

MINUTES OF THE
SANTA FE COUNTY
ETHICS BOARD MEETING

Santa Fe, New Mexico

December 7, 2017

I. This meeting of the Santa Fe County Ethics Board was convened by Chair Carol Thompson, on the above-cited date at approximately 2:00 p.m. in the Santa Fe County Manager's Conference Room, County Administration Building, Santa Fe, New Mexico.

II. Roll call indicated the presence of a quorum as follows:

Members Present:

Carol Thompson, Chair
Peter Dodds
Michael "Rosey" Rosanbalm

Member(s) Absent:

Linda Ramos
[One Vacancy]

County Staff Present:

Lisa Katonak, Manager's Office
Cristella Valdez, Assistant Attorney
Tony Flores, Deputy County Manager [@ 3:45]

III. **Approval of Agenda**

Upon motion by Mr. Dodds and second by Mr. Rosanbalm, the agenda was unanimously [3-0] approved as published.

IV. **Approval: November 13, 2017 Minutes**

Mr. Dodds moved to approve. Mr. Rosanbalm seconded and the motion passed by unanimous [3-0] voice vote.

V. **Review of the Santa Fe County Code of Conduct Ordinance, Including Campaign Financing: Political Activity; Proper Uses of Campaign Funds; Prohibited Uses of Campaign Funds; and Disbursement of Surplus Campaign Fund** [*Draft Ordinance on file with Manager's Office*]

SFC CLERK RECORDED 02/02/2018

Section 4: Definitions:

B. Anything of Value, Benefit or Thing of Value

Cristella Valdez, Assistant Attorney, said that in accordance with the recommendations by the Board at their previous meeting, items i through xxiii were removed. The broader definition remains as to whether tangible or intangible. The Manager's Officer requested that rather than \$100 per day it will read \$100 per occurrence.

In an effort to avoid non-compliance with state law, Ms. Valdez said the Ethics Board can look at fact specific circumstances and decide whether a ticket/registration fee are approvable. For example, it may be of value but the Board determines that there is a reasonable belief that there is no harm in accepting it.

The following points were noted by the Board members:

- Large organizations may invite everybody to a function, e.g., the Opera
- Gifting/comping tickets is not usual
- Events could be pre-approved

ACTION: Mr. Rosanbalm moved to approve 4. C. as presented by staff. Mr. Dodds seconded and the motion passed without opposition.

Section 11: Conflicts of Interest, Disclosure

G: Ms. Valdez highlighted the language within the new section and with the inclusion of the word "County" before Ethics on the first line and the word "of" on the second line following "acceptance."

Ms. Valdez advised that according to County management, the last sentence may be unnecessary. Mr. Rosanbalm and Mr. Dodds said they liked the last sentence and favored retaining it.

ACTION: Mr. Rosanbalm moved to approve Section 11.G. as presented by staff. Mr. Dodds seconded and the motion passed by unanimous voice vote.

The complainant has the burden to prove there has been a violation was established.

Section 25: Reporting and Resolving Alleged Ethics Violations

A: Inclusion of comma as requested at the previous meeting

D. Inclusion of "based on a review of the issues raised in the appeal."

"Ssection" was observed for correction.

★ → ACTION: Mr. Rosanbalm moved to approve and ^{Mr. Dodds} ~~Mr. Rosanbalm~~ seconded. The motion passed unanimously. *change to peter dodds*

That concluded the corrections to date.

The committee congratulated Ms. Valdez on her efforts.

When this draft ordinance is presented to the BCC, the original language with this Board's edit and the proposed rendition will be provided. The iterations may be available. A comparison of the new and original could be presented in a table format.

The adoption of an ordinance process was delineated starting with the BCC's approval to publish title and general summary, followed by a public hearing and, at the BCC's discretion additional public hearings could occur.

Mr. Rosanbalm's Edits

Regarding Mr. Rosanbalm's ordinance edits, Ms. Valdez said some of the changes were of substance and required this Board's review and approval.

Mr. Rosanbalm said he edited the entire ordinance and his edited version was distributed.

