piecemeal the ordinance without understanding what the scope of the ordinance is.

CHAIR WALDENBERG: I agree, but I would like to read the minutes that we didn't have, because I think that will give us some additional insights. I think, if I'm correct in characterizing staff, they believe the Commissioners made a conscious decision. That decision was made and I accept their view of things at a point in time. That doesn't mean the Commission can't change what their view is, but I would like to read the minutes that we're missing from our packet because that I think would shed a lot of light on this employee issue.

MR. BROWN: Madam Chair, a quick point on what Mr. Mittle said. Two points actually. He mentioned a complaint that didn't go to –

CHAIR WALDENBERG: All complaints have come to us. I've seen to that. I've taken the heat but it has come to us.

MR. BROWN: And moreover, I remember when the situation was several months ago, it seems almost like ancient history, when we saw the complaint, what was missing which was required by the current Code is that it was not signed. And whether or not – the big issue was should it get to the board vis-à-vis it was an unsigned, unsubstantiated complaint. And it was forwarded to the CCEO and then you know the rest, what happened with the [inaudible] and so on. And since April, the language that I quoted addresses that as per you, Madam Chair.

CHAIR WALDENBERG: Yes.

MR. BROWN: All complaints addressed to a member or to the board, will go to the board. We agree with that.

CHAIR WALDENBERG: Right. Regardless of whether it's sworn or unsworn.

MR. BROWN: Right. And that's water under the bridge The second point was that I thought I heard board member Mittle say that staff maintains the position that complaints by an employee by an elected official are not subject to the Code of Ethics and I don't think we've ever maintained that.

CHAIR WALDENBERG: I don't think he said that.

MR. YOUNG: He didn't say that.

CHAIR WALDENBERG: He didn't say that.

MR. BROWN: He didn't say that? Then I misheard. I thought that's what he said.

CHAIR WALDENBERG: That's not what I heard him say. I heard him say that employee complaints against employees –

MR. BROWN: That was one, and the second one I thought I heard him say complaints against an elected official – if I didn't hear that then –

MR. MITTLE: Well, even if I said it –

MR. BROWN: Yes, we never –

MR. MITTLE: I understand the scope of what the responsibility of the Ethics Board is. For example, we've spent a lot of time over the last few years discussing training materials. Clearly, within this ordinance that's outside the scope of our responsibility and we shouldn't be doing it. It's an HR responsibility. You don't report to the Ethics Board. [inaudible] offer any input. If the Board of County Commissioners wants to have an Ethics Board which gives some feedback to HR about ethical issues, it should be in the ordinance. That's what I'm saying. I'm saying whether who's covered by the [inaudible] the jurisdictional requirements of the board and has the authority to impose the penalties in here I think needs to be clearly spelled out. I'm not saying that there's anything wrong with what's happened. I'm just saying we've done a lot of things in the last two years that we don't have any authority to do.

CHAIR WALDENBERG: I'd like to differ with that when you're done.

MR. MITTLE: [inaudible] Because that's not what the authority of the board is given in Section 19 or something which says to investigate complaints that are brought to the board. We have no other authority.

MR. YOUNG: Advisory.

MR. MITTLE: Okay. Advisory.

CHAIR WALDENBERG: It says advisory opinions.

MR. MITTLE: Right. Advisory opinions. And that's it. And I'm not saying that we shouldn't do this. What I'm saying is if we're going to do it. If we're going to undertake this exercise we should be clear about what we're trying to do and to me part of it is what is – and we've been through this before – what is the role of the Ethics Board? Are we a pro-active board who's trying to impose some sort of ethical standard through advisory opinions, if you will, on the County at all levels? Or are we just sitting here as a board waiting for a complaint against elected official, appointed official or volunteer. In which case that's fine too. All I'm saying is I don't think – I would just like a clearer definition. I'm not advocating at this point one or the other. I'm just saying before we attempt to rewrite the Code let's just really try to explain to the board why we wanted rewritten and what we think we can do as a board to help – it would be nice to think we were helping the unions, helping the County, helping HR, but let's forget that. Let's just say we're helping ourselves. I don't know.

