

MINUTES OF THE
SANTA FE COUNTY
ETHICS BOARD MEETING

Santa Fe, New Mexico

November 14, 2012

This meeting of the Santa Fe County Ethics Board was convened by Adair Waldenberg on the above-cited date at approximately 3:00 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
Estevan Baca
David Mittle
Leon Young
William Peyton George

Member(s) Excused:

None

Others Present:

Diane Garrity, Ethics Board Contract Counsel
Willie Brown, Assistant County Attorney
Lisa Roybal, County Manager staff
Penny Ellis-Green, Deputy County Manager
Bernadette Salazar, County HR Director

Lisa Roybal introduced Willie Brown from the County Attorney's Office.

III. Approval of Agenda

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

IV. Approval of April 12, 2012 minutes

Mr. Mittle moved to approve the minutes and Mr. Young seconded. The motion carried by unanimous 4-0 voice vote with Mr. George abstaining.

V. Introduction of New Ethics Board Member, Mr. William Peyton George

Those present introduced themselves and spoke of their experience in the field of ethics. Mr. George stated his background included police, FBI, and JAG.

VI. Acknowledgement of Randy Forrester's Contributions to the Santa Fe County Ethics Board

Chair Waldenberg spoke of Randy Forrester's recent death, his prowess at dancing and scrabble and most especially his dedication to ethics and community. She said it was a tremendous loss.

VII. Election of Chair and Vice Chair

Mr. Mittle nominated Mr. Baca, who declined and nominated Chair Waldenberg. Mr. Young seconded the nomination and by acclamation, Chair Waldenberg was elected chair.

Chair Waldenberg nominated Mr. Baca to serve as vice chair and Mr. Mittle seconded. Mr. Baca was unanimously elected vice chair.

VIII. Review of Santa Fe County Financial Disclosure Form and Policies Relative to Disclosures and Conflict of Interest [Exhibit 1]

HR Director Bernadette Salazar indicated this distributed form was revised since last year. It is completed annually by all employees and volunteers by January 11th. Due to discussion at a BCC meeting, changes have been proposed to ensure there are no conflicts of interest with contractors and vendors. It has been recommended that Ms. Salazar review all the forms and if there is a potential problem the committee can also review for conflicts. The form can be amended as necessary. Currently vendors and contractors are not required to submit conflict of interest forms.

Turning to possible changes to the form, Mr. Brown suggested there be a statement wherein the signator attests to the truth of his statements.

Chair Waldenberg recommended that vendors disclose if they are related to a County employee. Speaking as a vendor, Mr. Mittle said difficulties arise in the case there are subcontractors. He felt the process was not worthwhile.

Mr. Young said the burden falls on the County.

Ms. Salazar spoke of a lack of communication between Finance, Purchasing and HR, so there is a lack of information. After disclosure of a relationship it would be up to the County to make a determination.

Mr. Young gave an example of ambiguity in indirect relationships involving vendors and employees. As always, perception plays a role.

Mr. Mittle got confirmation that most business is done with seal bids involving the lowest bidder.

Mr. Brown said insider information is a crime under the Government Code of Conduct. At the state level if you sign a professional services agreement ethical provisions apply certifying the contractor didn't contribute to elected officials, etc. Currently that is not part of the County process. Ms. Salazar said that is in place for contracts over \$20,000. Members of a committee making decisions on a contract are required by make disclosures with regard to relationships. Cases do arise where the relation is in a completely unrelated department but perceptions still arise.

On the Gifts section Mr. Young said it would be preferable to say "relative" rather than have the lengthy list. It should also read "each person from ~~which~~ whom you received..."

Chair Waldenberg asked what sort of questions bidders would be required to answer. Ms. Salazar suggested tweaking the current employee disclosure form. Mr. Mittle stated #3 could be changed to ask to whom you gave something rather than received. The issue is transparency rather than elimination.

Ms. Salazar noted the ordinance might have to be changed in order to require information from vendors. Mr. Baca said in some cases such as suppliers of goods disclosure could be inconsequential.

Ms. Garrity indicated the gift threshold amount of \$250 within a taxable year is vague.

Ms. Salazar referred to an article in the newspaper speaking of a contract granted to a family member of a County employee where the employee was in a completely different sphere. The problem was one of perception of impropriety.

Ms. Salazar read from a state affidavit stating whether or not the person is a former employee, whether an agreement has been entered into and for what amount, and certifying there have been no violations of the Governmental Conduct Act and that the contract was awarded according to all relevant provisions of the Conduct Code. Mr. Brown said at the state, if you are a former employee the AG will review the specifics.

