

MINUTES OF THE
SANTA FE COUNTY
ETHICS BOARD

September 18, 2024

Santa Fe, New Mexico

1. This meeting of the Santa Fe County Ethics Board was called to order by Chair Jonelle Maison at approximately 4:30 p.m. on the above-cited date at the County Administration Complex, Grant Conference Room, 100 Catron Street, Santa Fe.
2. Roll was called and the following members were present and affirmed the meeting was properly called:

Members Present:

Jonelle Maison, Chair
Clifford Rees, Vice Chair
Frances Carlson [Via Webex]
Tom Quaid

Member(s) Absent:

Jesse Guillen

County Staff Present:

Gabe Bustos, Staff Liaison
Peter Valencia, Assistant County Attorney
Sara Smith, Operations Manager

Others Present:

Chris Mechels

3. **Approval of Agenda**

Mr. Rees moved to approve the agenda as published and Mr. Quaid seconded. The motion carried without opposition.

4. **Approval of the Minutes: August 28, 2024**

Chair Maison noted she had provided the recorder with various non-substantive corrections. Mr. Rees moved approval with those changes. Mr. Quaid seconded and the motion carried unanimously.

5. **Open Meetings Act and Rules of Order Trailing** [*Exhibit 1: Power Point Presentation on Open Meetings Act Training; Exhibit 2: County Ordinance 2022-03 (Code of Conduct); Exhibit 3: County Resolution 2023-087*]

Assistant County Attorney Peter Valencia distributed the materials noted above. He noted the Open Meetings Act (OMA) here has been subsequently amended but the areas he intends to discuss are unchanged. He read the general policy, giving the definition of a public meeting and reasonable notice. He listed the noticing requirements of the three types of meetings – regular, special and emergency – the latter to be avoided whenever possible.

Mr. Bustos pointed out that this board generally meets on a scheduled basis. Mr. Valencia said there is no requirement to have regular meetings.

Mr. Valencia indicated that agenda items should not be too general or vague. Agendas should be available from the staff liaison or at the County Manager's Office. He defined "rolling quorum", adding it is a violation of the OMA. Any violations of the OMA can result in a \$500 fine, any action taken being invalidated, and there are possible criminal penalties.

Mr. Mechels pointed out that unless something is challenged it is presumed to be legal.

The OMA is enforced by the Attorney General, the First Judicial Attorneys Office and private individuals.

Mr. Valencia spoke of how meetings are conducted, noting discussion is at the discretion of the chair and remarks are not sworn. Administrative adjudicatory hearings have certain procedures, including cross examination. The chair may restrict time for testimony. Public hearings are required for alleged violations of the Code of Conduct via sworn complaint.

Mr. Valencia reviewed the powers of the chair. Questions can be directed to presenters ahead of time. The rules of order were discussed, including friendly amendments, secondary motions, tie votes. In adjudicatory hearings the applicant has the burden of proof.

Mr. Rees asked about a motion to reconsider. Mr. Valencia stated that depends on the motion. The chair ultimately interprets matters of order although consultation with the attorney is allowed.

Mr. Rees asked about the distinction between a resolution and an ordinance. Ms. Smith said that ordinances carry more legal weight and must go through a more elaborate process, including lengthy noticing. They are open to public comment. Mr. Valencia said an ordinance has an enforcement mechanism. Mr. Rees indicated provided legislative analogies. An ordinance is comparable to a statute and a resolution is like a memorial, indicating the legislative body's desires and thinking. Chair Maison said resolutions appear to be about internal procedures of the County, commonly deal with matters of a special or temporary character. It is less solemn or formal than an ordinance.

Mr. Valencia volunteered to do further research on the matter and if a sworn complaint does

arise a special meeting can be held to review procedures.

6. Approval of Santa Fe County Ethics Complaint Form with Amendments

The final formatted version is not yet complete and the question remained whether to include the final page providing guidance on “Is this an ethics complaint?”

Chair Maison moved to leave off the final page. Mr. Rees seconded. The motion carried by unanimous voice vote.

Mr. Rees moved to approve the complaint form with the formatting changes agreed on previously Mr. Quaid seconded and the motion carried without opposition.

Chair Maison said the form will be cleaned up and forwarded to the County Manager.

7. Upcoming Fall BCC Presentation *[Exhibit 4: Potential Discussion Topics]*

Mr. Rees asked if there was any further direction from the Commissioners. Mr. Bustos indicated Chair Hughes believed a presentation could be informal. A discussion ensued as to the timing of the presentation by the Ethics Board.

Mr. Rees moved to ask staff and the Board of County Commissioners whether the second Tuesday of January 2025 would be an acceptable date to make the presentation, or if a previous time was preferable. Chair Maison seconded. The motion carried by unanimous voice vote.

Mr. Rees went over suggested topics – accomplishments and future options. Chair Maison voiced her reluctance to offer the option of disbanding the Ethics Board but role expansion could be considered. Mr. Rees suggested including non-union employees as falling under the jurisdiction of the Ethics Board, as well as including campaign finance violation allegations.

Mr. Rees pointed out that the future options are not ranked and consist of brainstorming various ideas. Mr. Quaid remembered the original rationale behind the formation of this board was that there was no body in place to deal with certain ethics violations. He said the state Ethics Commission is doing a great job.

Mr. Rees said a key question is how do they get to hear more cases – either by expanding who is subject to this board or to expand the jurisdiction.

Chair Maison stated she would prefer to focus on requirements and answer BCC questions. She solicited further suggestions from the members to include in the narrative.

Mr. Quaid noted that Chair Hughes has expressed his support for this body.

Chair Maison reminded the board of the suggestion to meet with other Ethics Boards across the state.

