

MINUTES OF THE
SANTA FE COUNTY
ETHICS BOARD MEETING

March 24, 2022

I. Call to Order

This meeting of the Santa Fe County Ethics Board was convened by Chair Carol Thompson, on the above-cited dated at approximately 3:00 p.m. via Webex.

In accordance with the Public Health Emergency Order issued by the State of New Mexico, and pursuant to the New Mexico Attorney General's Open Government Division Advisory during COVID-19, this meeting was conducted on a video/audio platform.

II. Roll Call

Roll call indicated the presence of a quorum as follows:

Member Present:

Carol Thompson, Chair
Michael "Rosey" Rosanbalm, Vice Chair
Greg Coplans

Members Absent:

Jonelle Maison

Others Present:

Greg Shaffer, County Attorney
Olivia Romo, Manager's Office
Sara Smith, Liaison, Interim Operations Manager

Chair Thompson announced that Judith Kaye has resigned from the board.

III. Approval of Agenda

Upon motion by Mr. Coplans, and second by Mr. Rosanbalm the agenda was unanimously approved as published.

IV. Approval of October 13, 2021 Meeting Minutes

Mr. Coplans noted that the reference to 8. E on page 6 should be to 8. D. With that correction Mr. Rosanbalm moved approval and Mr. Coplans seconded. The motion carried unanimously.

SFC CLERK RECORDED 08/08/2022

V. Review and Recommendation Concerning Potential Amendments to the Draft Santa Fe County Code of Conduct that May Be Proposed by Commissioners Hansen and/or Hughes

Chair Thompson referred to Ms. Romo's emails and recommended that the summary be the focus of discussion. Ms. Romo noted that a later email was sent with the redlines and amendments suggested by the County Attorney's Office.

4. D.

Mr. Shaffer shared his screen with the latest rendition of the changes. He stated Commissioners Hughes and Hansen have provided rationales for their recommendations. The first issue relates to "anything of value," 4. D in the Definitions section, to include the phrase "without commensurate consideration" to indicate someone isn't getting something for nothing. Additionally, changes were proposed to allow attendance at certain events, language consistent with the original definition citing food and refreshments with a value of less than \$50.

In Section 8. D, Mr. Shaffer pointed out there is an attempt to more closely track state law. Section 14 revisions are meant to clarify reporting of improper offers in order to lessen ambiguity. Other proposed revisions include the names of forms, and that they be ultimately maintained by the County Clerk.

Returning to Section 4. D, Mr. Rosanbalm disagreed that the new language was more restrictive, saying items such as opera tickets would not be considered as being something of value. Many non-profits have interests directly affected by the County.

Noting he was not present to debate the issues involved, Mr. Shaffer said the new exclusions specifically cite the pendency of matters before the County.

Mr. Coplans indicated that he proposed an alternate version that was forwarded to the Ethics Board but now seems to be off the table. He was unclear about the reference to Section 8. D. Mr. Shaffer said the intent was to be consistent with state law regarding bribery of public officials. Offers of tickets or meals solicited in a way that would constitute bribery would be prohibited whether or not the event was public. Mr. Coplans opined that the final sentence was unnecessary and confusing.

Mr. Rosanbalm pointed out that the BCC did not ask this committee to review the proposed changes; they are meeting to look at those changes and put forward a counterproposal. Chair Thompson said they could offer a justified rebuttal or rationale for their choices. She added the ordinance was tabled with the idea of the Commissioners putting forward alternate language.

Mr. Coplans indicated that the Ethics Board was charged with creating an easy to understand code of conduct. Mr. Rosanbalm said the current proposal has too many loopholes and would allow opportunities for rationalizations, such as in 12. E, which treats "anything of value."

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Chair Thompson stated she has been involved in multiple non-profits and comping tickets is a traditional in Santa Fe. Most of the non-profits in question do not have business before the County. Mr. Coplans pointed out that he has worked with ethics considerations throughout the world and the “non-profit thing is a slippery slope.” If the intent is to change the culture the loopholes should be closed. Mr. Rosanbalm said they are striving for clarity and no room for quibbling occasioned by more extensive language.

Mr. Shaffer highlighted the exclusion of transactions involving commensurate consideration or compensation. In the previous language there would be opportunities for a contractor, for example, to provide \$50 lunches every week of the year. Mr. Rosanbalm agreed with that aspect, but believed sections i through iv provided too many exceptions and suggested adding a monetary cap.

Mr. Coplans noted that the State Code of Conduct no longer has the “quid pro quo” language.

Mr. Rosanbalm suggested \$100 as a dollar limit; the state limits are \$250 and \$100 for different categories.

Chair Thompson said fundraising events have other ways that people would contribute money to pay for charitable activities. Mr. Rosanbalm noted that the opera spends around \$30,000 a year on comp tickets, money that could be spent elsewhere. Mr. Coplans noted the quid pro quo is unstated, and although the freebies count as goodwill and are traditional, the Ethics Board is working to drive change in the County and improve the level of ethical conduct, rather than reinforce the status quo.

Mr. Rosanbalm moved to approve the new language on 4. D that includes the monetary limit of \$100. And Mr. Coplans seconded, although he felt \$100 was too high, given the limits imposed by other entities. The motion carried 2-1 with Chair Thompson casting the nay vote.

The final agreed upon language is as follows:

D. “Anything of value” includes any money, property, service, loan, or promise donated or transferred to the recipient or recipient’s family for the personal use of the recipient or recipient’s family without commensurate consideration. Anything of value does not include admission to public events, including entertainment, meals, or beverages provided at such events, valued at less than \$100, unless the person organizing or paying for admission to the event (i) is a party; (ii) is regulated by the county; (iii) contracts with the county to provide financial services involving the investment of public money or issuance of bonds for public projects; or (iv) is prohibited from giving campaign contributions or other thing of value pursuant to NMSA 1978, § 13-1-191.1(E). Conduct in violation of Section 8(D) is not exempted regardless if it is a public event or not.

