



AGENDA

ETHICS AND CAMPAIGN
REVIEW BOARD
DECEMBER 20, 2021
3:00 PM
ATTEND VIRTUALLY

SPECIAL PROCEDURES FOR ETHICS AND CAMPAIGN REVIEW BOARD MEETING HEARING

Attendance: In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, the ban on public gatherings in excess of those permitted in the current Public Health Order, and the need to incorporate technology and practices to re-institute in-person meetings consistent with the limitations established by the Order, the Ethics and Campaign Review Board meeting will be conducted virtually.

Viewing: Members of the public may stream the meeting live on the City of Santa Fe's YouTube channel at <https://www.youtube.com/user/cityofsantafe>. The YouTube live stream can be accessed at this address from most smartphones, tablets, or computers.

The video recording of this meeting will also remain available for viewing at any time on the City's YouTube channel at <https://www.youtube.com/user/cityofsantafe>. Staff is available to help members of the public access pre-recorded meetings on-line at any time during normal business hours. Please call 955-6521 for assistance.

Public Comment: To provide public comment prior to the meeting, please click the virtual "comment" button next to the meeting at <https://santafe.primegov.com/public/portal>. To provide live public comment you must join the Zoom meeting by internet or phone, as follows:

Internet: To join the Zoom meeting on the internet using a computer, laptop, smartphone, or tablet, use the following link: <https://santafenm.gov.zoom.us/j/84050698151>

Attendees should use the "Raise Hand" function to be recognized by the Chair to speak at the appropriate time.

Phone: To join the Zoom meeting using a phone, use the following phone number: 1 (346) 248-7799

Webinar ID: 840 5069 8151



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1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF MINUTES**
 - a. Ethics and Campaign Review Board Meeting – September 28, 2021
5. **DISCUSSION AGENDA AND POSSIBLE ACTION**
 - a. **Case #2021-4.** Complaint Brought Forward by Maria Bautista – In Accordance with Section 6-16.4 SFCC 1987 “Determination of Legal Sufficiency; Setting a Hearing.” Consideration of Whether the Complaint Sets Forth Legally Sufficient Facts Which, if True Show Probable Cause to Believe There Was a Violation. (The Board May Go Into Executive Session Under NMSA 1978, Section 10-15(H)(3) to Deliberate in Connection with an Administrative Adjudicatory Proceeding.)
 1. Discussion of Actions.
 2. Action Regarding Whether the Complaint Sets Forth Legally Sufficient Facts, Which, if True, Show Probable Cause to Believe There Was a Violation.
 3. Action on Any Steps as Permitted Under Section 6-16
 - b. **Case #2021-5.** Complaint Brought Forward by Save Santa Fe Culture – In Accordance with Section 6-16.4 SFCC 1987 “Determination of Legal Sufficiency; Setting a Hearing.” Consideration of Whether the Complaint Sets Forth Legally Sufficient Facts Which, if True Show Probable Cause to Believe There Was a Violation. (The Board May Go Into Executive Session Under NMSA 1978, Section 10-15(H)(3) to Deliberate in Connection with an Administrative Adjudicatory Proceeding.)
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2. Action Regarding Whether the Complaint Sets Forth Legally Sufficient Facts, Which, if True, Show Probable Cause to Believe There Was a Violation.
3. Action on Any Steps as Permitted Under Section 6-16
- c. **Case #2021-6.** Complaint Brought Forward by Maria Bautista – In Accordance with Section 6-16.4 SFCC 1987 “Determination of Legal Sufficiency; Setting a Hearing.” Consideration of Whether the Complaint Sets Forth Legally Sufficient Facts Which, if True Show Probable Cause to Believe There Was a Violation. (The Board May Go Into Executive Session Under NMSA 1978, Section 10-15(H)(3) to Deliberate in Connection with an Administrative Adjudicatory Proceeding.)
 1. Discussion of Actions.
 2. Action Regarding Whether the Complaint Sets Forth Legally Sufficient Facts, Which, if True, Show Probable Cause to Believe There Was a Violation.
 3. Action on Any Steps as Permitted Under Section 6-16
6. **PUBLIC COMMENT**
7. **MATTERS FROM STAFF**
8. **MATTERS FROM THE COMMITTEE**
9. **MATTERS FROM THE CHAIR**
10. **NEXT MEETING: No Meeting Scheduled**
11. **ADJOURN**



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1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF MINUTES**
 - a. Ethics and Campaign Review Board Meeting – September 9, 2021
5. **DISCUSSION AND POSSIBLE ACTION**
 - a. **Case #2021-3.** Complaint Brought Forward by Virgil Vigil and Gilbert Romero – In Accordance with Section 6-16.4 SFCC 1987 “Determination of Legal Sufficiency; Setting a Hearing.” Consideration of Whether the Complaint Sets Forth Legally Sufficient Facts Which, if True Show Probable Cause to Believe There Was a Violation. (The Board May Go Into Executive Session Under NMSA 1978, Section 10-15(H)(3) to Deliberate in Connection with an Administrative Adjudicatory Proceeding.)
 1. Discussion of Actions.
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 3. Action on Any Steps as Permitted Under Section 6-16
6. **PUBLIC COMMENT**
7. **MATTERS FROM STAFF**
 - a. CONSIDERATION OF BILL NO. 2021-23. An Ordinance Amending Section 9-1.7 SFCC 1987 Regarding Ranked Choice Voting to Amend How a Tie Vote Between Two Candidates is Resolved. (Councilor Garcia) (Marcos Martinez, Senior Assistant City Attorney: mdmartinez@santafenm.gov, 955-6502 and Kristine Mihelcic, City Clerk: kmmihelcic@santafenm.gov, 955-6846) **INFORMATION ONLY**



AGENDA

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Committee Review:

Introduced: 09/20/21 (Finance Committee)

Ethics and Campaign Review Board: 09/28/21

Governing Body (Request to Publish): 09/29/21

Quality of Life Committee: 10/06/21

Finance Committee: 10/18/21

Governing Body (Public Hearing): 10/27/21

8. **MATTERS FROM THE COMMITTEE**
9. **MATTERS FROM THE CHAIR**
10. **NEXT MEETING: No Meeting Scheduled**
11. **ADJOURN**

**INDEX OF THE CITY OF SANTA FE
ETHICS AND CAMPAIGN REVIEW BOARD MEETING
September 28, 2021**

ITEM	ACTION	PAGES
CALL TO ORDER	Called to Order at 3:05 pm	1
ROLL CALL	Quorum Present	1
APPROVAL OF AGENDA	Approved	1
APPROVAL OF MINUTES September 9, 2021	Approved, as amended	2
DISCUSSION & POSSIBLE ACTION		
a. Case #2021-3 by Virgil Vigil and Gilbert Romero	Dismissed	2-16
1. Discussion		
2. Action regarding if a Violation		
3. Action taken Section 6-16		
MATTERS FROM STAFF		
a. Consideration of Bill NO.2021-23	Discussed	17
PUBLIC COMMENT	Comments	17-18
MATTERS FROM THE BOARD	None	18
MATTERS FROM THE CHAIR	None	18
NEXT MEETING	None Scheduled	18
ADJOURNMENT	5:15 PM	18

**MINUTES OF THE CITY OF SANTA FE
ETHICS AND CAMPAIGN REVIEW BOARD
THURSDAY, SEPTEMBER 28, 2021 @ 3:00 P.M.**

1. CALL TO ORDER

A meeting of the City of Santa Fe Ethics and Campaign Review Board was called to order on the above date by Justin Miller, Chair, at approximately 3:00 p.m. at a virtual meeting on Zoom at <https://www.youtube.com/watch?v=-rtgmW4QM00>.

2. ROLL CALL

Roll call indicated the presence of a quorum as follows:

Members Present:

Justin Miller, Chair
Judith Amer
Paul Biderman
Ruth Kovnat (joined after roll call)
Tara Lujan (joined after roll call)

Members Absent:

Kristina Martinez
One vacancy

Staff Present:

Kristine Mihelcic, City Clerk
Marcos Martinez, Assistant City Attorney

Others Present:

Melissa Byers, Stenographer

Member Lujan joined the meeting at this time.

3. APPROVAL OF AGENDA

MOTION: Member Amer moved to approve the agenda as presented. Member Lujan seconded the motion.

VOTE: The motion passed by roll call vote with Members Amer, Biderman and Lujan, voting in favor and none voting against. Member Kovnat was unable to connect for the vote.

4. APPROVAL OF MINUTES: September 9, 2021

Member Biderman said in the in the middle of page 13 the word “injection” should have been “injuncton.”

MOTION: Member Biderman moved to approve the minutes of September 9, 2021, as amended, seconded by Member Amer.

VOTE: The motion passed by roll call vote with Members Amer, Biderman, Kovnat, and Lujan voting in favor and none voting against.

5. DISCUSSION AND POSSIBLE

- a. **Case #2021-3.** Complaint Brought Forward by Virgil Vigil and Gilbert Romero – In Accordance with Section 6-16.4 SFCC 1987 “Determination of Legal Sufficiency; Setting a Hearing.” Consideration of Whether the Complaint Sets Forth Legally Sufficient Facts Which, if True Show Probable Cause to Believe There Was a Violation. (The Board May Go Into Executive Session Under NMSA 1978, Section 10-15(H)(3) to Deliberate in Connection with an Administrative Adjudicatory Proceeding.)

Member Kovnat call for a point of order. She explained that a motion to disqualify her had been made. She asked to recuse herself from the Board’s conversation on the motion to disqualify her.

Chair Miller provided background on the two complaints and the collateral issues attached. He said the Board could resolve the conflict questions, but he believed Member Kovnat’s input on the question of conflict was important. He questioned if she should recuse herself from the discussion.

Mr. Virgil Vigil indicated he had submitted a request to retract Member Kovnat’s recusal but want to continue the request for Member Martinez.

Chair Miller explained that the Board is present to consider the Complaint filed by Virgil Vigil and Gilbert Romero, and the Respondents, Mayor Alan Webber, and the Alan Webber for Santa Fe Campaign.

The Complaint alleges three violations. First, that the Campaign email related to the Santa Fe Cool Down Event violated City Ordinance, Section 1-7.7 E (prohibiting the use of City resources) and H (prohibiting improper campaigning). Second, the Respondents made comments that consist of bullying and violate Section 1-7.7K (prohibiting workplace bullying by Governing Body members). Third, that the Respondents violated City Charter, Section 2.01 Code of Ethics and City Ordinance 1.7.7M (regarding Conflicts of Interest) and C (representing private interests) by retaining the Egolf Law Firm.

Chair Miller said the attached two collateral motions for disqualification allege conflicts of interests by two Board members. First, Member Kristina Martinez has a conflict because her law firm represents the Respondent. Second, Member Kovnat has a conflict because of alleged campaign contributions. He noted that Mr. Vigil had indicated today that the Complainants withdrew the allegation against Member Kovnat.