8. Matters from the Public

Mr. Mechels stated he was the first member of the public to speak before the board and found them to be hostile and the current board is even more hostile. He objected to the public being prohibited from speaking except through public comment, which is at the discretion of the chair. No input was allowed on the complaint form. The whole process is impossible to use.

Mr. Mechels stated it is crucial to look at the pre-history of this board. He maintained that the board was created in 2010 to serve the purposes of the County Manager and the County Attorney. The County Attorney now works for the County Manager and their opinions are passed to the Commissioners. He recommended having the Commissioners have their own independent attorney.

Mr. Mechels said this board will never function in its current form because it is designed to serve the County Manager. The board should be sunsetted because it was not recreated to serve the public and has been corrupt since day one. He stated the members of this board should have been appointed by the Commissioners as is done in Bernalillo County, and not by the County Manager. He said the Ethics Board's only purpose for existence is to maintain the County Manager's power and not serving the public. Mr. Mechels declared himself disappointed in the chair and the board.

9. Date of Next Board Meeting: November 6, 2024, 4:30

Upon motion by Mr. Quaid and second by Mr. Rees the next meeting was scheduled.

10. Adjournment

Upon motion by Mr. Rees and second by Mr. Quaid, and with no further matters to come before this body, the meeting was declared adjourned at approximately 5:46 p.m.

Approved by:



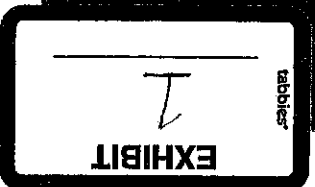
Jonelle Maison, Chair
Ethics Board

Respectfully submitted by:

Debbie Doyle, Wordswork

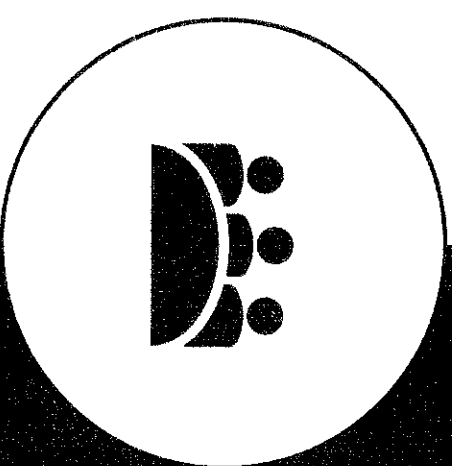
Open Meetings Act Training

- Presented by
- Peter Valencia, Assistant County Attorney



Training Objectives

- What types of meetings are subject to OMA?
- What are the noticing requirements?
- What are the agenda requirements?
- What rules need to be followed during meetings?
- What are rolling quorums and how to avoid them?



Open Meetings Act

Reasonable Notice of Meetings

- A Public Body is required to determine “at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body.” NMSA 1978, §10-15-1(D).
- Resolution No. 2003-087 is Santa Fe County’s most recent Open Meetings Act Resolution for Calendar Year 2024. Among other things, Resolution:
 - Appointed County Committee, including the Santa Fe County Ethics Board, “may adopt a schedule of its regular meetings for the present calendar year or the balance thereof.”
 - Notice posted of regular meetings at least given ten (10) days prior to the meeting.
 - Requires all meeting notices to be posted both on the interactive screen in the lobby, in a conspicuous and appropriate place at County Administration Complex at 100 Catron Street. Further the meeting notice must be posted on the County’s website.
 - Notice shall also be provided to broadcast stations and newspapers of general circulation that have made written request for such notice.
 - Gives notice of how public can participate in meetings via Webex.

Emergency Meetings.

- Resolution No. 2003-087
 - The Board of County Commissioners of Santa Fe County “and Appointed County Committees will avoid emergency meetings whenever possible.”
 - “An emergency meeting of the BCC may be called by the Chair or by a majority of the members of the BCC or Appointed County Committees to consider unforeseen circumstances that, if not addressed immediately, will likely result in injury or damage to persons or property or substantial financial loss to the County. An emergency meeting may be conducted at a time and place as the Chair or a majority of the members of the BCC or Appointed County Committees may deem appropriate under the circumstances”
 - If possible, notice posted at least 24 hours before emergency meeting.
 - Otherwise, notice posted as soon as possible.

Open Meetings Act Agendas

- Availability. Except for emergencies, 72 hours before the meeting:
 - The agenda must be available from the County Appointed Committee's staff liaison or the Office of the County Manager.
 - Pursuant to Santa Fe County Resolution No. 2003-087, the agenda must also be posted on the interactive screen in the lobby at the County Administration Complex at 100 Catron Street and the on the Appointed County Committee's webpage on the County website at <https://www.santafecountymn.gov/events/month>.

Open Meetings Act

Remedies for Violations

- Actions taken in violation of Open Meetings Act are invalid. NMMSA 1978, § 10-15-3(A).
- Criminal Penalties. NMMSA 1978, § 10-15-4.
 - Violations are a misdemeanor.
 - \$500 fine for each offense.

Rules of Order

Resolution No. 2009-2

Processing Items on the Agenda

- **Administrative Items (§ V(A)).**
 - Staff presentation. Staff shall respond to questions from the Board members. Only the Board members shall be permitted to question staff.
 - Public input, at the discretion of the Chair, may be allowed to make statements in favor and in opposition to the item at hand. Public input on administrative items shall not be sworn.
 - Discussion, at the discretion of the Chair, members of the Board may be permitted to make statements or engage in discussion concerning the item prior to action.

Rules of Order

Processing Items on the Agenda, cont.

- Public Hearings are required for alleged violations of the Santa Fe County Code of Conduct brought by a sworn complaint.
- The rules of procedure shall be consistent with the rules for conducting administrative hearings in Santa Fe County.