MR. BROWN: Madam Chair, I think the shorthand answer is he's made the case for us; that's part of it. The second part is what Ms. Salazar said before and that is this is the gap and those individuals in the County who, for whatever reason, have engaged in some, I guess, trespasses against decorum in the past, and they're untouchable by anybody in the County because they're an elected official. That's what we heard was the impetus of this Code.

MR. MITTLE: And I'm not [inaudible] believe it or not. I'm really not. I'm just saying if that's what it is then let's just make it clear and if there's an ethical code it applies to union persons, and whether through HR or your own contract, fine. [inaudible] If you want education of how employees should react to ethics, let me know. It's like –

CHAIR WALDENBERG: Where I differed with you, David, is that in order for us to have appointed officials be reported on for ethical violations, every employee must understand the Code of Conduct. And that's why I thought we were going through the training materials so that they could report on ethical violations they saw. The clarity about ethical violations is very important. And when we went over those materials that – I thought that was our goal, regardless of whether employee against employee violations came under our purview. Employees can and should report ethical violations to the board of elected, appointed and other officials.

MR. MITTLE: And I don't disagree with you. All I'm saying as a lawyer.

CHAIR WALDENBERG: See, I'm an economist.

MR. MITTLE: As a fabricator.

MR. BROWN: Is that a deceitful lawyer?

CHAIR WALDENBERG: He's a manufacturer.

MR. BROWN: A fabricator I would say is –

MR. YOUNG: He was referring to the economist, not the attorney.

MR. MITTLE: I say I went from fabrications to fabricating. I'm a steel fabricator.

CHAIR WALDENBERG: It's good that you explained that. It might have to go in the minutes.

MR. MITTLE: All I'm saying is that's fine if that's what they want, but that's not what's in the ordinance. All that's in the ordinance is [inaudible] an adjudicatory process panel.

MR. YOUNG: Madam Chair.

CHAIR WALDENBERG: Mr. Young.

MR. YOUNG: May I – the gap, there's a gap here, aside from the physical one there but there is a gap. In a lot of government entities there's an IG hotline for reporting ethical violations. Now, if an employee has an issue with a supervisor or something, obviously that's an HR issue; it's not our business. Now, if the employee doesn't get satisfaction from HR, I see us as the "appeals" process. But there's an IG hotline. We got the anonymous complaint and I have no idea what it's about, but we had the anonymous complaint because people are afraid of retribution. You have it in state government, city government, County government, federal government. They're afraid of retribution and there is retribution. Trust me. There is retribution.

However, if we had a hotline set up and the hotline provides the "complainer" with a number or some kind of an ID number so the person is not known and the IG

hotline appropriate personnel, be it union personnel, whomever, can go back to the source, to whoever the complaint was against and discuss it, and it's anonymous and it's secure and it's confidential. And I think that's where it comes in. So that complaint that we got, that we got but didn't get, perhaps it was really an important thing and we should have had it. But it can be anonymous, but it should go through so it can be tracked. The person can be given a number so you don't say, "Bob Smith did this" or "Bob Smith said this."

MR. BROWN: Madam Chair, along that line, when we've had this discussion, these three different sessions about anonymous versus non-anonymous, the world of I guess ethics boards as I've seen it or we've seen it or discussed this, or generally, you cannot make a complaint unless you own the complaint. You have to sign, and in some cases you have to sign under oath and we talked about the State Ethics Commission Act where you have to have a notarized statement and you can be prosecuted or sued if you make false statements.

So there's that view of historical ethics that is not the world of anonymous complaints. But the other part that board member Young said where he concluded that the complaint that you got or didn't get, the employee – if it was an employee – the person was concerned with retribution. I guess you think it was an employee. Without discussing that, and I've been involved in discussions behind the scene and am aware that there were some investigations, much of that that was in that document was old stuff, years of old stuff. And where retribution – we don't know who did that. If it was an employee, if it was somebody from the media, it was an elected official, and so I'm not sure anybody in this room can conclude that was an employee fearful of retribution who made that complaint. We concluded that it was specious, frivolous and with some design to do something. We don't know that was, yet it was still investigated behind the scenes and by having a hotline, if the board bought into that you would have more of those. People getting on a computer late at night, sending something – we don't know who they are – and the County of Santa Fe would have to launch an investigation.