Chair Miller explained the Board addressed the allegation against Member Kovnat at the last meeting and she has not made any contributions to Alan Webber. The Board found no conflict of interests and Member Kovnat participated in that meeting. He thought nothing further was needed by the Board on that allegation.

Chair Miller provided opportunity for Board members to comment, but there were none. He noted that Member Kovnat submitted sworn testimony that she did not contribute to the Campaign as alleged.

He said regarding the second alleged conflict involving Kristina Martinez. Member Martinez was excused today because of a prior commitment, but she brought this conflict on her own volition to the Board. She has recused herself from any consideration of the matter and would have done so if present for the meeting. She will not be taking action in connection with this Complaint.

Chair Miller said conflicts of interest arise occasionally. It is up to public officials and Board members to bring them to the Board's attention and recuse themselves. Member Martinez acted appropriately by doing that. He opened the floor for Board discussion.

MOTION: Member Biderman moved that the matter is moot because the Board is hearing the case today and Member Martinez is not present. Ms. Amer seconded the motion.

VOTE: The motion passed by roll call vote with Members Amer, Biderman, Kovnat and Lujan voting in favor and none voting against.

Chair Miller said the Complaint was submitted around September 7, 2021 and the Respondents answer to the Complaint are in the record. He outlined the steps to hear the case; to determine the legal sufficiency of the Complaint. If the complaint was filed too late; does not state a violation; is frivolous or is filed solely to harass or intimidate; or if the Board lacks jurisdiction to hear the Complaint, the Complaint would be dismissed. If the Complaint is dismissed, the matter is resolved and if not dismissed, a hearing will be scheduled.

Member Amer asked if the Board would need to go through probable cause three times for each of the three violations.

Chair Miller explained the Board could choose to address and make separate motions on each alleged violation. Or all three could be handled at once. He suggested the Board see how the discussion went first.

Chair Miller recognized that Mr. Vigil, speaking on behalf of the Complainants, and Ms. Ferlic representing the Respondents were present.

Ms. Ferlic asked to address two preliminary matters; one involving a conflict. She understood Member Lujan is the cousin of Virgil Vigil. She believed that Member Lujan would have disclosed that and recused herself, if true. She asked clarification from Member Lujan if they are cousins, and if so, did she plan to recuse herself. She indicated the second matter is a caption correction in the Response.

Member Lujan explained she is related to Mr. Vigil. She felt that would not be a conflict with regard to her making a clear decision, but was happy to discuss. She believed her judgment would not be impaired nor would she have any bias in making her decision. She said she also sits as a State Representative at the Legislature and has the same decision-making issues as a native Santa Fean who has many cousins and relations. She said this will not change the way she makes decisions and apologized for failing to disclose. She did not consider the relationship as it is three or four times removed.

Member Biderman said the Board should be aware of this kind of issue. He read City Code definition 1-7.5 for Conflict of Interest "*includes any member of a family for a City official conducting official business.*" The definition of family is "*members of the household, children, stepchildren, brothers, sisters, parents, stepparents, and domestic partners, and persons claimed as a dependent on Federal income tax returns.*" He believed this exceeds that limitation as a first cousin. He noted it would not even apply in the Governmental Conduct Act and suggested in this situation there was no concern.

Chair Miller addressed Ms. Ferlic and said based on Ms. Lujan's information there appeared to be no conflict.

Ms. Ferlic deferred to Ms. Lujan's disclosure and the wisdom of the Board.

Chair Miller said Ms. Lujan has stated this doesn't pose a conflict for her and the Board appears to not be concerned. He thanked Ms. Ferlic for bringing the matter to the Board's attention before they got to the substance of the Complaint.

Ms. Ferlic asked to acknowledge an error she made on the caption that she wanted to correct for the record. She said the caption read, "Response of the Complainants, Virgil Vigil and Gilbert Romero versus Alan Webber, Respondent." The proper Respondent is *Alan Webber for Santa Fe*.

Complainant Presentation:

Mr. Virgil Vigil asked that the Board vote on the Ethics complaint motion regarding Kristina Martinez and the Egolf Law Firm. He noted, per City Code "*A governmental body member shall not during his/her term of office, or within one year after termination thereof, accept monetary compensation from a third party for consulting with and representing, or advising the party, regarding any transaction in the governing body or matter before such governing body, in which he or she has had, or reasonably expects to have any influence or personal involvement in his or her capacity as a governmental body member.*" He continued reading the definition for a governmental body member, which is defined as,

“A body means that the governing body or any board, commission or committee appointed by the Governing Body, or by the mayor, with the advice or consent of the Governing Body.”

Chair Miller apologized and stopped Mr. Vigil. He explained the matter had been considered by the Board before the Complaint, Ms. Martinez was not present and had recused herself. The Board would no longer address that.

Mr. Vigil added that he also wanted to speak about the Egolf Law Firm.

Chair Miller replied that was part of Mr. Vigil’s motion and the Board was not addressing that further.

Member Biderman said he thought this a different motion and that Mr. Vigil was asking for a Complaint against the Mayor for selecting a law firm in which Ms. Martinez is a member. He believed the reference was to the third allegation of the Complaint.

Chair Miller said if it is to the third part of the Complaint that would be different. He thought Mr. Vigil was addressing the motion with Ms. Martinez. He asked Mr. Vigil if he was referring to the third part of his Complaint.

Mr. Vigil said this is different because it is about the Egolf Law firm as well.

Chair Miller invited Mr. Vigil to present the substance of the Complaint and the three violations alleged.

Mr. Vigil said first, is the way the Mayor and his team tried to “pull the wool over the public’s eyes”. He said the Mayor’s defense was to negate responsibility by saying he was not acting in official capacity as Mayor at the time of the infractions. The Mayor’s response placed the bulk of the complaint on his campaign and campaign staff.

Mr. Vigil said we do not agree. He continued that the Mayor tried to force the City Police Chief to take responsibility for “Stop the Riots” on the Plaza, and he is again doing the same with this response. The Mayor is the head of the City, and the buck stops with him, and the police chief and his campaign and campaign staff, answers to him. He said every one of these violations was done at the Mayor’s direction, or on his behalf and the Board should see the violations as such.

Mr. Vigil noted the Ethics rules are in place to protect the public and a public official should err on the side of Ethics to protect the public. He asked how the public could distinguish between the Mayor and the Mayor as a candidate, without believing that the machinery in government was being perverted by the Mayor. He said the lawyer is representing the Mayor and is withstanding a conflict of ethics.

Mr. Vigil said the essence of government ethics is not technical mistakes, it is a fundamental sense of trust the public places in its leaders. He said how can a voter know

that Ms. Martinez is serving anything but her client. The public wouldn't know, and neither would the employees of the City who were invited to help the Mayor with his election.

He respectfully requested that the Mayor, as Candidate Webber, be held accountable by the Board. He said the Mayor is not above the law as he has attempted, and this is common for the Mayor.

Respondent Presentation

Ms. Ferlic said it is important to untangle the Complaint as this appears to be a political disagreement, but it is not a not a proper Complaint. She pointed out, first, the Campaign is not subject to the City's Ethics Code, it is subject to the Campaign Code. The Complaint does not state a single violation of the Campaign Code and that alone justifies complete dismissal.

Ms. Ferlic said she represents the Campaign and Complainants are often lay folks who don't grasp proper entity names or the standards that apply. She indicated she was responding for both Mayor Webber and the Campaign because the issues appear to be conflated and they didn't want room for liability. She didn't hear from anyone who was representing the Mayor from the City Attorney's Office, so she was addressing both, as they did in the Response.

She said Count 1 accuses the Campaign and the Mayor of violating the Ethics Code on the basis of an email sent by the Campaign to promote a pre-existing public event. The Complaint as it pertains to the Campaign should be dismissed. The Ethics Code does not apply to campaigns and all of the Complaint's violations were raised under the Ethics Code. The Ethics Code adopts standards of behavior for public officials and employees of the City, and some are limited to public officials. The Campaign is not any of those things as defined in Section 1-7.5.

She said the Complaint as it pertains to the Mayor, does not state any facts that the Mayor acted improperly in an official capacity. Private entities are entitled to promote public events and public programs. A Campaign entity that promotes a taxpayer funded event is not a liability for elected officials under the Campaign Code. The promotion of public events, whether by campaign or private entity, helps in the interest of the public for a local government body to fulfill its public mission.

Ms. Ferlic pointed out that Member Lujan is the only elected official on the Board. She wanted to note that not to ask for a recusal, but to make a point that campaigns often promote public events throughout the State and country.

Ms. Ferlic shared examples of Ms. Lujan's Facebook page where she used promotion with photographs of Representative Lujan promoting a Hondo Fire Station event, posts of photographs with fire officials; press releases issued by Santa Fe County and the State. Ms. Ferlic said these are not just informational, but are a part of educating a voter base.

Ms. Ferlic said on Count 1 regarding the Mayor, there are no facts concerning his behavior. Therefore, the Complaint fails.

Member Lujan said she is the only person on the Board who has run elections. She said we have different roles when working officially and as a candidate. She has worked on federal, state and local campaigns and they have different codes and Ethics Codes. She said the Federal Campaign is very clear on distinctions. Her use of media posts and anything on her political page is in an informative role. She does not use her email or other resources when money is involved. When working at the State Legislature she is not engaged in campaigning. There are clear distinctions in the rules. When she makes decisions as an official, or a candidate, she looks at how the money is spent and how to use and work under the rules. A social media platform has no exchange of monetary expenses.

Member Lujan said these are issues that clearly need to be more defined and should be addressed.

Ms. Ferlic pointed out she was merely showing an example of what many campaigns do to promote public events. She was not making a comment on whether something was appropriate, lawful, or unlawful. She stated the Ethics Code applies to the Mayor, not to the Mayor's Campaign. The Complaint does not allege that the Mayor created the event to benefit his Campaign, or that his office coordinated with the Campaign, or that taxpayer dollars were used.

Member Amer asked to make a motion on Count 1 as having probable cause, and then hearing the other two allegations.

MOTION: Ms. Amer moved that the Board finds there is probable cause for Count 1 in the Violations of 1-7.7 (E) and (H).

Chair Miller said he preferred hearing from both sides all the way and then the Board could ask questions of the Representatives. He said if the motion has a second, the Board could discuss and ask questions.

There was no second to the motion and the motion died.

Chair Miller asked Ms. Ferlic to continue her presentation.

Ms. Ferlic asked in regard to the motion, that the Board be concerned with who the parties are and the Ordinance section that applies. She stated the Ethics Code is not applicable to the Campaign and no violation has been stated of the Campaign Code. She said the Board should be consistent. The precedent set in the last Complaint alleging a 501(C)(3) was making expenditures advocating for the defeat of a candidate without being required to disclose donors, was dismissed. The violation was clear and was clearly cited. The Board dismissed because it was not part of the primary purpose and said the

Complaint did not allege a violation as such. She said as a quasi-judicial body, the Board does have to pay attention to the law and what is applicable law, compared to the Complaint.