Some Meeting Suggestions

- Provide Questions to Staff as Far In Advance as Possible.
 - Allows staff to conduct any necessary research.
 - Helps ensure that appropriate staff are present at meeting.
 - Makes meetings more efficient and effective.
- Allow Staff to Finalize Item Revised by the Ethics Board at Meeting Before Taking Final Action.
 - Ensures that staff accurately captured all amendments.
 - Allows everyone to see final language.
 - Allows opportunity for related issues to be identified.

Rules of Order

Parliamentary Basics, cont.

- Tie votes.
 - If one or more members are absent for a reason other than voluntary or involuntary disqualification, the item shall be tabled until the next meeting at which a greater number of members are present.
 - If the vote results in a tie as a result of a voluntary or involuntary disqualification, the motion is lost.
 - In an administrative adjudicatory matter, a tie vote means the application is denied, since the applicant has the burden of proof and a tie vote means the applicant failed to carry it.

Rules of Order

Parliamentary Basics, cont. (¶VIII(F))

- Interpretation of Rules of Order.
 - Chair interprets.
 - Chair consults with County Attorney.
- Addressing Matters Not Covered by Rules of Order.
 - Chair decides.
 - Chair consults with County Attorney.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2022- 03

AN ORDINANCE ENACTING A SANTA FE COUNTY CODE OF CONDUCT;
REPEALING ORDINANCE NOS. 2010-12 AND 2011-9

BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY:

SECTION 1. SHORT TITLE.

This Ordinance may be cited as the "Santa Fe County Code of Conduct."

SECTION 2. DECLARATION OF POLICY.

The proper and effective exercise of the democratic process and of democratic government requires that **Elected Officials, Appointed Officials, Employees and Volunteers** of Santa Fe County government be independent, impartial and responsible to the people; that decisions of the government and development of policy are made fairly, legally and as the result of a fair and open process; that public office or the pursuit of public office should not be used for personal gain or influence; and that the public have and maintain confidence in the integrity of government. 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 and Volunteers of county government, by: (1) setting forth explicit standards of conduct and ethical behavior; (2) explicitly describing acts that are inconsistent with these standards; and (3) by requiring candidates, elected officials, appointed officials, employees and Volunteers to disclose personal interests, financial or otherwise, in matters of the county and to remove themselves from decision-making when such interests exist.

SECTION 3. RESPONSIBILITY OF PUBLIC OFFICE AND EMPLOYMENT.

Elected Officials, Appointed Officials, Employees and Volunteers hold office or employment for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution and the Laws of the State of New Mexico; to observe the highest standards in the exercise of the powers and duties of office or employment; to impartially carry out their duties; to discharge faithfully the duties of office regardless of personal considerations; and to recognize that the public interest must be the prime objective.

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K. "County's contract ethics official" or "CCEO" means a licensed attorney under contract with the county who performs the functions specified for that position in Section 20 of this Ordinance for that position.

L. "Employee" means a person who is employed by the County.

M. "Elected official" means a member of the Board of County Commissioners, the County Clerk, the County Treasurer, the County Sheriff or the County Assessor but does not mean the County Probate Judge.

N. "Ex parte communication" means a direct or indirect communication with a Party or the Party's representative outside the presence of the other parties concerning a Pending Adjudication that deals with substantive matters or issues on the merits of the proceeding. Ex Parte Communications do not include statements that are limited to providing publicly available information about a Pending Adjudication or solely related to the status of the proceeding.

O. "Family" means a person's spouse, domestic partner and other relatives within the third degree of consanguinity or affinity and persons living within the household.

P. "Financial interest" means any interest held by Elected Official, Employee, Appointed Official or Volunteer or the Family of an Elected Official, Appointed Official, Employee or Volunteer, that is: (i) an ownership interest or other interest in business or property; or ii) any employment or prospective employment for which negotiations have already begun.

Q. "Good faith" means that a reasonable basis exists in fact as evidenced by the facts available to the person reporting or claiming a violation of this Ordinance.

R. "Non-public information" means information, written or spoken, that is obtained in the course of an Elected Officials, Appointed Official's, Employee's or Volunteer's duties and, if contained in a document or record would be subject to public inspection under state law, but that, because of its nature, is not readily accessible to the public.

S. "Party" means a person who has submitted to the County an application seeking affirmative relief; a person who has filed a formal complaint or protest; a person who is the subject of a formal complaint or investigation; and a member of the general public who participates in a Pending Adjudication.

T. "Pending adjudication" means any application, petition, complaint, protest, investigation or other administrative adjudicatory proceeding requiring decision or action by the Board of County Commissioners, the Land Use Administrator or the County Planning Commission.

U. "Personal benefit" means the obtaining or the promise of obtaining Anything of Value.

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1. when the official has a bias or prejudice concerning a **Party** or its representative or has prejudged a disputed evidentiary fact;
2. when the official or anyone in the official's **Family** has a **Financial Interest** in the outcome of the proceeding;
3. when, during previous or current employment, the official served as an attorney, adviser, consultant or witness in the matter in controversy; or
4. when the official announced how he or she would rule on the adjudicatory proceeding or a factual issue in the adjudicatory proceeding.

B. The Elected Official or Appointed Official recusing himself or herself shall disclose the specific reason for the recusal contemporaneously with the recusal.

C. An Elected Official or Appointed Official shall not be required to recuse himself or herself in a pending **Administrative Adjudicatory Matter** merely because the official possesses and discusses general viewpoints on public policy that an application may raise. Similarly, an **Elected Official** shall not be required to recuse himself or herself in a pending **Administrative Adjudicatory Matter** merely because the **Elected Official** made representations during a political campaign on viewpoints on public policy that an application may raise.