MR. YOUNG: Madam Chair, Mr. Brown, number one, I did not say that that person was concerned about retribution. What I'm saying is that in general, people are fearful of retribution when they complain. Wherever. I wasn't talking about any specific person. People do not go on line late night to come up with frivolous complaints.

CHAIR WALDENBERG: Some people do.

MR. YOUNG: There are genuine – well, sure. You have some of those. A bunch of crazies out there. But there are genuine workplace issues that need to be addressed and people should not be afraid to address them for fear of retribution. That's all I'm saying. I'm not talking about any one person and I'm not coming to any conclusion. I can give you evidence up and down the line on that.

CHAIR WALDENBERG: Ms. Salazar.

MS. SALAZAR: Madam Chair, members of the board, I understand what you're saying. However, any anonymous complain that comes forward, whether it be delivered to the County Manager's Office, delivered to my office or one of my staff members, even though it's anonymous the County does take measures to investigate those to the extent possible. Sometimes it's difficult because we don't have a lot of information to go on. But we do investigate them to ensure that what is being brought forward isn't really happening. If it is we take appropriate action. So we are taking those

seriously and investigating all those when they come to our attention. So those are being dealt with.

MS. MILLER: Madam Chair.

CHAIR WALDENBERG: County Manager.

MS. MILLER: Madam Chair, members of the board, I'm Katherine Miller, Santa Fe County Manager and I appreciate the discussion that you're having here on many levels. I'd like you to know that I was present when the County Commission put this ordinance into place and even from the history and even some of the history and even some of the reasons for even some of the provisions that are in it. And what the board was established and the intent by the Commission. As you probably are all well aware and will probably be, if you're not aware, reminded very soon as the trial is coming up relative to issues that were happening in Santa Fe County.

There were issues with a paving contractor and some of the employees in our Public Works Department and also, possible speculation that elected officials may have been involved in some of the activity. As this progressed, first of all it was brought forward by an employee. It was brought forward by an employee and all of that was turned over for a criminal investigation and a criminal investigation ensued. Certain people were indicted. Other people who did not rise to the level of employees who did not rise to the level of criminal indictment went through disciplinary process and there were different levels and different things that happened, depending on the level of involvement of different employees.

So there was an entire avenue for employees to be criminally investigated as well as through the personnel process, investigated, and there were several appropriate personnel actions taken and there were some that were even appealed and went all the way through as their due process. So – and also the County Commission recognized at that particular time, we need to tighten up some of our policies and procedures within County management and dealt with redoing a lot of the policies and procedures, including our procurement ordinance and things like that.

But what they did not cover, still did not cover was elected officials themselves. So what their intent was – nor did it cover the elected officials and their interaction with employees. So the intent of this was, yes, they wanted all employees to be covered by a Code of Conduct and ethical standards, but they also wanted elected officials to be covered by a Code of Conduct and ethical standards, and have a process where somebody could put in a complaint. Because there was no avenue for that to happen at that time. And they also wanted the Commission – it to be clear that the Commission was to stay out of – as individuals or a Board – out of management, executive managerial functions, as well as personnel matters. And that's why even if you look at the end of this Section 28, was even added in order to address that.

So they clearly did want this to cover – the ethical standards to cover everyone, but the discussion did ensue and you will see it in the minutes – sorry that those were not provided to you – that where did the employees fall? And it was discussed and presented by HR and confirmed. Virginia Vigil, former Commissioner Vigil, she's an attorney as well and she said, yes, that would be under our HR handbook, union contracts, and those would be disciplinary matters based upon the due process that employees are entitled to. And that all other appointed officials, volunteers and elected officials would be covered and addressed to this board.

Now, there was discussion though about well, would a hotline for bringing these things forward be valuable? And I think there is value to that. As you do know we do have an anonymous comment place on our website. That's been added during that time. We've also really done a lot of training with employees to bring things forward, and as Ms. Salazar said, we do investigate, even if no matter what comes in. Let me tell you, when we get an anonymous complaint, it usually gets distributed to absolutely everybody. So they may be anonymous, but they're not unknown. They usually go to every Commissioner –

CHAIR WALDENBERG: They're public.