Member Amer pointed out there are two entities alleged on the Complaint; Mayor Alan Weber *and* Alan Webber for Mayor Campaign.

Ms. Ferlic responded but there are no facts related to the Mayor.

Chair Miller asked to first hear the presentations of the parties. Each will have an opportunity to ask questions and for Board discussion. He asked Ms. Ferlic to proceed.

Ms. Ferlic said Count 2 alleges that the Mayor and a Campaign spokesperson released events that violated the Ethics Code. Ethics Code language limits the statements to those that occur in a workplace context by a public official or employee. She said, again this does not apply to the Campaign. The statements in Exhibit 1 of the Respondents Response are campaign events, not a public workplace and statement made by the campaign, not directed at any public employee. Section 1-7.7 prohibiting Governing Body bullying any employee, defines workplace bullying as intentional behavior intended to create an abusive work environment. The statements were made outside of the workplace. There is no evidence of intent to create an abusive workplace. This would not be a practical or legal application of the Ethics Code and should be dismissed. The Mayor is permitted to opine on aspects of public life he feels is detrimental to the City.

Ms. Ferlic said Count 3 concerns the hiring of her firm as improper because Member Martinez is part of the firm. She said Ms. Martinez has appropriately recused herself in each instance where her representation of a client was an issue.

She said she works in the field of election law in various campaigns. She has represented public officials in various election questions in various fields of litigation in Santa Fe and is one of the few lawyers who practices in this area. The Complainant appears to accuse the Board of being influenced by Member Martinez' association with her. She said she would let the Board evaluate whether true in any way.

Ms. Ferlic continued that the Ethics Complaint targets the Mayor's Campaign for hiring her. The sections cited apply to the Mayor's conduct during his term of office and within one year of serving. The Mayor has not accepted any compensation to represent any party and there is no fact that could be at play.

Ms. Ferlic asked the Board to consider the last two Complaints and the precedent set for deciding those issues. She asked, for the reasons argued and in the brief, for the Board to dismiss the Complaint against the Campaign and Alan Webber. She said if anyone were present from the City's Attorney's office and Alan Webber, she would defer to them.

1. Discussion of Actions.

Member Biderman addressed Mr. Vigil on his first allegation where the City sponsored two “Cool Down” events in July. He said the Mayor’s Campaign sent out an email notice encouraging people to attend. Code dictates that a public official cannot use city services, personnel, or equipment for personal benefit. If the Mayor had misused the event because the City paid for it and there were City employees there, Code was violated. He asked to clarify the allegation and if because the Mayor did something in the nature of campaigning; or was it just that the Mayor was there as the Mayor.

Mr. Vigil said the Mayor had his signs at the event. He said he wanted to remind them that the Mayor works 24/7 at his job.

Member Biderman said that was the first he was hearing that, as it was not alleged in the Complaint. He said his concern is that the Code of Ethics points to the misuse of resources. The second issue was improper campaigning. He agreed with Ms. Ferlic that the Mayor’s Campaign was not subject to this Code provision. He said however, the Mayor could be subject. He said he welcomes that this issue is raised because in the last case he didn’t have his mind made up then, or now. He wanted to proceed with the merits of the Complaint to see if there is a violation.

He said the second part cited is improper political campaigning of a public official. They cannot ask, or have another ask a subordinate, public official, or employee to provide services, or engage in political campaigning while on duty, or use funds, facilities, or supplies to benefit the campaign. He couldn’t understand how the email sent out by the Campaign to encourage people on their mailing list to attend, violates the provision. This was a public event. He asked Mr. Vigil for clarification.

Mr. Vigil said the Mayor used this as a Campaign event and he was campaigning. He couldn’t recall a time when the Fire Department went out to the South Side for this type of event in the past three years. He said this event was for the Mayor to advertise to the South Side that he was running, because his ratings are not good there.

There were no further questions from the Board on Count one.

Member Biderman asked to confirm that Mr. Vigil had an opportunity to say everything he wanted.

Member Vigil said he still stands by his statements the Board has before them.

Member Biderman asked Mr. Vigil to explain how the email constitutes bullying City employees.

Mr. Vigil said in general, it attacked groups of City employees.

Member Biderman asked which groups.

Mr. Vigil said he didn't have names, but City employees in general.

Member Biderman asked if he was alleging that the Mayor's statements about MAGA and QAnon are real and that somehow was an attack on City employees.

Mr. Vigil said it attacks everyone that the Mayor doesn't like. He said who is the Mayor to bring up MAGA. He [the Mayor] knows this is anti-Trump company, and City and was trying to muddy the waters by attacking people in Santa Fe by saying they are MAGA.

Member Biderman said the Board is not here to monitor what people say. He said on Violation #3, that the Mayor improperly retained this law firm; in particular that he was aware that Kristina Martinez was a partner of the firm. Member Biderman said he doesn't doubt that the Mayor knew she was a partner of the firm and she would disqualify herself, as she had done so previously. He asked what harm was done that the Mayor hired a firm with knowledge in this area of law.

Mr. Vigil said that brings him back to what he wanted to say in the beginning. Ms. Martinez and her firm fall under the definition he talked about earlier. The agenda posted online for ECRB; it will be violating the amendment to the Ranked Choice Voting System that will directly affect the outcome of the election. He said Ms. Martinez literally cannot maintain the impartiality required by the Board any longer.

Member Biderman asked for clarification from Mr. Vigil and if he were saying that Ms. Martinez could not serve on *any* case, or just this case.

Mr. Vigil responded she can't serve on any case. Mayor Webber employs these employees, and this is the third time she has had to recuse herself.

Member Biderman said Mr. Vigil alleges a violation of the Code of Ethics provision preventing a conflict of interest by a representing private interest, and specifically, that the Mayor accepted monetary compensation from a third-party for consulting with, or representing, or advising the party regarding any transaction with the governmental body. He asked if the Mayor had provided service to someone else and then paid for it.

Mr. Vigil said the Mayor should not have asked this company because he knows that Ms. Martinez works for them.

Member Biderman said he had no further questions.

Chair Miller noted that the Board could go into executive session for discussion.

Member Biederman said he had nothing to hide and was happy to discuss this and his concerns about the Complaint in the executive session, or after.

Ms. Amer asked to renew her motion.

MOTION: Member Amer moved that the Board finds probable cause for a Violation on allegation #1 by the Mayor in the sections alleged in the Complaint, because he used a City event and had City employees participate in an event that was part of the Mayor's campaign.

Chair Miller paraphrased the motion. He asked to clarify the Mayor's Campaign was not included in the motion.

Ms. Amer agreed. She said the intention of the Ethics Code by the use of the term *public official*, includes City councilors or mayors, who use City funds for purposes of their campaign.

There was no second to the motion and the motion died.

Member Kovnat said based on the representations made and their understanding of the Code, the only colorable complaint is 1-7.7(H), prohibiting engaging in political campaigns while on duty for the City, or using City funds, supplies, facilities or employees to benefit a political campaign. She agrees a sitting Mayor has the authority and responsibility to be at public events but is prohibited from engaging in campaigning while at the event. The Board needs more facts on what happened at the parks.

Chair Miller confirmed that Ms. Amer's motion had no second, and Member Kovnat was continuing discussion on the Complaint.

Member Biderman said his concern was the Board would be creating a new precedent in comparison to actions taken in the last two Complaints. He asked if the case would remain open so more evidence could be introduced.

Chair Miller said this is looking at the Complaint and the facts alleged which show campaigning at the event. He noted when Mr. Vigil was asked about that, he stated the Mayor was campaigning. But the Complaint did not allege any of those facts.

Mr. Biderman pointed out that Mr. Vigil spoke as a Complainant and was not under oath.

Chair Miller asked Member Kovnat how she would proceed about not having enough facts.

Member Kovnat said one way is to dismiss for lack of facts of the allegation. Another is to consider an investigation.

Member Amer said additional facts would be nice, but not necessarily needed when taking data point one. The Campaign requested people attend the event. And two, the event occurred with City employees working the event during the workday, and the

Mayor was getting paid. When added up that means the Mayor was campaigning at the event, using City resources and personnel to promote the Campaign.

Member Kovnat responded that the events were open to the public as a celebration of opening the City after the pandemic. She said to assume that the Mayor's presence at such public events is informed by Code, makes a distinction where use is generally available to the public. To disable a sitting Mayor from attending would be to assume without additional facts, that this was a Campaign event. She said she would not be comfortable with that.

Member Amer said the Board is not assuming. The Mayor promoted attending the event and they know prior to those events that the Campaign was touting them.

Member Lujan asked if the Board would go into executive session as in the past.

Chair Miller said the Board could if they wish, but it is not required.

Member Biderman stated he was willing to speak without going into executive session if other members were. He said he agreed with Member Kovnat they cannot bar the Mayor during his Campaign from showing up at events run by the City. The campaign could go on for a year. That would preclude the Mayor or any Councilors from attending events. The question is if the Mayor maintained his independence and appeared strictly as the Chief Executive of the City and did not use the opportunity to campaign. He said the facts were insufficient.

Member Lujan said an elected official attending an official event should only be acting in an official capacity. The issue is if a candidate during an election cycle advertised through a political campaign. An official cannot remove himself from their official role, which is why there are guidelines. The Board has to differentiate those roles and how the official acts within them. She asked Member Kovnat what additional information she would like.

Member Kovnat replied that she wanted to know if the Mayor presided over a public event that was held for the City's benefit, in his role as Mayor.

Member Kovnat said that because the event was in the middle of a Campaign does not mean the Mayor was campaigning. Saying that would disable any sitting official up for reelection from participating. She pointed out that the Mayor had presided over the opening of the Teen Center that benefited the City. She thought it was likely the same in this case.

Member Lujan said she wasn't sure of is that the Board had addressed the local Ethics Code guidelines.

Member Kovnat said she was interpreting 1-7.7(E), which makes clear that *a public official shall not use city services, personnel or equipment for personal benefit,*

except when such use is generally available to the public. She views the use of these events as generally available to the public. She said that because it was promoted by the Campaign, it does not alter that.

Member Lujan explained she was saying in other Codes, you cannot have a political campaign and an official campaign happening within a certain distance. If she held a town hall in official capacity for a federal candidate, she could not hold a political rally three blocks down the road. She said the Board does not have anything to differentiate the rules.

She said an elected official must be cognizant of the time and space as they move through roles. She provided an example if she went to a public ribbon cutting event wearing a campaign badge, showing she is campaigning for reelection. That raises questions when you use your campaign to promote a public event you attend in an official role.

Member Biderman said he looked at the email he received from the first Complaint filed. He read from the flyer, *“Join the Mayor and fire department as they turn on the hoses for city sponsored fun water play”*. He noted as you continue to read, the flyer states locations where people will find the “fire trucks and Mayor Webber” and it says, “We hope to see you there.” He said the second flyer does say “from Alan Webber for Santa Fe” and comes from the Campaign.