Commenting on the perception of impropriety, Mr. Brown said that concept is fading in the world of ethics. It no longer appears in codes. Ms. Garrity said in the Governmental Conduct Act there is mention of "full disclosure of real or potential conflicts of interest

shall be the guiding principle for determining appropriate conduct. Reasonable effort shall be made to avoid undue influence and use of office in public service.”

Mr. Young brought up the circumstance of supervising someone with a conflict.

Chair Waldenberg noted there seemed to be a reluctance on the part of the committee to go forward with vendor statements. Mr. Mittle said in general vendors are given language notifying them what rules apply, i.e., this contract is governed by a code of conduct.

Chair Waldenberg moved to direct staff to craft language for committee review. Mr. Mittle seconded and the motion carried unanimously [5-0].

Returning to possible changes to the form, Ms. Roybal pointed out that the BCC had concerns about there being answers left blank, so instructions should make that clear. She stated the Financial Disclosure is completed by all 800 County employees, as well as volunteers and this goes into the personnel file for that person.

Mr. Brown recommended that the form make mention to the Code of Ethics. Ms. Roybal indicated that employees also go through mandatory ethics training where they are required to sign off acknowledging receipt of the Code of Conduct and that they have attended the training.

Chair Waldenberg suggested that the Code of Conduct be specifically mentioned either in the body of the form or in the footer, and there be some statement to the effect: I certify that the following is true and accurate.”

Chair Waldenberg asked if the department head reviews the completed forms before passing them along. Ms. Roybal indicated that was her understanding. Ms. Ellis-Green added that Ms. Salazar reviews them and if there are any questions she goes back to the employee. Employees are advised that if anything changes during the course of the year that they are to fill out a new form.

Chair Waldenberg asked to see a flow chart to see the process.

IX. Update Report on Santa Fe County Ethics Training [Exhibit 2]

Ms. Ellis-Green distributed a copy of the training power point. Thus far Ms. Salazar has trained over 250 employees. She reiterated that it is mandatory and provided yearly. Examples and scenarios are given and the training is interactive. Employees are provided with copies of the ordinance. She noted that participants often remark that they did not previously know some of the items taught.

Referring to the second box on page 4 that treats outside employment, Mr. Young said the easiest way to handle that situation is to say all secondary employment must be approved. The problem is not conflict in schedules but conflict of interest. Mr. Brown

questioned where the authority for requiring approval was. However, disclosure is specifically required, but otherwise the unions could become involved. Mr. Young said the major problem is non-performance. Mr. Baca said if it is not in the ordinance a requirement for approval by a supervisor should not be in the training.

There was committee consensus that disclosure should be made to the supervisor per state law and then handled as a performance issue.

A discussion ensued regarding the \$25 limit on meals and how often that would apply. The matter of perception arose again. Mr. Young was asked to draft language specifying a cumulative amount for gifts. He said the key is not to overreact.

Chair Waldenberg said with education many problems can be avoided. She thanked Ms. Salazar for her efforts. Ms. Ellis-Green pointed out that she did sample trainings and got feedback.

X. Matters from the Board

Mr. Baca asked about the process for reappointments and Ms. Ellis-Green said if committee members whose terms are expiring should send a letter to Lisa expressing their interest. Appointments are ultimately made by the BCC.

Chair Waldenberg asked when the next quarterly report to the Commission would take place. Ms. Roybal said the next meeting is December 11th. Mr. Brown warned against discussing changes to a report via email as that would constitute a rolling quorum. Ms. Ellis-Green indicated that in the absence of any cases an informal overview with a few topics in a memo should suffice.

The next meeting was tentatively scheduled for Thursday, December 13th, at which point changes to the financial disclosure form could be discussed.

XI. Matters from the Public

None were raised.

SFC CLERK RECORDED 02/12/2013

XII. Adjournment

Having completed the agenda and with no further business to come before this Board, Ms. Waldenberg declared this meeting adjourned at 4:35 p.m.

Approved by:

[Signature]
Adair Waldenberg, Chair
Santa Fe County Board of Ethics

ATTEST TO:

COUNTY CLERK

Before me, this 11 day of February, 2013.
My Commission Expires: [Signature]
Notary Public

Submitted by:
[Signature]
Debbie Doyle, Wordwork



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

I Herieby Certify That This Instrument Was Filed for Record On The 12TH Day Of February, 2013 at 09:21:41 AM And Was Duly Recorded as Instrument # 1696295 Of The Records Of Santa Fe County

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