MS. MILLER: They're quite public. It is difficult to actually investigate those because quite often there's pieces of truth but there's a lot missing and there's a lot of assumptions made in them. We try to investigate. If an employee is afraid of retaliation we have other methods for that that were probably not in place in 2010. So we have added a lot of those provisions to our HR handbook, to our procedures. Also the State has passed the Whistleblower Act since then as well.

So I agree that employees are afraid of retaliation. I think anybody might be. The question may be for this board would be how could we improve and make individuals feel secure that they could put a complaint forward about an elected official. They really do not mind, people do not mind making complaints about employees. Those happen frequently. But because this board was created to actually address issues relative to an elected official, is there an avenue that if an elected official is doing something that people would know this is the entity to complain to? How to, and that there would not be retaliation for that? Not so much about employee to employee, or ethics or personnel matters of employees.

I don't know if that's helpful but I have thought about that because you're probably wondering why you don't get complaints and I think probably in general there might be a fear of making a complaint against an elected official.

CHAIR WALDENBERG: An elected official. Yes. If you or your staff have ideas about ways – and I have been in front of the Commissioners telling them that I worry the barriers to reporting are too high, for whatever reason. We did, in front of the Commissioners, raise the issue of a hotline and we've decided right now – the board could change it's mind not to recommend it – but if there are things that you know that we could be doing, or changes in the ordinance that would enable people to better report, we would certainly welcome that. We would welcome that, by the way, from the employees. You have the opportunity to have input and it's your folks that may have issues with elected officials.

MR. YEAGER: If I may, I can affirm and attest to what the County Manager is saying because I did investigate that case for two years solid, that she's speaking of. And there are a couple other instances of different things that happened within the County that probably if there was this hotline that could be secure and everything that you have spoke about might have brought a few of these things to light a little bit sooner, but that's just my personal opinion.

MR. YOUNG: Yes. And it does work. It works on the federal level.

MS. MILLER: And Madam Chair, I don't know if I would say if we had something like that and I agree, if there is an elected complaint about an elected official, appointed official, those most definitely should be addressed by this board because I

don't have [inaudible] go over my own bosses, or even committee members. And we have something I read the paper just recently about our Community Development Review Committee.

CHAIR WALDENBERG: Yes. I was thinking about that.

MS. MILLER: Some of our County employees actually went to one of the board members and said – suggested do you realize that you are in violation of the Ethics Ordinance based upon ex parte communication and it turned in to actually then I got a letter saying you need to punish that employee for bringing this to my attention.

CHAIR WALDENBERG: Oh, no. That I didn't hear. We did hear that he did recuse himself.

MS. MILLER: He did, but –

CHAIR WALDENBERG: Reluctantly, it sounded in the newspaper.

MS. MILLER: Yes. And just trying to actually bring that forward. So the other thing that I would say is that all of these different committees, perhaps you could help us know ways to inform them pro-actively of their potential way of violating the Ethics Ordinance because the way – that didn't work well, between the staff and the County Attorney's Office trying to educate that board member on their actions possibly violating the Ethics Ordinance and then possibly in the future getting an ethics violation filed against them. It was contentious. It was difficult for the employee, they were trying to actually help –

CHAIR WALDENBERG: Do the right thing.

MS. MILLER: They were trying to do the right thing.

MR. BACA: Wasn't that what we were trying to do with our training with

HR?

CHAIR WALDENBERG: We trained the Commissioners but I don't think we did anything about committee members.

MS. MILLER: And we have lots.

MR. YOUNG: Many times when people file a complaint or try to or attempt to do the right thing, it can be a career stopper.

CHAIR WALDENBERG: Mr. Mittle, do you have a comment?

MR. MITTLE: As County Manager at the time it was passed, what was your understanding of the role of the board? Not what we can do today, but what were the Commissioners thinking?