Member Biderman said he has seen other campaigns with a strategy using events that are not campaign events to provide access to people for public services. That is not unusual. He thought that may be unwise because two complaints have been filed. He said, but this is not a violation of the Ethics rules.

He noted that everything criticized by the Complainants focused on the publicity from the Campaign and it only promoted a public event. That the Mayor attended is appropriate for the Chief Executive. Neither of the two Complaints stated anything occurred at the event that constituted campaigning.

Member Kovnat agreed with Member Biderman.

Chair Miller noted that the role of the Board is to focus on the Complaint and what the Complaint alleges. The Board looked for allegations of improprieties, but he had not heard anything along those lines.

Member Lujan said a person acting in an official capacity using a public event for political campaigning is in a precarious place. She thought there should be more discussion. She said she understood asking for more information, but wanted to be clear. This is not an arbitrary candidate promoting a public event. This is a candidate who is also a public official. That is at issue.

3. Member Biderman noted there had not been much discussion of Violations 2 and 3.

Chair Miller suggested making a decision on Violation #1 since the discussion appeared to have reached conclusion.

MOTION: Member Biderman moved to dismiss Violation #1, as alleged. Member Kovnat seconded the motion.

Member Lujan asked that Member Biderman state the grounds for the motion.

Member Biderman said this is the second time complaints have come up. Neither complaint describes nor alleges, any misconduct by the Mayor at the event of the Code section cited. The obligation of the Complainant is to come forward with at least a colorable claim. Only viable allegations against the Mayor's conduct and campaigning at the City event would have alleged a violation. The email does not do that.

Member Kovnat said as the second, she agrees.

VOTE: The motion passed by roll call vote with Members Biderman, Kovnat and Chair Miller voting in favor, and Members Amer and Lujan voting against.

Members Lujan and Amer asked to explain their votes.

Member Lujan said she felt they were asking for more information throughout the discussion and that could have happened before the Complaint was dismissed entirely. She thought the Board should look more closely at their local codes. They are not covering every aspect, just looking at how officials and candidates are acting. She said as someone who moves between those rules all the time, looking at local codes and addressing some of the Complaints could lead to looking further at improving their codes.

Chair Miller said a significant part of the Board's mission is to make recommendations. The Board learns something in every election cycle and with every complaint. He said he agreed they can improve Code and how they handle complaints.

Member Amer agreed with Member Lujan the Board should be looking at amending the Code. Also, she thought it artificial to distinguish between the Campaign, and the Campaign for Mayor, when the Mayor is also the Campaign for Mayor. The two become almost indistinguishable and she wasn't sure that is addressed by Code.

She said her understanding is that probable cause is not actually a finding that the violation occurred; it would just go to a hearing. She thought the Board was too technical with a probable cause determination and could have proceeded to a hearing to deduce more facts. She couldn't see how a campaign can say please come to our campaign

event, and the Mayor can attend while being paid with public funds and using public employees and facilities, and say he was not campaigning.

Chair Miller moved on to discussions for Violations #2 and #3.

Motion: Member Biderman moved to dismiss Violation #2 on the grounds only the Mayor is subject to the City's Ethics Code, not the Campaign; there was no credible allegation that the Mayor attacked a City employee; the Complaint allegation was vague, lacking specificity; the email flyer could not logically be read as being aimed at City employees; and as a protection of workplace bullying, nothing suggested that the workplace was involved.

Chair Miller clarified the motion.

Member Amer seconded the motion. She said she agreed with the grounds for dismissal.

VOTE: The motion passed by roll call vote with Members Amer, Biderman, Kovnat and Lujan voting in favor and none voting against.

Chair Miller moved to Violation #3 for discussion, or a motion.

MOTION: Member Kovnat moved to dismiss Violation #3 on the grounds nothing in the allegations suggests anything improper by the Mayor retaining that law firm, and Member Martinez has recused herself. Member Biderman seconded the motion.

Member Biderman said he agreed with the grounds to dismiss. He added that he understands that Code invites anyone to file a complaint. That includes those who are not lawyers and do not consult a lawyer. He said, "Politics is a dirty business and people say things about others" and legally there are no restrictions. He said he wished people would discuss the provisions with a lawyer and be more careful when writing Complaints. He agreed the rules probably need to be rewritten and are difficult to interpret.

He said he understands that Violation #1 is a viable claim and had been dismissed by a close vote. However, Violations #2 and #3 were not, and failed to even match the rule with the alleged facts. The privilege for a citizen to come before the Commission should be for the purpose of supporting the rules of ethics.

Member Biderman said the Complaints were frivolous and should never have been filed. His hope is that the Board will receive well thought out, viable claims they could consider seriously.

VOTE: The motion passed by roll call vote with Members Amer, Biderman, Kovnat and Lujan voting in favor and none voting against.

6. PUBLIC COMMENT

Jim Harrington, Common Cause New Mexico, asked to comment on the Ranked Choice Bill.

Chair Miller noted that was the next item. He said they would hear from Staff and then allow public comment.

7. MATTERS FROM STAFF

- a. CONSIDERATION OF BILL NO. 2021-23. An Ordinance Amending Section 9-1.7 SFCC 1987 Regarding Ranked Choice Voting to Amend How a Tie Vote Between Two Candidates is Resolved. (Councilor Garcia) (Marcos Martinez, Senior Assistant City Attorney: mdmartinez@santafenm.gov, 955-6502 and Kristine Mihelcic, City Clerk: kmmihelcic@santafenm.gov, 955-6846) **INFORMATION ONLY**

City Clerk Mihelcic said this had been discussed previously. Staff wanted to make the Board aware the legislation is moving forward and will be presented in the Governing Body meeting the next day. The primary purpose of the bill is to make Santa Fe City Code consistent with the Secretary of State's (SOS) administrative rules for Rank Choice Voting and elections.

Attorney Marcos Martinez said he had nothing to add.

Chair Miller explained this had been presented to the Board and they made a recommendation, which is the bill being considered.

He asked for comments from the Board. Seeing none, he opened the floor to public comment.

Mr. Harrington said Common Cause approves of the bill but believed it a partial and possibly temporary solution. There is a simpler approach that would solve the problem completely that he referenced in an earlier ECRB meeting.

Mr. Harrington said this bill solves the particular conflict between the City Ordinance on County Ranked Choice and the Secretary of State's rules. But it doesn't prevent future conflicts of this kind. There may be something a creative lawyer could find for a losing candidate to make into a complaint that could hold up the outcome of a City election. A simpler solution is to repeal that section of the rules and have the City adopt the SOS rules, as Las Cruces has done.

He explained this section of the ordinance was necessary when enacted because there were no State rules. Since then, the SOS has adopted a full set of rules. He said the Local Election Act can be argued ambiguous whether the SOS rules preempt City

law. That means there is potential for a lawsuit if a conflict between the City's rules and the Secretary of State. He thought the City's rules are identical to the SOS rules, but possible they have overlooked critical wording. Also, the Secretary could amend the rules and create new conflict, and this section is not necessary because the SOS rules cover the same issues.

Mr. Harrington said Common Cause recommends presenting a different bill that strikes through the entire section and substitutes a statement that the City adopts the rules prescribed by the SOS in matters of counting the votes in Ranked Choice Elections.

Mr. Harrington apologized he didn't speak up sooner. He said the recommendation would be simple and more effective and solve the immediate problem. In addition, it deters future problems.

Chair Miller thanked Mr. Harrington for his comment.

Member Biderman clarified the bill would go before the City Council. He asked if staff observed anything to suggest that City Council would be reluctant to adopt what the Secretary of State's Office decides.

Attorney Martinez said one Councilor addressed the issue of tie voting, but staff did not ask the broader question - whether the Governing Body would have reservation adopting by reference, the SOS administrative rules on Rank Choice Voting. He said he would need to read all of the rules with that question in mind. He appreciated Mr. Harrington's position. The Governing Body gives weight to what the ECRB recommends. He would first have the Board consider all of the rules and if there are areas where the Governing Body might want to retain some differences, or not. He was confident their recommendation would be accepted by the Governing Body.

Mr. Harrington said Attorney Martinez referenced another problem; the lack of clarity in case law, and when they can depart from that. He didn't think the City was interested in maintaining separate rules, except for the tie-vote. He said Common Cause is not aware of anything that should be done differently under the State law.

Chair Miller indicated this is an informational item. He wasn't sure the Board had the information needed to compare the SOS rules and City ordinance and make a recommendation. He agreed it could be good for the Board to consider, but not today.

Member Biderman said this is a month and a half from an election and adoption by City Council would implement the current rule of the Secretary of State. Then it would be effective for the election. He suggested letting City Council decide the issue and after the election the Board could reevaluate.

Chair Miller agreed that might be more efficient and if the Governing Body chose to, they could amend the ordinance. The Board recommended the Ordinance be aligned with the Secretary of State rules.

Member Lujan agreed an amendment should be left to Council.

8. MATTERS FROM THE BOARD

There were no matters from the Board.

9. MATTERS FROM THE CHAIR

There were no matters from the Chair.

10. NEXT MEETING: No meetings are scheduled.

Member Lujan said as they are waiting to hear from the Councilors on adopting the Secretary of State's code, and that could prompt another complaint. She asked if possible, to plan time after the election to address some issues. She said there are good members on the Board and addressing these issues is important. She didn't want too much time to lapse.

Chair Miller said that would be helpful. The Board should benefit from their experience and keep in mind issues and deficiencies that surface and ways to improve.

11. ADJOURNMENT

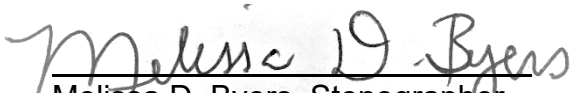
MOTION: Member Lujan moved to adjourn the meeting at 5:15 p.m. Member Amer seconded the motion.

VOTE: The motion passed by roll call vote with Member Amer, Biderman, Kovnat and Lujan voting in favor and none voting against.

Approved by:

Justin Miller, Chair

Submitted by:



Melissa D. Byers, Stenographer
For Byers Organizational Support Services

CASE # 2021-4

Complaint Form
(Please print or type)
(Additional pages may be added)

City of Santa Fe
Ethics & Campaign Review Board

Date: OCTOBER 25, 2021

1. Name of person and/or group charged with alleged violation. ALAN WEBBER AND SASHA GUINN ANDERSON

2. Please explain briefly the nature of the alleged violation. see attached

3. Please state which specific provision(s) or part(s) of the Code of Ethics or Election Code you believe have been violated. see attached

4. Please state the facts you have regarding the violations, including:
the date(s) _____
the time(s) see the attached
the place(s) _____
people involved _____
other facts _____

5. Are there any witnesses to the violation who are willing to confirm your charge? Please list with addresses, phone numbers and what they know.
YVONNE ENCINAS, PO B 271489, HOUSTON, TX 77277
575.680.2212.

