

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

DRAFT

SUBJECT TO APPROVAL