MS. MILLER: Madam Chair, board member Mittle, they were – their belief was there was an avenue for people to make complaints against an elected official or an appointed officials, committee members, or a volunteer, and that this board would independently, through having an investigator on contract, you could then have that investigator investigate it and bring you the findings and then you would have your opinion on that matter and determine whether they had violated the Ethics Ordinance, and impose – have the options to one of the findings here. And it was not intended to be over the employees. And also I think their intent, and it is stated in here, is to periodically review the ordinance for things that there's something that they missed. I do believe, members, that they didn't think they hit it perfect but they did think it was a very good ordinance generally, and that was their intention was to have this board actually review complaints against elected officials, appointed officials, and I've even spoken to them. They've said to me to this day, they never intended this board to be reviewing employees.

MR. MITTLE: I'm not really arguing that. If that is what our role is then what we're doing now is outside the scope. What you said they left it open for us to bring back amendments and maybe those amendments have to do with what you just said, better educate the –

CHAIR WALDENBERG: Committee members.

MR. MITTLE: Committee members and what not. Whoever. And that's fine too. I think that's subject to the board, the vote of this board as to what suggestions we want to make to the Commissioners about how we see our role as a board. And whether we address the issues of employees or not, it's just another motion, second, denied, whatever. But I just think that we need to get our direction from the County Commissioners. I don't think that we can just decide that we want to do – I don't think it would so much more difficult to put a note, a section in the ordinance outlining what the job responsibilities are. And that's all. The point I'm trying to make is we can't just do whatever we want willy-nilly and call ourselves the Ethics Board.

CHAIR WALDENBERG: Mindful of the time what I'd like to propose we do is if we can get a clean copy of the changes we've made thus far, within the next two weeks, and then board members individually – because we can't do it collectively – propose what additional changes they would like to see for up and down votes.

MR. YOUNG: And then consolidate them.

CHAIR WALDENBERG: And then consolidate – at the next meeting address those.

MR. MITTLE: Without making a motion, because then we've got to vote on it because that's what Robert's says. And I don't think we need to. I think we can decide right now what the – I can make a motion.

CHAIR WALDENBERG: You can make the motion.

MR. MITTLE: Do we want the Board of County Commissioners – that this board should have some sort of direction to expand the education of the Ethics Ordinance to the various committees?

CHAIR WALDENBERG: Well, that certainly I think we could do. That's not expanding to employees but it's expanding the education –

MR. MITTLE: But before we write this we've got to know what we're doing. We've got to know what we're doing.

CHAIR WALDENBERG: I would second that motion. Is there any discussion on the motion?

MR. YOUNG: Dave, can you clarify that?

MR. MITTLE: What the County Manager was just saying – we don't have that within the scope of our authority, so to do the things that she suggested would be just like the Ethics Board has the responsibility as an adjudicatory panel against complaints against blah blah blah blah blah. That's appointed officials, elected officials.

CHAIR WALDENBERG: Right. That's the blah blah blah.

MR. MITTLE: And that the board also has the authority, the responsibility – or, what's the word? To deal with, as the County Manager was saying, in the education and [inaudible]. And I'm not saying that our efforts [inaudible] with anybody. And just try to somehow – and then when we look at what changes – once we get the feedback from the board then we can look at what changes need to be made to the ordinance and

type them out so we don't have these type of questions. And it's very clear that it does reflect employee, union stuff.

CHAIR WALDENBERG: Right.

MR. MITTLE: And it very clearly gives us the right to talk to you about going to talk to other committees.

MR. YOUNG: As long as we don't intrude into HR's responsibilities.

MR. MITTLE: Right. And that's what I'm trying to –

CHAIR WALDENBERG: That's why he had said committee members. I assume you mean volunteers and elected officials. Blah blah blah.

MR. BROWN: And Mr. Mittle, where I was confused. Do you actually want to give training?

CHAIR WALDENBERG: No, no. We want to – just as we've done for the staff training. We would be acting in an advisory capacity and –

MR. MITTLE: And the Board expects us to make suggestion how the system –

CHAIR WALDENBERG: And I would hope the Board would mandate that kind of training, but I don't think we're quite there yet.