6. Attach documentation of actual evidence you have to support your complaint, to this form.
7. What is your name? Maria Bautista
8. Address? 9910 Camino Rizo Zip Code 87505
9. Telephone Number? 505 316-0512 Work: _____
10. Email Address? lunar@cybermesa.com

Received on: October 25, 2021
By: Xavier Vigil
City Clerk's Office

To the best of my knowledge, the above statements are true and complete.
Maria Bautista
Signature MARIA BAUTISTA

Subscribed and sworn to before me this 25th day of October 20 21



OFFICIAL SEAL
Hector Alex Orozco
NOTARY PUBLIC, State of New Mexico
My Commission Expires 10/12/2022

[Signature]
Notary Public

Question #2 The reelection campaign for Alan Webber, managed by Sascha Guinn Anderson, used a contracted City of Santa Fe entity, The SF Fuegos, to provide election campaign publicity on 06.17.21 at Fort Marcy Park, and therefore failed to comply with City of Santa Fe Municipal Election Codes.

We have seen a pattern and practice evidenced by the following behaviors, where a prescheduled City of Santa Fe Event had their flyers and brochures altered, to favor the Campaign for Alan Webber's Reelection Campaign:

Santa Fe Fuego Complaint, Affidavit, and video *	Date 06.14.21
Cool Down SF New Mexican Article	Date 06.14.21
SF New Mexican Logo Infringement SF New Mexican Article	Date 10.08.21

Campaign managers should know that they cannot coerce citizens into providing campaign favors or donations which are not supported by our election laws. These behaviors, left unchecked, creates a precedent for other campaign managers to follow.

The City of Santa Fe Ethics & Campaign Review Board is charged with evaluating the merits of this complaint, in doing so I am asking that you consider the following:

Sanctions garner no results, paying off a fine is putting the violations aside, disregarding the importance of addressing the behavior.

Solutions the Ethics & Campaign Review Board oversees an established Code of Ethical Standards. All campaign managers have a duty and responsibility to uphold these standards. In this instance, the Reelection Campaign for Alan Webber failed to adhere to those Standards.

Code of Ordinances and alleged Violations, with Narratives.

9-2.3 # I Free Public Relations (PR) was offered to Yvonne Encinas, Manager of the SF Fuegos, by the Campaign to Reelect Alan Webber. Yvonne was interviewed for a video and asked to see the video, but it had been released.

9-2.3 # E Campaign Materials -The original (Video) was altered, the interview was edited, and a political banner overlay was added, the video was immediately released via social media to favor the Reelection campaign of Alan Webber.

9-2.3 # M The offer of Free PR was valued by Yvonne Encinas, the manager of the SF Fuegos. However, the video opportunity was misleading, and was used without her knowledge that it was used to endorse the Reelection Campaign of Alan Webber.

- VIDEO On Telephone, IMG 6123.3gp can be forwarded to Ethics Committee.

Addresses

Maria Bautista 996 Camino Rizo Santa Fe, NM 87505 505 316-0512 Complainant
Andrew Dunn PO Box 271489 Houston, Texas 77277 575 680-2212 Santa Fe Fuegos/Owner
Yvonne Encinas PO Box 271489 Houston, Texas 77277 575 680-2212 Santa Fe Fuegos/Manager
Sascha Guinn Anderson PO Box 1000 Cordova Place TMB #232 Santa Fe, NM 87505 Campaign Manager
AlanWebberforSantaFe 505 570-2733

State of New Mexico

County of Santa Fe

October 25, 2021

I, Maria Bautista affirm the following:

Affidavit in Support of Ethics Complaint against Mayor Alan Webber.

The re-election campaign for Alan Webber knowingly, violated, state election laws.

1. On 06.17.21, I spoke with Yvonne Encinas (505 204-2093) she is the manager of the Santa Fe Fuegos, a baseball team sponsored by the Pecos League, owned by Andrew Dunn (575 680-2212).
2. Yvonne Encinas was offered free "PR" for the Santa Fe Fuegos.
3. Yvonne Encinas was asked to sign a document for the free "PR. Yvonne asked to see the video when it was finished, so she could consult with the owner Andrew Dunn.
4. Yvonne Encinas said the document she signed, and video thereafter were misrepresented to her by Alan Webber's campaign managers. They had altered the video and used overlays, so that it appeared as an endorsement for Alan Webber's Campaign.
5. Alan Webber's campaign circulated the video throughout social media, later insisting Yvonne Encinas knew before hand of their intentions.
6. Yvonne Encinas asked for the video to be removed.
7. The Santa Fe Fuegos is not registered as a PAC, which was confirmed by Commissioner/Owner Andrew Dunn on 06.17.21

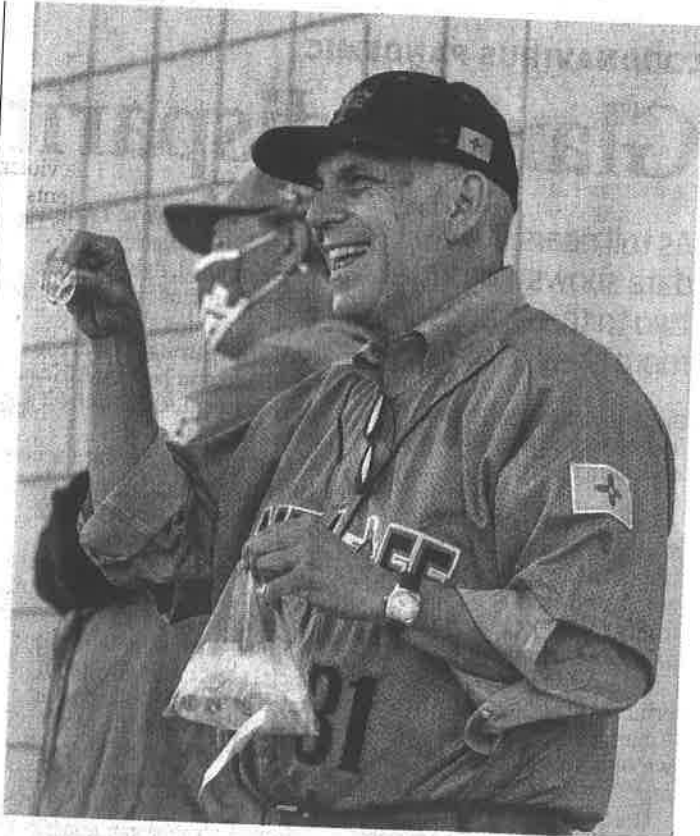
Maria Bautista
Signature: MARIA BAUTISTA

Subscribed and sworn to before me this 25th day of October 2021.

Hector Alex Orozco
Notary Public



OFFICIAL SEAL
Hector Alex Orozco
NOTARY PUBLIC - State of New Mexico
My Commission Expires 10/12/2022



MATT DAHLSEID/NEW MEXICAN FILE PHOTO

Santa Fe Mayor Alan Webber hands out Santa Fe pins to Fuego players June 1 after they received their jerseys at Fort Marcy Ballpark.

Fuego video ignites conflict in mayoral race

Continued from Page A-4

The video was pulled by Webber's campaign.

"I wasn't intending it as an endorsement, but to get people excited to go to a baseball game," Encinias said. "I never mentioned an endorsement. I never said 'Vote for X, Y, Z.' It was more so — we are opened up. Let's come out and see some baseball."

The video, which gained a moderate traction over the weekend through social media channels before being dropped, includes an interview with Encinias as well as clips of the Fuego's Opening Day festivities — including Webber's ceremonial first pitch.

Encinias said she requested to see the video before it published so she could vet it with Pecos League Commissioner Andrew Dunn, but was informed it had already been posted. It was ultimately pulled down after a round of emails between the campaign and Encinias.

Fuego video ignites conflict in mayoral race

Webber campaign pulls post after team's manager fears it looks like endorsement

By Sean P. Thomas
sthomas@sfnewmexican.com

Only in Santa Fe could the sport of baseball become a political football.

The Fuego, the city's Pecos League baseball team, was featured in a video released by Mayor Alan Webber's reelection campaign as he touted the reopening of Santa Fe amid the backdrop of the coronavirus pandemic.

But the video, which included sound bites from Fuego General Manager Yvonne Encinias, was perceived by some as the team's endorsement of Webber's campaign. Encinias said she didn't want her interview to be seen that way, but rather a celebration of the team's return to action.

Please see story on Page A-4

Webber campaign spokeswoman Sascha Guinn Anderson wrote in an email that Encinias knew the interview was going to be placed in a campaign advertisement.

"The mayor has had a great relationship with Yvonne and [the] Fuego, as you can hear in her video," Anderson wrote. "Yvonne has done a tremendous job as the team's manager and the mayor was gratified by her words of encouragement and support."

Anderson wrote the video was pulled down "out of respect for Yvonne because someone complained to her boss."

She added it was "sad that some are trying to create further divisions about one of the feel-good stories of Santa Fe."

Dunn said he has received a handful of calls asking about the video after it went online and reiterated the league and its teams remain apolitical.

"It will cause problems," Dunn said of handing out endorsements. "That is where we are with this, either way. I guess it's good they want us to support them, but whoever we support, we are making enemies anyway."

Former City Councilor Ron Trujillo, one of the candidates defeated by Webber in the 2018 mayoral election, helped lead the push to bring the Fuego to Santa Fe in 2013. Members of Trujillo's family — including his son, Hunter Trujillo — shared the video on Facebook and slammed it as an advertisement.

"I brought the Fuego here to Santa Fe for the people so there would be another entertainment venue for the people of Santa Fe," Ron Trujillo said. "I didn't bring them for political gain or anything."

Encinias said she believes the video is being blown out of proportion.

"We are just here to play baseball," Encinias said.



JIM WEBER/THE NEW MEXICAN

Firefighter Jeremy Ward, center, lets Councilman Roman 'Tiger' Abeyta, left, Mayor Alan Webber, Councilwoman Jamie Cassutt and police Chief Andrew Padilla, right, take a turn using the hose Saturday during a cooldown event at SWAN Park put on by the city of Santa Fe, the Santa Fe Fire Department and the Parks Division.

Campaign cooldown

Rivals criticize Webber for promoting city-sponsored event as part of reelection bid

Firefighter Jeremy Ward stole the show Saturday, drowning out the political overtones of a taxpayer-funded event.

Ward has the build of an NFL linebacker and a genial disposition. Those attributes made him a good ambassador for city government, especially after he turned on a powerful fire hose and soaked his audience.

He maneuvered the hose for almost 25 minutes in the midday sun at SWAN Park, showering more than 160 kids and adventurous parents.

"Thanks. The kids loved it," said the father of two little girls.

"Great show," another dad said.

Not a discouraging word was heard as kids received replica firefighter hats, in pink or black, and got a close look at Ocho, the title emblazoned on a red fire engine of Company

Oh, and Mayor Alan Webber arrived as he promised — in a campaign announcement that grated on a segment of Santa Fe residents, including his challengers, in the fall election.