D. If, at the start of the hearing, an Elected Official or Appointed Official fails to recuse himself or herself when it appears that grounds exist, a **party** shall promptly notify the **Elected Official or Appointed Official** of the grounds for recusal. If the **Elected Official or Appointed Official** declines to recuse himself or herself upon request of a party, the official shall provide a full explanation in support of such refusal.

E. If, during the hearing, an Elected Official or Appointed Official fails to recuse himself or herself when it appears that grounds exist, a **Party** shall promptly notify the chairperson of the grounds for recusal. If the **Elected Official or Appointed Official** declines to recuse himself or herself, the chair may entertain a motion to excuse the official from further participation in the matter. If the motion is successful, the official shall be excused from further participation in the matter.

SECTION 8. CONDUCT AVOIDING IMPROPRIETY.

A. Elected Officials, Appointed Officials, Employees and Volunteers shall avoid improper conduct or conduct that creates the appearance of impropriety or that is otherwise unbecoming a public official, Employee or Volunteer.

B. Elected Officials, Appointed Officials, Employees and Volunteers shall not engage in conduct that violates the rights of others to be treated fairly and with dignity and respect, including unlawful discrimination and harassment. Harassment includes, but is not limited to, the following: verbal or physical conduct intended to threaten, intimidate or coerce; verbal or physical conduct that has the purpose or effect of unreasonably interfering with work

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A. Except as otherwise provided in the Santa Fe County Code of Conduct, an **Elected Official, Appointed Official, Employee or Volunteer** shall not have a **Financial Interest** if the Elected Official, Appointed Official, Employee or Volunteer is in a decision-making capacity with respect to that Financial Interest.

B. **Elected Officials, Appointed Officials, Employees or Volunteers** who have any **Financial Interest** shall disclose such interest by filing a Conflict of Interest and Financial Disclosure Statement as described in Section 18 of the Santa Fe County Code of Conduct and recording same with the County Clerk and by disclosing the interest as otherwise provided in that code or by law, and shall be disqualified from participating in any debate, decision or vote relating to the interest.

SECTION 11. EX PARTE COMMUNICATIONS.

A. An **Elected Official or Appointed Official** designated to hear an **Administrative Adjudicatory Matter** pursuant to a County ordinance, including but not limited to the County's Land Development Code, shall not initiate, permit or consider an **Ex Parte Communication**.

B. An **Elected Official or Appointed Official** who receives or who makes or causes to be made a communication prohibited by the Santa Fe County Code of Conduct shall disclose the communication to all parties and give other parties an opportunity to respond.

C. Notwithstanding the provisions of Subsection 1 of this section, **Ex Parte Communications** for procedural or administrative purposes, during emergencies or that do not deal with the merits of an application shall not be prohibited if the official reasonably believes that no Party will gain an advantage as a result of the **Ex Parte Communication** and promptly notifies all other parties of the substance of the **Ex Parte Communication**.

SECTION 12. CONFLICTS OF INTEREST, DISCLOSURE.

A. **Elected Officials, Appointed Officials, Employees and Volunteers** shall strictly avoid transactions and relationships that create a **Conflict of Interest**. Where a Conflict of Interest is unavoidable, the Elected Official, Appointed Official, Employee or Volunteer has an **Affirmative Duty** to disclose the Conflict of Interest and subordinate the conflicting interest to the public interest.

B. **Elected Officials, Appointed Officials, Employees and Volunteers** shall exercise their duties, powers and prerogatives without prejudice or favoritism. They shall not hire, promote or otherwise reward **Family** members, friends or political supporters or hinder or punish enemies and opponents.

C. **Elected Officials, Appointed Officials, Employees and Volunteers** shall ensure that constituents and others who may be affected by decisions of the **County** have a fair and reasonable opportunity to express their concerns, grievances and ideas.

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SECTION 15. MISUSE OF COUNTY PROPERTY AND RESOURCES FOR PRIVATE GAIN OR PERSONAL BENEFIT.

A. An **Elected Official, Appointed Official, Employee or Volunteer** shall not use public property for any **Personal Benefit** or nongovernmental purpose except as specifically provided by law. Public property includes public funds, time, facilities, property, equipment, mailing lists, computer data, services or any other government asset or resource.

B. An **Elected Official, Appointed Official, Employee or Volunteer** shall not seek, accept, use, allocate, grant or award public funds for a purpose other than that authorized by law or make a false statement in connection with a claim, request or application for compensation, reimbursement or travel allowances from public funds.

C. Unless authorized by the County Human Resources Handbook, an **Employee** shall not be asked or allowed to perform personal services for an **Elected Official or Appointed Official**. An **Elected Official or Appointed Official** shall not require an **Employee** to perform personal services or assist in a private activity except in unusual and infrequent situations where the person's service is reasonably necessary to permit the **Elected Official or Appointed Official** to perform official duties.

SECTION 16. MISUSE OF TITLE OR PRESTIGE OF OFFICE FOR PRIVATE GAIN OR PERSONAL BENEFIT.

A. An **Elected Official, Appointed Official, Employee or Volunteer** shall not use, induce, cause or encourage others to use the authority, title, official letterhead or prestige of the **Elected Official's, Appointed Official's, Employee's or Volunteer's** office or service for his or her own private gain or personal advantage.

B. An **Elected Official, Appointed Official, Employee or Volunteer** shall not solicit or accept **Anything of Value** under terms and conditions where the compensation is not commensurate with the services performed or where a reasonable person would believe that the authority, title or prestige of office had been exploited. Nothing in this section prohibits the use of official title of an **Elected Official, Appointed Official, Employee or Volunteer** as a part of a political campaign or political endorsement.