MR. BROWN: Like make recommendations for training materials.

CHAIR WALDENBERG: Make recommendations that training take place and that we would be advisory on any training materials as we have been in the past. But the question is whether we would mandate the training of those people that are covered by the ordinance. Well, we could recommend to the Commission that they do it. We could recommend a change to the ordinance that would say that that happens.

So there's a motion and a second. Any other discussion?

MS. SALAZAR: Madam Chair, members of the board, I was just going to say that I appreciate the feedback that I got on the training materials and I think they were very helpful. The land use case is one good example where the employees understand it, they're coming forward so your input on training materials was very helpful. So I appreciate that.

CHAIR WALDENBERG: Thank you. Mr. George.

MR. GEORGE: Madam Chair, could you restate what we're –

CHAIR WALDENBERG: David, would you restate your amendment? Your motion, that I seconded?

MR. MITTLE: I move to recommend –

CHAIR WALDENBERG: We're getting a clarification of the motion. Go ahead.

MR. MITTLE: – to the Board of County Commissioners that the Ethics Board has the mandate to –

CHAIR WALDENBERG: I think we're going to recommend to the Commissioners mandate the training.

MS. MILLER: Expand your role to have them put on the training. Training materials of the board. Of the ordinance.

MR. YOUNG: And committees.

CHAIR WALDENBERG: Yes. Committee members. So what we're doing is we'll recommend to the Commission that we – that they mandate the training.

MR. MITTLE: That they authorize, that they delegate to us some responsibility. That we can be involved in the [inaudible] legal counsel or whoever.

CHAIR WALDENBERG: And we may get a clarification. Because we're not going to go to the Commissioners yet with this recommendation probably. We're going to have another meeting. So this is the sense of the board at this meeting and we'll actually – we'll clarify it at the next meeting.

MR. MITTLE: So I guess what I was trying to get across is in the time we're in adjournment for the next three months –

CHAIR WALDENBERG: Hopefully not.

MR. MITTLE: We might think of other things. It depends on how proactive this board wants to be.

MR. YOUNG: May I ask a question?

CHAIR WALDENBERG: Mr. Young, yes.

MR. YOUNG: What about the – David, what about the institution or creation of a secure hotline?

MR. MITTLE: I think we can make a recommendation –

CHAIR WALDENBERG: I think we want to do that as a separate issue. You can make that motion but I think we want to have David's motion first.

MR. YOUNG: Okay.

CHAIR WALDENBERG: Is everyone ready to vote on that motion?

[The motion passed by unanimous 5-0 voice vote.]

CHAIR WALDENBERG: What I'd like to do is set the next meeting date to make sure we all can be here and then we can go to the tail end of the agenda.

The next meeting was tentatively scheduled for September 26<sup>th</sup> at 3 pm.

### **VIII. Matters from the Board**

CHAIR WALDENBERG: Are there any Matters from the Board? Mr. Young?

MR. YOUNG: No.

MR. BACA: We could talk about the hotline on the next one.

CHAIR WALDENBERG: Right. The hotline and I think the role of the contract County attorney.

MR. YOUNG: Right. We'll get that on the agenda.

MR. BACA: I remember before we had talked about a form being developed. Did that ever go through?

CHAIR WALDENBERG: That's a good question.

MR. BROWN: Madam Chair, you never decided that. [inaudible] you wanted a form or didn't want it. Some of you did –

CHAIR WALDENBERG: Okay. So that will be on the agenda as well. Thank you.

MR. BACA: And of course you guys can correct me, but we wanted it to be sworn. Or it had to be sworn, I think.

MR. YOUNG: And that would affect the hotline.

CHAIR WALDENBERG: Right. It will be a general discussion about facilitating complaints and mechanisms to do that.

MR. BROWN: Way back in the fall last year I gave you a copy of a form that is used in education.

CHAIR WALDENBERG: Right. Any other Matters from the Board or proposals for the agenda? And Mr. Brown, you will get us a clean copy as it stands now and members should feel free to add to the agenda anything that comes to their mind as they read the copy that we get.