Milan Simonich
Ringside Seat

City government had already promoted the SWAN Park "Cool Down" in a nonpolitical statement. Webber, though, made a pitch of his own.

He listed himself as a featured participant in the department's event in an email distributed by his political staff under his campaign logo.

"You'll find fire trucks (and Mayor Webber!) ready to play," his announcement stated.

Webber arrived at 11:24 a.m., a few minutes before the scheduled starting time. Dressed in jeans, a casual shirt and a teal Santa Fe baseball cap, he followed firefighters onto a grass field.

Webber took charge at that point. He

launched streams of water toward a mass of laughing children.

Webber latched onto the fire hose for a moment at 11:43 a.m. The mayor shook hands with a couple of firefighters, then moved toward a fence and slapped low-fives with kids standing there.

Had Webber not tied a city-funded event to his reelection campaign, the 35 minutes he spent in the park wouldn't have riled anyone or gotten him so much as a column inch of negative press.

Instead, Webber drew criticism while giving a platform to the women who want his job.

Candidate Alexis Martinez Johnson read Webber's email and immediately filed a city ethics complaint against the mayor.

"He's using city employees for his own aims," Martinez Johnson said.

City Councilor JoAnne Vigil Coppler, the other mayoral candidate, had considered attending the watery gathering in SWAN

Please see story on Page C-3

Campaign cooldown

Continued from Page C-1

Park. She decided not to after thinking it through.

"It clearly was used by him as a campaign event," Vigil Coppler said of Webber. "I felt like it would be disingenuous for me to attend because I would be perceived as campaigning. This event is for families."

Webber did not respond to questions I sent him after his email blast labeling the gathering in SWAN Park as an event in his reelection campaign.

Trying to walk back Webber's email message, his political staff said the event in SWAN Park and a similar one next week in Franklin Miles Park are city-sponsored activities unaffiliated with the mayor's campaign.

Webber was merely trying to get the word out to boost attendance, his campaign spokeswoman said.

A bright line stands between attending a city function and overtaking it as part of a reelection campaign. There was no legitimate reason for Webber to link his campaign to publicly funded events that were likely to please the audience.

If spreading the word was Webber's only goal, his path was an easy one. He can control the city's publicity office. All he has to do is order more announcements about the fire department's community outreach program, and they will fill email inboxes.

Of course, the city commu-



JIM WEBBER/THE NEW MEXICAN

Antonio Chavez, 3, gets a face full of water during a cooldown event put on by the city of Santa Fe, the Santa Fe Fire Department and the Parks Division on Saturday at SWAN Park. Families gathered as firefighters unleashed a hose for about 20 minutes.

nication office would be under scrutiny to make sure these announcements weren't favoring one candidate over another. In truth, publicity about events run by the fire department shouldn't mention any politician.

By early afternoon, the fire department's event in SWAN Park had created a nice COVID-

era memory for a lot of people.

Kids got wet, and firefighter Ward made quite a splash. A native of Louisiana, he's been with the Santa Fe Fire Department for four years.

"I love the job," he said as he moved to secure the now-dormant fire hose, so kids wouldn't trip over it.

He had worked up a sweat while enjoying the crowd.

Behind the ugly backdrop of city politicking, it was the fire department's day after all.

Ringside Seat is an opinion column about people, politics and news. Contact Milan Simonich at msimonich@sfnmexican.com or 505-986-3080.

Campaign's use of newspaper logo sparks confusion

Continued from Page A-1

Campaign's use of newspaper logo sparks confusion

The Santa Fe New Mexican asks mayor to stop sending mailer

Daniel J. Chacón
dchacón@sfnewmexican.com

The Santa Fe New Mexican on Friday asked Mayor Alan Webber's campaign to stop sending a mailer with its logo at left some voters with the impression the newspaper has taken a stance against his chief rival in the upcoming mayoral election.

The front side of the glossy mailer, which was sent to several thousand voters earlier this week, is emblazoned with a headline unflattering to City Councilor JoAnne Vigil Coppler: "Vigil Coppler for mayor? Absolutely not." The newspaper's familiar logo is featured on the mailer underneath the headline, which originated from an opinion piece published in the "My View" section of the newspaper's editorial pages in April. The piece was written by a nurse who criticized Vigil Coppler for voting "absolutely not" in June 2020 on a citywide mask mandate.

Please see story on Page A-4

The back of the mailer quotes from the opinion piece but doesn't explicitly identify the author. It also states, among other things, "Healthcare workers, civic leaders, citizens across Santa Fe — and the voter who took the time to submit this My View — are outraged at JoAnne Vigil Coppler's complete disregard for our health."

Editor Phill Casaus said use of the newspaper's logo sparked concerns about potential trademark infringement.

"Our attorney's belief is that you can quote *The New Mexican* and even identify it in text as a source, but I think our concern is the logo," he said.

For others, Casaus said, the concern might be the mailer "has the opportunity to imply to the reader that that's *The New Mexican's* viewpoint on Ms. Vigil Coppler, and we haven't endorsed in this race."

The local nurse who wrote the opinion piece did not return a call to comment on its appearance in a campaign mailer.

Sascha Anderson, Webber's campaign spokeswoman, wrote in an email the campaign didn't intend to leave voters with the wrong impression.

"We simply used the exact headline of the My View that was published in the New Mexican and took great pains to ensure that this quote was from a My View guest op-ed, and not an editorial from the New Mexican," she wrote. "The campaign seeks to educate voters about Vigil Coppler's vote against the City's mask ordinance because we feel that if you vote no on something as simple as a mask ordinance you are not qualified to be Mayor."

Vigil Coppler said the mayor's campaign is using the newspaper "for a bit of sensationalism."

"What part of 'I'm not against masks' do they not understand?" she said, adding she wears one "religiously."

Vigil Coppler reiterated she voted against the mask ordinance because it was a "poorly written measure" that "had so many loopholes" and unenforceable provisions. For example, she said, the law allowed police to issue violators a written warning for a first offense. Vigil Coppler said the ordinance didn't address how police would know whether someone had received a prior warning and that repeat violators wouldn't admit to previous offenses to avoid a fine.

"I worked in the judiciary ... and I thought it was important for us to have legislation that's going to be enforceable. Otherwise, it's just window dressing," she said.

"Instead of Alan Webber running on his own dismal record, he deliberately attempts to distort my City Council testimony on the mask legislation," Vigil Coppler added.

Anderson said Webber's campaign would stop sending the mailer to voters. "And we will not use the New Mexican logo going forward," she wrote.

She declined to disclose how much money the campaign spent on the mailer, writing the

legal review beforehand, she added.

"It is pretty standard to quote articles and My View pieces in political mail and use the logo of the publication," she wrote. "Other candidates have done this in the past as well."

Asked whether the campaign made it abundantly clear the material came from a reader opinion, Anderson wrote the headline quotes the exact headline from the "My View."

"We took pains to enlarge the 'My View' portion so it was clear that this headline was not an editorial, but a guest editorial from the paper's 'My View' section," she wrote. "The mailer indicates it's a quote from a 'My View' on the front and again makes it clear on the back that the quote is from a My View author that was published in the New Mexican."

But former City Councilor Karen Heldmeyer said it takes a sophisticated voter to know the difference.

"When I've seen it done before by campaigns, it's done intentionally by the campaigns," she said.

"The Webber campaign is supposedly a very organized campaign, a very professional campaign, and I can't see that being done just inadvertently," she added.

Heldmeyer said she heard from "a number of people who were really very upset" about the mailer.

"A lot of people who got [the mailer] thought that it was saying that the quote was coming from *The New Mexican* rather than from a 'My View' that someone had written into *The New Mexican*," she said. "Most people will just kind of glance at it and see a quote and see *The New Mexican* logo, and that's all they see and that's all they know."

George Johnson, a journalist and author who has been commenting on the mayoral race in his online publication, *The Santa Fe Review*, wrote about Webber's mailer Friday. He called it a "campaign attack ad misrepresenting his opponent's vote on the mask ordinance."

"A reader taking the time to parse the histrionic text on back might figure out that the opinion is from a single letter to the editor, one that was published back in April, but many people will be left with the impression that the city's leading newspaper has called for his opponent's defeat," Johnson wrote. "I don't think we've seen this kind of tactic since the sleazy Santa Fe Grass Roots campaigns of 2004, which prompted me to begin writing *The Santa Fe Review*. I would have expected the mayor to hold himself to a higher standard."

But Johnson wrote Vigil Coppler "seems no better in that regard."

At the end of a recent debate, he wrote, Vigil Coppler "slammed Mr. Webber with a hit-and-run act of verbal sabotage: an accusation that in a fit of pique he had insulted her with a crude remark. The incident was more than a year and a half ago and there were no witnesses. My vote won't hinge on that any more than it will on the Councilor's mask vote."

Casaus said the mailer won't affect the newspaper's coverage of the mayoral race.

"All companies need to protect their trade-



mailer with the New Mexican logo that Webber campaign sent out.

**CITY OF SANTA FE
ETHICS AND CAMPAIGN REVIEW BOARD**

MARIA BAUTISTA
Complainant,

v.

**ALAN WEBBER and SASCHA GUINN
ANDERSON,**
Respondents.

**RESPONDENT’S RESPONSE TO COMPLAINT AND MOTION TO DISMISS FOR
FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED**

Respondents Alan Webber, in his capacity as a candidate for office, and Sascha Guinn Anderson, by and through their attorneys, Egolf + Ferlic + Martinez + Harwood, LLC (Kate Ferlic and Jeff Herrera, appearing), respond to Complainant Maria Bautista’s Complaint for Violations of the Santa Fe Code of Ordinances. Respondents request that this board dismiss the Complaint for failure to state a violation of the Campaign Code.

ARGUMENT

The Complaint before the Ethics and Campaign Review Board (the “Board”) covers significant ground in re-litigating the recently concluded Santa Fe mayoral race. Despite this, Ms. Bautista’s allegations fail to move her Complaint so much as an inch over the threshold of stating a violation of the Campaign Code. To be clear, Complainant has unnecessarily raised issues already heard by the Board that are irrelevant to her Complaint, seemingly to either use the Board to take political jabs or to harass the campaign and its employees. That Ms. Bautista has included Sascha Anderson, an employee of Mayor Webber’s reelection campaign, as a named Respondent quite clearly shows the vindictive attitude with which this Complaint was filed.

The Board should give the Complaint the same level of diligence and consideration as Ms. Bautista did in authoring it. The Complainant makes vague allegations without regard for the provisions of the Campaign Code to which she cites. The sections of the Code she cites are simply definitions for terms appearing in other sections, not substantive provisions outlining conduct for campaigns. Conclusively, nothing alleged by Ms. Bautista constitutes a violation of the Campaign Code.