C. Pursuant to NMSA 1978, § 10-16-4.3, it is unlawful for an **Employee** who is participating directly or indirectly in the contracting process, to become or to be an **Employee** of any person or business contracting with the **County** while also an **Employee** with the **County**.

SECTION 17. POLITICAL ACTIVITY.

A. An **Employee** with Contract management authority, property management authority or land use authority shall not serve as a paid political consultant, a campaign treasurer or as a member of the political fundraising committee of a candidate for federal, state, municipal or **County** office, or **Elected Official**.

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C. The following information shall be provided:

1. a description of all parcels of real estate within the **County** in which the person owns any interest, including an option to purchase;

2. all interests in any business organization, either as owner, part owner, partner or shareholder, in which such person or his or her **Family** owns more than two percent of the outstanding stock or any class or equity, or more than two (2) percent ownership interest of any other business that is doing business with the **County** in an amount in excess of seven thousand five hundred dollars (\$7,500) annually; and

3. the identity of each person who provided the **Elected Official, Appointed Official, Employee or Volunteer**, directly or indirectly, any gift having an aggregate value of more than two hundred fifty dollars (\$250) within the taxable year preceding the time of filing, except that such disclosure is not required for a gift from a **Family** member other than an unrelated household member; provided that the person making the gift is not also contracting, attempting to contract or otherwise doing business with the **County**.

D. A person who undergoes a change in the economic interests that are required to be disclosed by this section shall file an amended statement in the same manner as required by Subsection A or B of this section within ninety (90) days of the change.

E. Temporary election workers are exempted from the requirement of filing a Conflict of Interest and Financial Disclosure Statement.

F. All persons required to file a statement shall comply with the provisions of this section within thirty (30) days after the requirements hereof are imposed upon such office or position.

SECTION 19. COERCION.

A. A candidate, **Elected Official, Appointed Official, Employee or Volunteer** shall not compel, coerce or intimidate any **Elected Official, Appointed Official, Employee or Volunteer** to make, or refrain from making, any political contribution. Nothing in this subsection shall be interpreted to provide that an **Elected Official, Appointed Official, Employee or Volunteer** is precluded from voluntarily making a contribution or receiving a voluntary contribution.

B. An **Elected Official** shall not, directly or by authorizing another to act on the **Elected Official's** behalf, state or imply that the **Elected Official's** willingness to meet with a person is dependent on the person making a campaign contribution, donating to a cause favored by the **Elected Official** or providing **Anything of Value** to the **Elected Official**.

C. An **Elected Official** shall not directly, or by authorizing another to act on the **Elected Official's** behalf:

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resources division, pursuant to the Human Resources Handbook or handled according to a collective bargaining agreement as applicable.

D. The CCEO shall determine whether a **Sworn Complaint** against an **Elected Official, Appointed Official or Volunteer** states a claim under the Santa Fe County Code of Conduct. If the **Sworn Complaint** fails to state a claim under that code, the complainant shall be so informed in writing by the CCEO who shall dismiss the complaint, subject to a right of appeal to the County Ethics Board. An appeal shall be submitted to the County Attorney's Office within seven (7) calendar days from the date on which the complainant receives the notice of dismissal and shall be based solely on the issue of whether the Sworn Complaint stated a claim under that code. The County Attorney shall refer the appeal to the Ethics Board. After referral of the appeal to the Ethics Board, the Ethics Board may reverse a dismissal of the complaint if it determines that the CCEO's dismissal was erroneous based on a review of the issues raised in the appeal. If the Ethics Board reverses a dismissal of the complaint, it shall remand the matter back to the CCEO for further investigation and handling in accordance with Sections 24(E) and 24(F), with notice to the complainant and other person(s) named in the Sworn Complaint.

E. If the **Sworn Complaint** states a claim under the Santa Fe County Code of Conduct, the CCEO shall investigate the allegations, prepare a report and recommendations to either dismiss the complaint or proceed to a public hearing, and shall present the same to the Ethics Board for consideration at its next available meeting after completion of the investigation.

F. The Ethics Board shall conduct a public hearing prior to taking any action described in Section 25 of the Santa Fe County Code of Conduct. At its next meeting after completion of the investigation, the Ethics Board shall review the CCEO's report and recommendation to consider whether it will dismiss or proceed to a hearing, and either:

1. determine where and when a public hearing should take place for which it shall provide advance written notice to the **Respondent**, in which case the Respondent:
 - a) may be represented by counsel at the Respondent's own expense, who shall be an attorney licensed to practice law in New Mexico;
 - b) may request in writing from the CCEO a list of witnesses intended to be called at the public hearing by the CCEO, which list shall be provided by the CCEO within ten (10) days of receiving the request;
 - c) shall provide the CCEO with a list of witnesses that the Respondent intends to call during the public hearing within ten (10) days of receiving a written request from the CCEO;
 - d) may request in writing from the CCEO copies of all documents and other material not privileged that were obtained by the CCEO during the CCEO's investigation or which the CCEO intends to use during the public hearing, which copies shall be provided by the CCEO within ten (10) days of receiving the request;
 - e) shall provide the CCEO with copies of all documents the Respondent intends to use during the public hearing within ten (10) days of receiving a written request from the CCEO; and
 - f) shall have a right to the issuance of a notice by the Ethics Board compelling the attendance of County Employees as witnesses at hearings.