MR. BROWN: Madam Chair, just one bit of caution. Your having said that, under the Open Meetings Act, you may know or you may not know is there is a concept called rolling quorums, and that's reached by people are sending emails to one another, you have three or more people as a quorum by email or by telephone.

CHAIR WALDENBERG: But you can send agenda items to Lisa or who she designates as you read the ordinance of issues. Mr. Mittle may want to put something explicit on the agenda about some of the things he's talked about. Those can go to Lisa.

MR. YOUNG: We can't send them to you?

CHAIR WALDENBERG: It would be – if you send them to me and to Lisa, that's fine.

MR. YOUNG: No, just to you alone.

CHAIR WALDENBERG: Right. That would be okay. As long as I send it to her without sending it to anyone else.

MR. BROWN: If I send it to you then it could be a rolling quorum.

MR. YOUNG: Wait a minute. It's a suggestion for an agenda items. That's open. There's nothing wrong with that.

CHAIR WALDENBERG: I think sending it to Lisa would be best and she'll clear them with me.

MR. YOUNG: And copy you on them?

CHAIR WALDENBERG: It's up to you. I think as long as you don't copy anyone else it's not a violation of the Open Meetings Act. Because it's one to one.

MR. BACA: Do we need an agenda item based off of our review of the minutes from the – when the ordinance was originally adopted? Just because we've had so many discussions on the employees? Do we need an agenda item to finally accept that?

CHAIR WALDENBERG: Yes, I'm sure we will have one once we read the minutes from that meeting that we didn't have.

MR. MITTLE: The key to the Open Meetings Act and setting the agenda is if you anticipate a vote is going to be taken you should definitely put it as an agenda item.

CHAIR WALDENBERG: Right.

MR. MITTLE: If it's a discussion item there's a lot more leeway.

CHAIR WALDENBERG: Right.

MR. BACA: And that's kind of what I'm getting at. Do we think we need a vote just to end it completely or –

CHAIR WALDENBERG: I think that will have some sort of up and down vote. So it needs to be an agenda item.

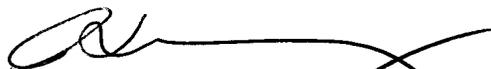
**IX. Matters from the Public**

CHAIR WALDENBERG: Thank you again for being here, public.

**X. Adjournment**

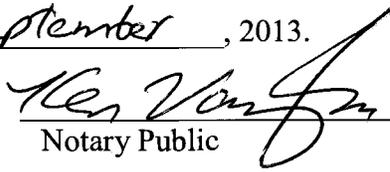
Having completed the agenda and with no further business to come before this Board, Ms. Waldenberg declared adjourned at 5:05 p.m.

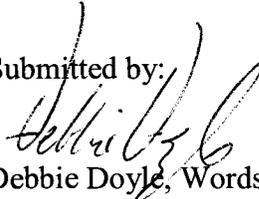
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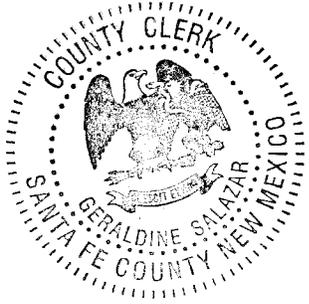
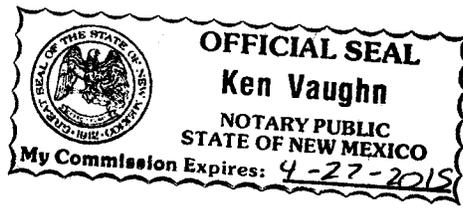
  
Adair Waldenberg, Chair  
Santa Fe County Board of Ethics

ATTEST TO:

COUNTY CLERK

Before me, this 26 day of September, 2013.  
My Commission Expires: 4-27-2015  
  
Notary Public

Submitted by:  
  
Debbie Doyle, Wordswork



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss  
ETHICS BOARD MINUTES  
PAGES: 32

I Hereby Certify That This Instrument Was Filed for Record On The 3RD Day Of October, 2013 at 11:25:13 AM And Was Duly Recorded as Instrument # 1719778 Of The Records Of Santa Fe County

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