The Complainant has failed to allege a specific provision of the Campaign Code Mayor Webber and Ms. Anderson violated and to allege facts that constitute a violation of *any* provision of the Campaign Code. For a complaint before this Board to be considered valid, it must “state the specific provision which has allegedly been violated and the facts which the complainant believes support the complaint.” Section 6-16.3 SFCC 1987. Further, the Rules of Organization and Practice for the Board state that “The Board . . . shall dismiss the case if the complaint . . . [d]oes not state a violation of the Code of Ethics, the Campaign Code, and/or the Public Campaign Finance Code” Ethics and Campaign Review Board Rules of Organization and Practice, Section D(4)(b) (2012). The Board must dismiss this Complaint for failure to state a violation.

I. The Complainant has failed to state a violation.

Ms. Bautista has cited three specific portions of the Campaign Code—SFCC 9-2.3(I), (E), and (M). The three provisions are all subsections of the Definitions section of the Campaign Code, each defining a different term. The terms defined include “contribution,” “campaign materials,” and “expenditure.” Section 9-2.3(I), (E), (M) SFCC 1987. However, these subsections do not prohibit or require any particular conduct on the part of campaign actors. For example, Subsection (E) defines “campaign materials” to mean “any published communication, electronic or otherwise, disseminated to more than one hundred (100) persons that either

supports the election or defeat of any identifiable candidate or candidates or supports the approval or defeat of a ballot proposal, other than communications to, or editorials, reports, or commentary by news media.” Section 9-2.3(E) SFCC 1987. This section merely provides a definition for the term used elsewhere in the Campaign Code. There is no behavior listed in the subsection that a campaign could even violate in theory.

The three citations do not prohibit any particular conduct. It is a legal impossibility for Respondents to violate the cited definitions. A valid complaint before this Board must allege violations of specific provisions of the city code. Complainant has not proffered any provision of the Campaign Code prohibiting particular behavior by the campaign or its employees. Therefore, the Complaint is invalid and must be dismissed.

II. Taken as true, the facts alleged do not constitute a violation of the Campaign Code.

Ms. Bautista has not only failed to allege a violation of a substantive provision of the Campaign Code—she has also failed to allege facts that violate *any* provision of the Campaign Code. The facts, as alleged, are all firmly within the bounds of the Campaign Code; therefore, the Complaint must be dismissed.

At this stage of the Board’s proceedings, the Board considers facts alleged in the Complaint as true. *See* Rules of Organization and Practice, Section D(4). Taking Ms. Bautista’s allegations as true, she has failed to state a violation of the Campaign Code. Ms. Bautista has alleged that she heard that the Campaign misrepresented the purpose of the video at issue and used the clips from Ms. Encinas for political purposes without Ms. Encinas’s knowledge. While the Board Rules permit hearsay evidence at the discretion of the Chair, such evidence is only permissible for the purpose of supplementing or explaining other evidence. *See* Rules of Organization and Practice, Section H(7) (2012). Ms. Bautista makes allegations using someone else’s alleged words. This is inappropriate and should be rejected. Regardless, even if one were

to take the hearsay allegations as true—an inappropriate step by a government body—they do not constitute a violation of the Campaign Code. Moreover, they certainly do not constitute a violation of any provisions of the Campaign Code cited by Ms. Bautista.

The requirements of the Campaign Code primarily revolve around campaign finance transparency and reporting. *See, e.g.*, Sections 9-2.6 through 9-2.14 SFCC 1987. These requirements oblige Santa Fe political campaigns to disclose donations and expenditures giving the public the opportunity to scrutinize political influence. Nothing in the Campaign Code prohibits municipal campaigns from partnering with community organizations to promote events and opportunities within the City of Santa Fe, including the Santa Fe Fuego baseball team. So long as campaigns meet the transparency requirements of reporting contributions and expenditures in the manner prescribed under the Campaign Code, such conduct is permissible. Complainant has not alleged any violation of reporting requirements, contribution limits, or failure to identify campaign materials because no violation of these requirements has occurred.

This alleged and unsupported conduct does not run afoul of the Campaign Code. As this Board knows, the Campaign Code primarily concerns campaign finance reporting and transparency. Here, the video was shared on social media channels branded for and managed by the Campaign. Absent an allegation that these social media channels did not have the required campaign disclosures, *see* Section 9-2.5 SFCC 1987, or that the Campaign failed to include associated campaign expenditures in its campaign finance statement, *see* Section 9-2.11(A)(1) SFCC 1987, the conduct alleged does not approach a violation.

CONCLUSION

For these reasons, Respondents respectfully request that the Board grant the motion to dismiss the Complaint for failure to comply with the requirements of a valid complaint under the Santa Fe Code and the Board's Rules of Organization and Practice. Complainant has failed to

identify any specific prohibition of the Campaign Code that Respondents have violated and has failed to allege facts that would constitute a violation of any provision of the Santa Fe Code.

Respondents respectfully request that this Board dismiss the Complaint against them.

Respectfully submitted,

EGOLF + FERLIC +
MARTINEZ + HARWOOD, LLC

By: /s/ Kate Ferlic

Kate Ferlic

Jeff Herrera

123 W. San Francisco Street, 2nd Floor

Santa Fe, NM 87501

(505) 986-9641

Kate@EgolfLaw.com

Jeff@EgolfLaw.com

Attorneys for Respondent

CASE # 2021-5

Complaint Form

(Please print or type)
(Additional pages may be added)

City of Santa Fe
Ethics & Campaign Review Board

Date: 10/28/2021

1. Name of person and/or group charged with alleged violation. Sascha Guinn Anderson

2. Please explain briefly the nature of the alleged violation. See attached.

3. Please state which specific provision(s) or part(s) of the Code of Ethics or Election Code you believe have been violated. See attached.

4. Please state the facts you have regarding the violations, including:
the date(s) From 7/1/2021 until current.
the time(s) _____
the place(s) _____
people involved _____
other facts _____

5. Are there any witnesses to the violation who are willing to confirm your charge? Please list with addresses, phone numbers and what they know. _____
Santa Fe City Clerk. Please see attached IPRA request #21-5147

6. Attach documentation of actual evidence you have to support your complaint, to this form.

7. What is your name? Save Santa Fe Culture PAC

8. Address? PO Box 22323 Santa Fe, NM Zip Code 87502

9. Telephone Number? (505) 819-3236 Work: _____

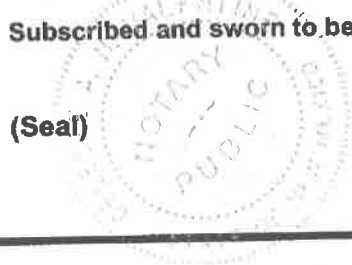
10. Email Address? savesantafeculture@gmail.com

Received on: October 27 20 21
By: [Signature]
City Clerk's Office

To the best of my knowledge, the above statements are true and complete.

[Signature]
Signature

Subscribed and sworn to before me this 27th day of October 20 21



[Signature]
Notary Public
Expires June 15, 2024

**CITY OF SANTA FE
ETHICS & CAMPAIGN REVIEW BOARD**

COMES NOW SAVE SANTA FE CULTURE PAC, and as a supplemental statement to the information provided on the Complaint form, states as follows:

Introduction

This Complaint arises from the appointment of Sascha Guinn Anderson to the City of Santa Fe Women's Commission ("the Commission"). The Commission was established with laudable goals, as the City of Santa Fe explained it, its mission was

to improve City of Santa Fe programs and policies and to strengthen the quality of life of women and girls in Santa Fe so that they can thrive, personally and professionally.

Its calling was to achieve important goals, fully supported by Save Santa Fe Culture PAC, and as the City of Santa Fe explained it:

Members of the Women's Commission will be responsible for providing a gender equity lens through which the City's programs, policies, services, ordinances, budgets and practices are viewed. The Commission may make recommendations on topics that directly impact women and girls within the City. The Commission may also seek and recommend opportunities to partner with other organizations, community members, and agencies to ensure women and girls have equal opportunity and representation in decision-making roles.

The Commission was established to serve all women of Santa Fe, not merely those closely aligned with the Office of the Mayor. The appointments to the Commission, through the office of the Mayor, were subject to the ordinances of the City of Santa Fe. Ms. Anderson was appointed in November of 2020. Members Appointed, Santa Fe New Mexican (Exhibit A).

The Importance of Sunshine on the Corrupting Effects of Political Appointments

New Mexico has long recognized the importance of disclosures in political appointments, such as Ms. Anderson's, especially to Commissions as important as the Commission here. *San Juan Agr. Water Users Ass'n v. KNME-TV*, 2011-NMSC-011 ¶ 16, 150 N.M. 64 ("In order for government to truly be of the people and by the people, and not just for the people, our citizens must be able to know what their own public servants are doing in their name"); *Republican Party of New Mexico v. New Mexico Taxation & Revenue Dep't*, 2012-NMSC-026 ¶ 51 ("Transparency is an essential feature of the relationship between the people and their government. This foundational principle far predates IPRA, New Mexico's statehood, and even 3 George Washington's first term as our nation's President"); *State ex rel. Newsome v. Alarid*, 1977-NMSC-076 ¶ 34, 90 N.M. 790, *overruled on other*

grounds by Republican Party of New Mexico, 2012-NMSC-026 ¶ 16 ("The citizen's right to know is the rule and secrecy is the exception.").

The importance of agents of prosecutors in being above ethical reproach is also worthy of note. As explained by Attorney General Eric Holder, "[t]his, after all, is the essential duty to which all of us—as attorneys general—have been sworn: not just to win cases, but to see that justice is done." The American Bar Association exhorts prosecutors to have a keen sense that they are separate from politics, both in the act of "winning" cases, but also

The prosecutor serves the public interest and should act with integrity and balanced judgment to increase public safety both by pursuing appropriate criminal charges of appropriate severity, and by exercising discretion to not pursue criminal charges in appropriate circumstances. The prosecutor should seek to protect the innocent and convict the guilty, consider the interests of victims and witnesses, and respect the constitutional and legal rights of all persons, including suspects and defendants.

American Bar Association, Standard 3.12(b). New Mexico's ethical guidance is comparable. The focus is on protecting the rights of all, not merely those politically allied with the office of the District Attorney or the Mayor, or whom travel together on the same political pathways.

One way to ensure that politics does not infect the office of the District Attorney (the chief prosecutor in the County), the Office of the Mayor (the administrative branch) and its various commissions, boards and establishments is to enforce sunshine rules so that the public can be certain that the corrupting influence of politics does not undermine the efforts of those government agencies. Unfortunately, Ms. Anderson is an intersection and Ms. Anderson has not lived up to the demands she places on others.

The City Ordinances and State Statutes in Play

A conflict of interest is the use of powers or resources of public office to "obtain personal benefits or pursue private interests," as opposed to using those powers or resources "only to advance the public interest." NMSA 1978 § 10-16-3 (addressing conflicts of interest by legislators). To minimize the risk of these sorts of corrupting conflicts of interest, or the leverage of public offices for personal gain, the City of Santa Fe supplements the state disclosure requirements by requiring disclosure of a modest amount of information. An appointed member must submit a report explaining the following items:

- (1) Name;
- (2) Address and telephone number;
- (3) Employer, if other than the city;
- (4) Professional, occupational or business licenses;
- (5) Membership on board of directors of corporations, public or private associations or organizations; and

(6) Businesses of which he or she is an owner.