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9. after testimony is completed and both sides have rested, the Ethics Board may permit closing statements from both sides;

10. the Ethics Board may deliberate but not vote on its disposition of the case in executive session as an administrative adjudicatory deliberation, after which the Ethics Board shall return to an open session to vote on the disposition of the ethics case; and

11. after deliberating on the merits of the case before them, the Ethics Board shall issue a written decision consistent with its vote and containing findings of fact and conclusions of law, which may: impose one of the consequences permitted by Section 25(A) upon the **Respondent** if it finds a violation of the Santa Fe Code of Conduct has occurred; decline to impose one of the consequences even if a violation is found; impose a consequence less severe than those permitted by Section 25(A); or find no violation of that code has occurred. The burden of proof for finding a violation of that code shall be by a preponderance of the evidence. A copy of the Ethics Board's written decision shall be delivered or mailed to the Respondent, the CCEO, the Complainant, the County Manager, the Office of the County Clerk and, where appropriate, the District Attorney. The Ethics Board may postpone issuance of the written decision to another date.

I. Prior to the hearing on the merits, either the **Respondent** or the **CCEO** may file motions in accordance with a schedule established by the Ethics Board. The Ethics Board may consider such motions at a special meeting or at the beginning of the hearing on the merits. The Ethics Board shall not consider dispositive motions filed by Respondent, such as motions to dismiss or for summary judgment.

SECTION 21. COUNTY ETHICS BOARD.

A. The Ethics Board is created. The Ethics Board consists of five members who shall be appointed by the **Board of County Commissioners**. At least one member shall be appointed who shall not be affiliated with **County** government in any capacity, including, but not limited to, employment, including employment for which the salary is in any way funded by or through the County, appointment, election or service as a **Volunteer**. The members of the Ethics Board may not hold elected public office or office with any political party within the County. Each member shall serve a two (2) year term, subject to reappointment.

B. The Ethics Board shall elect its chairperson and vice-chair. If a member of the Ethics Board petitions the Ethics Board for a hearing and advice regarding his or her own conduct or the conduct of another member, the member shall not be eligible to sit in such cases and an alternate member shall be seated when the need arises.

C. The jurisdiction of the Ethics Board is limited to acting within the scope of matters covered by the Santa Fe Code of Conduct, but may periodically review and recommend amendments to that code.

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Officials, Appointed Officials, Employees and Volunteers are specifically prohibited from taking any adverse employment action, engaging in workplace discrimination or harassment of any kind, or other retaliatory action against anyone for reporting a claim in **Good Faith**.

**SECTION 24. RESTRICTIONS ON THE BOARD OF COUNTY COMMISSIONERS;
ADMINISTRATION OF THE PERSONNEL SYSTEM, MANAGEMENT.**

A. The **Board of County Commissioners** shall not perform, collectively or individually, an executive function in the administration of the personnel system, except for employment and removal of the County Manager, making collective recommendations to the County Manager on general personnel policy, approving or disapproving collective bargaining agreements and county personnel policies or approving any proposed reorganization that creates or abolishes a department.

B. The **Board of County Commissioners** shall not perform, collectively or individually, general executive management functions in the administration of county government; these functions shall be delegated to the County Manager. This paragraph shall not apply to matters of policy, the responsibility and authority of the board to approve budgets and expenditures, **Contracts** outside the signature authority of the County Manager, and matters that in the discretion of the board, while they may involve management issues, are of county-wide importance.

SECTION 25. PENALTIES.

A. An **Elected Official, Appointed Official or Volunteer** who violates the Santa Fe County Code of Conduct is subject to one or more of the following penalties imposed by the Ethics Board:

1. a written finding of censure in the form of publication of the Ethics Board's findings of fact and conclusions of law on the **County's** website for a period of ten (10) days;
2. a recommendation to the District Attorney or other appropriate governmental entity that the violation be pursued in criminal or other proceedings; or
3. a recommendation to the District Attorney that proceedings to remove the person from elected office be commenced pursuant to NMSA 1978, § 10-4-1 *et seq.* (1909, as amended).

B. In addition to the penalties set forth above, other penalties might apply when certain conduct prohibited by the Santa Fe County Code of Conduct also constitutes conduct prohibited by the Governmental Conduct Act [NMSA 1978, Chapter 10, Article 16]. That act was made applicable to **Officials and Employees** of local government on July 1, 2011. Knowing and willful violation of that act is a misdemeanor, and a person found guilty may be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one

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SECTION 26. REPEAL.

Santa Fe County Ordinance No. 2010-12 and Ordinance No. 2011-9 are repealed.

SECTION 27. EFFECTIVE DATE.

This Ordinance shall become effective as of the date provided by law.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By Anna T. Hamilton
Anna T. Hamilton, Chair

ATTEST:
Katharine E. Clark
Katharine E. Clark, County Clerk

Approved as to form:
Rachel Brown
Rachel Brown, Interim County Attorney

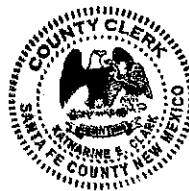


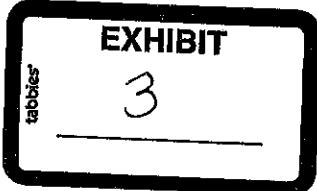
SFC CLERK RECORDED 05/11/2022

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss BCC ORDINANCE
PAGES: 19

I Hereby Certify That This Instrument Was Filed for
Record On The 11TH Day Of May, 2022 at 11:14:21 AM
And Was Duly Recorded as Instrument # 1988249
Of The Records Of Santa Fe County