Relevant to the current environment, Mr. Rosanbalm asked about adding a specific reference to "sexual misconduct" as an ethical issue. He suggested it could be added under Coercion and provided staff the Wikipedia definition of sexual misconduct: *Sexual misconduct includes sexual harassment, sexual assault, sexual abuse, and any conduct of a sexual nature that is without consent, or has the effect of threatening or intimidating the person against whom such conduct is directed.*

Chair Thompson expressed concern that "sexual misconduct" may be too specific and "box" one in.

Ms. Valdez said the Employees Manual, Handbook and Policies expressly address this issue. Mr. Rosanbalm said he was thinking about elected officials using their power.

Chair Thompson said Section 2, Declaration of Policy, calls for ethical behavior and explicit standards of conduct for candidates, elected officials, etc. Mr. Rosanbalm said "sexual" misconduct is never mentioned.

Ms. Valdez said if there were a situation of sexual misconduct, Section 6.B.; Section 7 A (appearance of impropriety or that is otherwise unbecoming a public official) and B are catchalls that would address it.

Mr. Rosanbalm said he'd like "sexual misconduct" specifically referenced as conduct unbecoming. Mr. Dodds recommending adding "including sexual misconduct" to the 7.A.

The notion of removing "public official" after unbecoming was weighed as was adding "e.g., discrimination, sexual misconduct" at the end of 7A.

If the ordinance were word searched for “sexual” nothing would come up, neither harassment nor misconduct, stated Mr. Rosanbalm.

Sexual harassment is commonly used in human resources context not sexual misconduct.

The current sections are broad enough to cover sexual misconduct.

Mr. Rosanbalm introduced a motion which following amendment is as follows:

ACTION: Grant staff the authority to determine which is most appropriate “Sexual Misconduct” or “Sexual Harassment” and include it in the definition section (to be parallel with the Employee Handbook); add the end of 7B “...with dignity and respect, “including, but not limited to sexual misconduct or unlawful discrimination .” Mr. Dodds seconded. The motion passed [3-0].

Ms. Valdez clarified that “knowingly” is intent/ purposefully engaging in an activity. Mr. Dodds said knowingly adds another dimension to sexual misconduct which may differ within generational norms.

Chair Thompson opined that “violates the rights of others...” which is already contained in 7.B addresses sexual misconduct.

Ms. Valdez said she would review the definition of sexual harassment or misconduct in the Employee Handbook to ensure consistency.

Sexual misconduct/harassment will be AA under the definition section.

Section 2: Declaration of Policy

Midway through the declaration change “for” to “of.”

Mr. Rosanbalm said the language was duplicative and starting on line 8: “establishes minimum standards of ethical behavior for all Elected Officials, Appointed Officials, Employees, Volunteers, and Candidates of county government [eliminate language up to] by setting forth...”

Remove on line 12, “explicitly” and “by” and “candidates for elected office.”

Starting on line 7, and after discussion, Mr. Mr. Rosanbalm introduced the following:

ACTION: “To assist in attaining these goals, this Ordinance establishes a code of conduct and establishes minimum standards of ethical behavior for all Elected Officials, Appointed Officials, Employees, Volunteers, and Candidates for elected office by setting forth explicit standards of conduct and ethical behavior describing acts which are inconsistent with these standards, and requiring Candidates, Elected Officials ...”

Mr. Dodds seconded and the motion passed [3-0].

Ms. Valdez said Section 2 is a policy paragraph and specifically written to be broad.

Ms. Katonak said she appreciated the Board’s sense of ownership with the draft ordinance and cautioned about excessive wordsmithing.

Section 4: Definitions

ACTION: G: For clarification, Mr. Rosanbalm moved to include at the end of G, "Primary, General and Special Election." Mr. Dodds seconded and the motion passed by without opposition.

If special elections are not applicable, staff was authorized to eliminate it.

CC Volunteer: At the end of the definition add ", and who has signed an acknowledgment that they agree to abide by this Ordinance," which was accepted by consensus.