Mr. Shaffer stated the first step at the BCC will be to authorize title and general summary of the ordinance, and the Commissioners may accept or decline the recommendations from this committee, and other changes could happen at the public hearing.

Mr. Coplans said the process lacks transparency and that today's meeting would not have occurred had this committee not requested it. Chair Thompson reminded the committee that they were strictly a recommending body. Mr. Rosanbalm said the issues in question will go to public hearing and be decided there.

8. D.

Turning to the changes proposed in Section 8. D, Mr. Rosanbalm said the new wording appears to say the same thing in more words. Mr. Shaffer indicated "quid pro quo" is not used by the state, and the changes make clear that both soliciting and accepting a bribe are both prohibited.

Mr. Coplans suggested taking out "in their official capacity" which would open the way toward offering loopholes. Mr. Shaffer proffered the example of a private transaction that would not fall under the prohibition.

Mr. Coplans moved to accept the following language: "Political endorsements, support in a political campaign or promise of an endorsement, or political activities, political support, or anything of value offered with intent to influence an elected official, appointed official, employee, or volunteer's decision or action on any question, matter, cause or proceeding, including a pending appointment are prohibited from being made, accepted or solicited." This removes "have an elected" and "influenced thereby and which is pending or might be brought before them in their official capacity."

Mr. Rosanbalm suggested inserting "County" before "question, matter, cause or proceeding." Mr. Coplans agreed to that.

Mr. Shaffer stated it was important to have language that included a matter that was pending, in order to make it more expansive. Mr. Coplans agreed to that and Mr. Rosanbalm seconded the motion. The agreed upon language was:

"Political endorsements, support in a political campaign or promise of an endorsement, or political activities, political support, or anything of value offered with intent to influence an elected official, appointed official, employee, or volunteer's decision or action on any County question, matter, cause or proceeding, including a pending appointment are prohibited from being made, accepted or solicited."

Mr. Rosanbalm seconded and the motion carried by unanimous 3-0 roll call vote.

Section 14

Mr. Coplans asked for clarification. He was of the understanding that violations of provisions in the Human Resources Handbook should be reported to HR and others would go to the County Attorney to determine to where it should be referred.

Mr. Rosanbalm said the County Attorney should be the single point of contact to determine where complaints would go. Mr. Coplans said he believe state law violations would go to the Attorney General. Mr. Shaffer said violations of state law are almost without exception prosecuted by a district attorney. Police departments investigate and then hand the matter over to the DA's office.

Mr. Rosanbalm pointed out a normal citizen would not know to whom to report a violation, therefore having the County Attorney act as point man would be more efficient. Mr. Shaffer said he didn't want to act as middleman; the citizen should deal directly with law enforcement. He added the previous rendition was vague, and this makes reference to Section 20 in an effort to provide clarity.

Saying this change was only added at the eleventh hour, Mr. Coplans noted Section 20, which requires swearing to a complaint, serves as a disincentive. Chair Thompson said this was debated many times over the years.

Chair Thompson moved to accept the new language provided by the County Attorney's Office. Mr. Rosanbalm seconded.

Mr. Rosanbalm said the new language at least provided a clue as to where someone should go. Mr. Coplans said he only objected to the inclusion of Section 20.

The motion carried by 2-1 roll call vote with Mr. Coplans voting against.

Section 18

Chair Thompson moved to accept the inclusion of the names of the forms, and Mr. Coplans seconded. The motion carried by 3-0 roll call vote.

VI. Matters from the Board

A. Request for Clarification Regarding the Role of the County Attorney and County Manager's Office in the Ordinance Revision Process

Mr. Coplans voiced his frustration that the Ethics Board is being left out of the loop, and they have the final say in the recommendation to the Commission. He added that material he submitted relative to today's discussion was not circulated. Ms. Romo apologized for the miscommunication in sending out a later version of the changes with the instruction to disregard previous submittals, which should have included only the previous draft.

Mr. Shaffer stated it was the BCC's decision to table and the Ethics Board was within its capacity to call for a special meeting

Mr. Rosanbalm said he was remiss in not speaking up earlier at the previous BCC meeting, where the Ethics Board was sidelined in favor of participation by the County Attorney's Office. It should have been an effort among all parties.

Mr. Shaffer indicated that Commissioner Hansen had initially proposed changes at the meeting and those have evolved. He recognized the frustrations of the committee.

A discussion ensued regarding the procedures to be followed during the pending BCC meeting where Mr. Rosanbalm will be available to represent the committee's positions.

VII. Other Business

None was offered.

VIII. Matters from the Public

None were offered.

IX. Adjourn

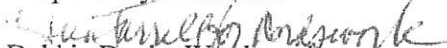
With no further business and having completed the agenda, Mr. Coplans moved to adjourn and Mr. Rosanbalm seconded. The motion carried and the meeting was adjourned at 5:25 p.m.

Approved by:




Carol Thompson
Ethics Board President

Respectfully submitted:


Debbie Doyle, Wordswork

COUNTY OF SANTA FE) ETHICS BOARD MINUTES
STATE OF NEW MEXICO) ss PAGES: 6

I Hereby Certify That This Instrument Was Filed for
Record On The 8TH Day Of August, 2022 at 08:35:41 AM
And Was Duly Recorded as Instrument # 1994545
Of The Records Of Santa Fe County

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



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