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





**THE BOARD OF COUNTY COMMISSIONERS OF
SANTA FE COUNTY, NEW MEXICO**

RESOLUTION NO. 2023- 087

**A RESOLUTION AMENDING AND RESTATING RESOLUTION 2023-070
DETERMINING REASONABLE NOTICE FOR CALENDAR YEAR 2023
IN ACCORDANCE WITH THE NEW MEXICO OPEN MEETINGS ACT,
APPLICABLE TO ALL MEETINGS OF THE BOARD OF COUNTY
COMMISSIONERS (“BCC”) AND TO THE MEETINGS OF COUNTY
BOARDS AND COMMITTEES CREATED AND APPOINTED BY THE
BCC (“APPOINTED COUNTY COMMITTEES”); AMENDING
APPENDIX I RELATIVE TO VIRTUAL MEETING INFORMATION**

WHEREAS, the Board of County Commissioners of Santa Fe County (BCC) met in special session at the Santa Fe County Commission Chambers on the Second Floor of 102 Grant Avenue, Santa Fe, New Mexico, on August 14, 2023, at 2:00 p.m. to consider an amendment to Resolution 2023-070, specifically related to virtual meeting information in Appendix I; and

WHEREAS, Section 10-15-1(B) of the Open Meetings Act (“OMA”) states that, except as may be otherwise provided in the Constitution or the provisions of the OMA, “[a]ll meetings of a quorum of members of any board, commission, administrative adjudicatory body or other policymaking body of . . . any county, . . . held for the purpose of formulating public policy, including the development of personnel policy, rules, regulations or ordinances, discussing public business or taking any action within the authority of or the delegated authority of any board, commission or other policymaking body are declared to be public meetings open to the public at all times”; and

WHEREAS, Section 10-15-1(D) of the Open Meetings Act provides, “[a]ny meetings at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs and at which a majority or quorum of the body is in attendance, and any closed meetings, shall be held only after reasonable notice to the public”; and

WHEREAS, Section 10-15-1(D) of the Open Meetings Act further requires a public body to “determine at least annually in a public meeting what notice for a public meeting is reasonable when applied to that body”; and

WHEREAS, when it is difficult or impossible for a member to attend a meeting in person, the member may participate by means of a conference telephone or similar communications equipment [Section 10-15-1(C), NMSA 1978]; and

WHEREAS, any meetings subject to the Open Meetings Act at which the discussion or adoption of any proposed resolution, rule, regulation or formal action occurs shall be held only after reasonable notice to the public [NMSA 1978, Section 10-15-1(D)]; and

WHEREAS, pursuant to Section 10-15-1(D) of the Open Meetings Act, the BCC hereby defines for calendar year 2023 reasonable notice for meetings of the BCC and Appointed County Committees; and

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whole or in part, regular meetings of the BCC shall be held in the Santa Fe County Commission Chambers on the Second Floor of 102 Grant Avenue, Santa Fe, NM.

ii. Notice. Notice of regular meetings other than those described in Paragraph 2(A)(i) above will be given ten (10) days in advance of the meeting date. Regular meetings of the BCC shall be posted on the interactive touch screen in the lobby of the County Administration Complex, located at 100 Catron Street, Santa Fe, NM ("County Administration Complex"), and posted on the following County website, provided it is operational at the time: <https://www.santafecountynm.gov/events/month>. If a regular meeting is rescheduled from the date, time, or physical location specified in this Resolution and Appendix 1, notice of the rescheduled meeting will be posted as set forth above. Notice of a regular meeting of the BCC will be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

iii. Agendas. Meeting notices of BCC meetings shall include an agenda containing a list of specific items of business to be discussed or transacted at the meeting or information on how the public may obtain a copy of such an agenda. Except for emergency meetings, the agenda will be available at least seventy-two (72) hours prior to the meeting from the Office of the County Manager, 102 Grant Avenue, Santa Fe, NM, (505) 986-6200. The agenda will also be posted on the interactive touch screen in the lobby of the County Administration Complex, and on the following County website: <https://www.santafecountynm.gov/events/month>, provided the website is operational during the period seventy-two (72) hours prior to the meeting.

B. Appointed County Committees.

i. Time and Place. The regular meeting schedule of an Appointed County Committee may be specified in the BCC resolution creating the Committee. However, if not so specified, the time and place of regular meetings may be specified in a written decision of the Appointed County Committee or documented in the meeting minutes of the Committee. Each Appointed County Committee may adopt a schedule of its regular meetings for the present calendar year or the balance thereof. Such schedule shall contain the date, time, and place of each regular meeting. If a regular meeting is rescheduled from the date, time, or physical location specified in this Resolution and Appendix 1, notice of the rescheduled meeting will be posted as set forth above. A list of the County Appointed Committees for Calendar Year 2023 is attached to this Resolution as Appendix 2.

ii. Notice, Annual Schedule. At least ten (10) days before a regular meeting of an Appointed County Committee, notice of the meeting shall be posted on the interactive screen in the lobby of the County Administration Complex, located at 100 Catron Street, Santa Fe, NM, and posted on the following Appointed County Committee's webpage on the County website, provided it is operational at the time: <https://www.santafecountynm.gov/committees>. Alternatively, a regular meeting schedule of an Appointed County Committee, if any, may be adopted for calendar year 2023 and shall be posted on the following County website, provided it is operational at the time: <https://www.santafecountynm.gov/committees>. Notice of a regular meeting of an Appointed County Committee shall also be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

iii. Agendas. Meeting notices shall include an agenda containing a list of specific items of business to be discussed or transacted at the meeting or information on how the public may obtain a copy of such an agenda. Except for emergency matters, action shall be taken only on items appearing on the final agenda. The agenda will be available at least seventy-two (72)

located at 100 Catron Street, Santa Fe, NM, and posted on the following County calendar website: <https://www.santafecountynm.gov/events/month>, provided the website is operational during the period prior to the meeting. If twenty-four (24) hours advance notice cannot be given, notice and the agenda shall be posted as soon as possible. Notice of an emergency meeting shall be provided to broadcast stations licensed by the Federal Communications Commission and newspapers of general circulation that have made written request for such notice.