Section 11: Conflicts of Interest, Disclosure

11. A. "Affirmative Duty" appeared twice – corrected by consensus.

11. B. The second sentence was rewritten to read:

They shall not hire, promote or otherwise reward Family members, relatives, friends, or political supporters, or hinder or punish enemies and opponents, when such actions are based on prejudice or favoritism.

ACTION: Mr. Rosanbalm moved the inclusion of the above sentence. Mr. Dodds seconded and the motion passed by unanimous voice vote.

11.E. For consistency, line 5, "...be solicited or received from a person, business, or entity..." This was accepted by consensus.

Mr. Rosanbalm noted many of his recommendations were for consistency in numbering and capping, and those changes were accepted without discussion.

Section 15: Misuse of County Property or Resources for Political Purposes

Recommended change for 15A was not accepted.

Section 17: Misuse of Title or Prestige of Office for Private Gain or Personal Advantage

B. Remove "solicit or" start of line 2 was accepted.

Section 18: Campaign Funding

Mr. Rosanbalm recommended striking "elected officials, appointed officials, employees or volunteers" because campaign funding only applies to candidates.

A discussion regarding "candidate" occurred and, that campaign funding is being made to the candidate not the elected official, appointed official, etc.

Staff was authorized to review this section and determine whether "candidate" is sufficient.

Section 19: Political Activity

E. Mr. Rosanbalm said subsection E was poorly constructed. Ms. Katonak said the section is meant to say one shall not be compensated with gifts or additional funds for doing ones job. Mr. Rosanbalm suggested removing the “or” and inserting commas to improve the sentence construction.

Ms. Valdez offered to reword the section.

Section 20: Disclosure

B and D appear to conflict with B stating 10 days for reporting and D allowing for reporting if circumstances change. Ms. Valdez explained that on an annual basis everyone files and conflict of interest financial disclosure and only when there is a change to the required disclosures is an additional report needed.

C.3: Mr. Rosanbalm offered changes that clarified the intent. Those changes were accepted.

Section 21: Proper Uses of Campaign Funds

The change from “any” candidate to “the” candidate was accepted by consensus.

Section 22: Prohibited Uses of Campaign Funds

C: The term “member” has not been defined. Ms. Valdez said she would review that term.

E: The notion that a candidate shall not be held accountable for his/her campaign committee, etc. actions seemed inappropriate to Mr. Rosanbalm. According to Mr. Rosanbalm, the candidate should be responsible for his/her group. The candidate has the ultimate responsibility and this section provides an “easy out” for the candidate.

Ms. Valdez said E may have been lifted from State campaign law and she would research it further.

Sections 22 – 24: Typos, inconsistencies and inclusions of commas were noted and generally accepted.

Section 25: Reporting and Resolving Alleged Ethics Violations

G. Reword first sentence: “The Respondent to a complaint recommended for ...”

I. 11 A copy of the Ethics Board’s written decision should also be sent to the “Complainant.” That change was accepted.

Section 26: County Ethics Board

D. For consistency, Mr. Rosanbalm changed "if true" to "if proven." That change was accepted by the Board.

Section 29: Restrictions on the Board of County Commissioners; Administration of the Personnel System, Management

The changes recommended by Mr. Rosanbalm on 29 B were left to Counsel's discretion.

VI. Matters from the Board

Another meeting would be scheduled in January, 2018.

VII. Matters from the Public

None were present.

VIII. Adjournment

Having completed the agenda and with no further business to conduct the meeting was declared adjourned at 4:05 p.m.

Approved by:

Carol Thompson
Carol Thompson, Chair

Respectfully submitted by:

Karen Farrell, Wordswork



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

ETHICS BOARD MINUTES
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I Hereby Certify That This Instrument Was Filed for
Record On The 2ND Day Of February, 2018 at 04:35:48 PM
And Was Duly Recorded as Instrument # 1849231
Of The Records Of Santa Fe County

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

SFC CLERK RECORDED 02/02/2018

DRAFT

subject to approval