C. Required Report. Within ten (10) days of taking action on an emergency matter, the County shall report to the Attorney General's Office the action taken and the circumstances creating the emergency, except in the event of a declared state or federal emergency.

5. Participation by Conference Telephone or Videoconference. A member of the BCC or Appointed County Committee may participate in a meeting of the BCC or an Appointed County Committee by means of conference telephone, videoconference, or other similar communications equipment when it is difficult or impossible for the member to attend the meeting in person, such as due to public health orders, provided that each member participating remotely can be identified when speaking, all participants are able to hear each other at the same time, and members of the public attending the meeting are able to hear any member of the BCC who speaks during the meeting.

6. Closed Meetings (Executive Sessions). If authorized by the Open Meetings Act, the BCC or an Appointed County Committee may meet in executive session, which shall be closed to the general public, as follows:

A. An otherwise open meeting may temporarily be closed during the meeting, by majority vote of the quorum. The authority for closing the meeting and the subject to be discussed in executive session shall be stated with reasonable specificity in a motion to go into executive session. The votes on the motion shall be made in open session, and the vote of each member shall be recorded in the minutes. Only those subjects announced or voted upon prior to going into executive session may be discussed in the executive session. In addition, if the executive session is the last item of business on the agenda, the BCC or an Appointed County Committee may opt to end the open portion of the meeting and adjourn from executive session.

B. A closed meeting may be scheduled and conducted separately from an open meeting if advance public notice of the closed meeting appropriate under the circumstances is provided. Such notice shall state with reasonable specificity: (1) the provision(s) of the Open Meetings Act authorizing the closed meeting; and (2) the subject(s) to be discussed.


C. Following completion of a closed meeting, the minutes of the open meeting that was temporarily closed under Paragraph 6(A), or the minutes of the next open meeting if the closed meeting was separately scheduled under Paragraph 8(B) or the BCC or Appointed County Committee opted to adjourn from executive session under Paragraph 6(A), shall state that the matters discussed in the closed meeting were limited only to those specified in the motion or notice of the closed meeting, as applicable.

D. Except as provided in the Open Meetings Act, any action taken as a result of discussions in a closed meeting shall be made by a vote of the BCC or Appointed County Committee in an open public meeting [NMSA 1978, Section 10-15-1(H)].

7. BCC Meeting Locations. Pursuant to NMSA 1978, Section 4-38-8 (1981), BCC meetings shall be held in the City of Santa Fe, except that meetings concerning matters of local

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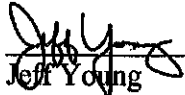
ATTEST:


Katharine E. Clark
Santa Fe County Clerk


Date: 08/17/2023



APPROVED AS TO FORM:


Jeff Young
Santa Fe County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
BCC RESOLUTIONS
PAGES: 9
I Hereby Certify That This Instrument Was Filed for
Record On The 29TH Day Of August, 2023 at 10:09:05 AM
And Was Duly Recorded as Instrument # 2018597
Of The Records Of Santa Fe County

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

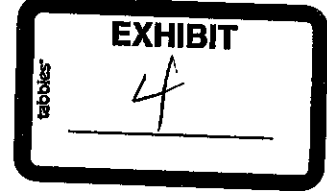


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**APPENDIX 2
COUNTY APPOINTED COMMITTEES**

	Board / Committee	Responsible Department/Office
1	Audit Committee	Finance
2	Board of County Commissioners	County Manager's Office
3	Board of Finance	Treasurer
4	Board of Registration	Clerk
5	Canvassing Board	Clerk
6	County Open Lands, Trails and Parks Advisory Committee (COLTPAC)	Growth Management
7	DWI Planning Council	Community Services
8	Ethics Board	County Manager's Office
9	Fair Board	Community Services
10	Health Policy and Planning Commission (HPPC)	Community Services
11	Housing Authority Board	Community Development
12	Investment Committee	Treasurer
13	Lodgers' Tax Advisory Board	Community Development
14	Planning Commission	Growth Management
15	Santa Fe County Office of Emergency Management (OEM) Task Force	County Manager's Office
16	Single-Use Plastics and Polystyrene Working Group	Community Development
17	Sustainable Land Development Code (SLDC) Hearing Officer	Growth Management
18	Transportation Advisory Committee	Growth Management
19	Valuation Protest Board	Assessor
20	Water Policy Advisory Committee	Public Works/Utilities

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SANTA FE COUNTY ETHICS BOARD MEETING – SEPTEMBER 18, 2024

Board Accomplishments – September, 2023-September, 2024

1. Review of Santa Fe County Ordinance 2022-03 & Other Legal Authorities w/Assistant County Attorney (OMA, IPRA, GCA)
2. Review of County Complaint Form
3. Discussion of Legal Authorities for State and Local Ethics Boards
4. Discussion of Proposed Meeting with State Ethics Commission Staff and Local Ethics Boards
5. Review County HR Ethics PPT (twice)
6. Discussion of Board Presentation to Santa Fe County BCC

Future Options for the Santa Fe County Ethics Board (Board)

1. Maintain Status Quo.
2. Increase the Board's Jurisdiction to Include Non-Union, Non-Management County Employees.
3. Increase the Board's Jurisdiction to Include Campaign Finance and Reporting Complaints.
4. Decrease the Board's function by eliminating the Board and replacing it with appointed Ethics Panels similar to the NM Medical Review Commission's panel process when a Complaint reaches the hearing phase. Rely on County HR/other County employees to adjudicate Complaints per the County Code of Conduct.
5. Sunset the Ethics Board entirely.

Clifford M. Rees, JD
September 11, 2024