1-7.6, Public officials and public employees; disclosure, Section C. Ms. Anderson is required to maintain that information as current. She is required to file it with the City, and to file it with this agency. This information is required to be available to the public at all times. Ordinance 1-7.6(B) ("This information ... shall be available to the public at all times.").

Ms. Anderson has apparently never provided these disclosures to the City of Santa Fe. Response to Request 21-5147 (As noted by the City Clerk: "It does not appear that Sascha Anderson ever submitted her disclosure forms. We have no record of receiving them from her.") (Exhibit B). Presumably, Ms. Anderson did not bother to provide the same disclosures to this Board, despite the obligation for this Board to receive them expressed in law. Ordinance 1-7.6(c) ("The ethics and campaign review board shall be given copies of the disclosures for its review.").

The Intersection with Ms. Guinn's Political Career and Non-Compliance with Ordinances

As is well-known, Ms. Anderson has a wide variety of influences and avenues, each of which redounds to her personal influence, often paid with public funds and plaudits. Ms. Anderson appears to identify herself as a spokesperson for the Mayor's reelection campaign, a spokesperson for the Office of the District Attorney for Santa Fe County, as a member of the Commission. She is also a candidate for public office, to whom the Mayor and District Attorney have donated funds. In these various capacities, Ms. Anderson has lobbed a barrage of commentary that could well persuade a person not allied to her personal politics that Ms. Anderson, and by her words and actions, her employers, run things differently for those opposed to her personal, destructive politics.

An array of public comments from Ms. Anderson suggests that she is quick to demand others make disclosures, but not nearly so quick to hold herself to the standard she imposes on others. A collection of statements by Ms. Anderson include troubling comments. For example, she has been quoted:

On September 9, 2021, Ms. Anderson was quoted as having issued a statement declaring that:

We respect the Board's decision but respectfully disagree. All entities that engage in negative campaigning should disclose their donors so there is transparency to the voters.

Santa Fe Reporter, Second Verse, Same as the First, September 9, 2021. The quote was provided as an "emailed statement from Webber's spokeswoman." Contrary to her groundless criticism, Ms. Anderson does not disclose her paymasters, including those that create conflicts of interest.

In a recent extensive interview, celebrating Ms. Anderson, she volunteered that her political activities, elected activities and unspecified non-profit activities could create conflicts of interest. The article quoted her at length, celebrating her “siloing” of her advocacy from other activities. As the article quoted Ms. Anderson:

Anderson acknowledged her political and communications work — including for local nonprofits — could create conflicts of interest when it comes to her position on the school board.

She recently consulted with the school board’s attorney on how to draw boundaries, she said.

“I am highly cognizant of any overlap and will always recuse myself of any issue that overlaps between my clients or my volunteer work or my school board work,” Anderson said.

She added she’s “really careful to sort of silo that work. That said, I do think that there is potential for collaboration on the school board with various other government entities and community entities.”

Noble agreed. “I would ask anybody to tell me why there’s a conflict of interest and not an alignment of interest,” she said. “Closer alignment to the city is something I’ve worked on a bunch.”

Carmack-Altwies said she and Anderson already have discussed a plan to avoid potential conflicts.

Santa Fe New Mexican, Newest Santa Fe school board member vows to be advocate, ‘cheerleader,’ October 2, 2021 (Exhibit C). It is unclear how the public could be apprised of these actual conflicts of interest if Ms. Anderson, on behalf of the Mayor, and Ms. Anderson, on behalf of the District Attorney, and Ms. Anderson, on behalf of the School Board, together with Ms. Anderson, on behalf of the unspecified non-profit groups negotiate those matters in private. The fact that Ms. Anderson failed to file these disclosures while running for office and now, while holding, the office is particularly troubling.

To the extent that this Board is unconcerned that Ms. Anderson might comport herself in a fair manner, reasoning that it is all part of the rough-and-tumble of politics, it is worth noting that she explicitly threatened to diminish public access of those she found disfavored. As she was quoted:

JoAnne’s supporters are Trumpian operatives deploying divisive bullying tactics and I will do everything I can to stop MAGA from having an ally in the Mayor’s office.

Mayor's Campaign Files Ethics Complaint, Santa Fe New Mexican, August 20, 2021 (Exhibit D). Based on her various positions, apparently by political revenge, her political opponents will not have a fair hearing in the Mayor's office, in the District Attorney's office, on the School Board, and anywhere else Ms. Anderson is. Her foot on the lever of justice will deny citizens access to their government and she is comfortable with that. That comfortableness is precisely the conflict of interest that makes one doubt that the doors of government are open equally.

Conclusions

Save Santa Fe Culture PAC respectfully submits that this Board should censure Ms. Anderson. She should be censured for her persistent violation of City Ordinance and she should be censured for her persistent conduct of Mayor's business, District Attorney business, School Board business, and unspecified private business while trapped beneath the weight of her own confessed conflicts of interest.

EXHIBIT A

https://www.santafenewmexican.com/news/briefs/city-names-members-of-new-santa-fe-women-s-commission/article_9c84265e-23c7-11eb-8591-0f357c587a85.html

City names members of new Santa Fe Women's Commission

The New Mexican
Nov 11, 2020

The City Council on Tuesday unanimously confirmed the appointment of seven members and two alternates to the new Santa Fe Women's Commission.

The members are Candice L. Flint, who will serve as chairwoman; Sascha Anderson; Olivia Sloan; Araseli Varela; Fatima Van Hattum; Gabriela Schwenker; and Vickie L. Gabin. The alternates are Kate Cleaver and Carla Bachechi.

The commission has one mission: to find ways of making Santa Fe better for women and girls, the city said in January.

"The definition of 'women' or 'women and girls' as it relates to [the resolution establishing the commission] shall consistently include and refer to women and girls, transgender women, self-identifying women and girls, and gender non-confirming individuals, including in the composition and the mission of this commission," the city said.

Appointments to the commission were slow-going, partly because of the coronavirus pandemic.

Follow Daniel J. Chacón on Twitter @danieljchacon.

Daniel Chacon
Reporter

EXHIBIT B

Request #21-5147

CLOSED

3 of 4 filtered by: Keyword search: sascha



As of October 22, 2021, 4:36pm

Details

Filed 10/7/2021

In accordance with Section 14-2-1 NMSA 1978, as amended, I would like to inspect and/or receive copies of the following documents:

1. Any and all disclosures made by Sascha Anderson, Sascha Guinn Anderson, Sascha Ingram, or any variation of that name to the City of Santa Fe or in possession of the City of Santa Fe.

2. The disclosure made by Sascha Anderson, Sascha Guinn Anderson, Sascha Ingram, or any variation of that name as required by this statute:

1-7.6 - Public officials and public employees; disclosure.

B.

Upon election, appointment, or employment, public officials and department heads shall disclose in writing to the city clerk the information listed below. This information shall be updated every July and shall be available to the public at all times.

(1)

Name;

(2)

Address and telephone number;

(3)

Employer, if other than the city;

(4)

Professional, occupational or business licenses;

(5)

Membership on board of directors of corporations, public or private associations or organizations; and

(6)

Businesses of which he or she is an owner.

I prefer to receive further communication on this matter electronically, as it has been sent to you, the custodian. I further formally request that a copy of all further communication is, at minimum, transmitted electronically, as it is stated in the IPRA law, as a responsibility of the custodian "(to) respond to requests in the same medium. electronic or paper. in which the request was
— [Read less](#)

Received

October 7, 2021 via web

Departments

City Clerk's Office

Documents

(none)

Staff

Point of Contact

Kristine Mihelcic

Timeline

Request Closed

Public

A search of City Clerk Department files did not locate any records that are responsive to your request. I regret that we are unable to assist you. The City asserts that it has met its obligations under IPRA by searching for records responsive to your request and considers this request closed. If you have any questions or concerns regarding this email, please do not hesitate to contact me.

The City Clerk office says the following: "It does not appear that Sascha Anderson ever submitted her disclosure forms. We have no record of receiving them from her."

October 22, 2021, 10:11am

Request Reopened

Public

October 13, 2021, 9:59am

Department Assignment

Public

Added: City Clerk's Office.

October 8, 2021, 3:05pm

Request Published

Public

October 7, 2021, 11:52am

Request Closed

Public

As this person is not a city official or city employee we have no responsive records to your request. Thank you.

October 7, 2021, 11:52am

Request Opened

Public

Request received via web

EXHIBIT C

https://www.santafenewmexican.com/news/education/newest-santa-fe-school-board-member-vows-to-be-advocate-cheerleader/article_5204b1da-1aec-11ec-a569-b33357fb5146.html

Newest Santa Fe school board member vows to be advocate, 'cheerleader'

By Jessica Pollard jpollard@sfnewmexican.com
Oct 2, 2021



Sascha Anderson was recently appointed to serve on the board for Santa Fe public schools, replacing the late Lorraine Price. She's also the spokesperson for Mayor Webber's reelection campaign and the District Attorney's Office.

Jim Weber/The New Mexican

Sascha Anderson is a mother of three, a communications consultant for two high-profile political figures in Santa Fe and a local volunteer.

Recently, she also became the newest member of the Santa Fe school board.

Anderson, 38, a member of the Choctaw Nation of Oklahoma who is running unopposed in the Nov. 2 election for the District 5 board seat previously held by Lorraine Price, was appointed to the position in early September following Price's death.

Her district includes several midtown schools — Santa Fe High School; Milagro Middle School; the Early College Opportunities school; and Kearny, Nava, Piñon and Salazar elementary schools.

She said she plans to advocate for better teacher pay and will push for more discussions on equity at Santa Fe Public Schools, including "equitable distribution of resources" for the Adelante Program, which serves homeless students and families; the nonprofit Communities In Schools, which offers an array of programs for the district's lowest-income kids; and other initiatives.

As a Native American, she said, she brings a fresh perspective to the district.

"I'm an Indigenous woman. I think that's really important," she said, adding she wishes "there was representation from a New Mexican nation or pueblo on the school board."

The only other spot up on the board that's up for election this year is the District 3 seat held by board President Kate Noble, who is running unopposed.

Noble, in a recent interview, said she was relieved the board was able to fill Price's seat so quickly. "It was nice and clean and clear whom we needed to appoint, after seeing that Sascha is running for the position unopposed."

While Anderson's name is fairly new in local politics, she has become known in recent months as a lead spokeswoman for Mayor Alan Webber's reelection campaign and the office of First Judicial District Attorney Mary Carmack-Altwhies.

She has contracts with both through her private communications consulting firm.

"Sascha Anderson is imminently qualified," Carmack-Altwhies said in an interview Friday. "While she works in communications right now, she has quite the background in equity and social justice. She is very passionate about certain topics the school board regularly deals with."

Webber also lauded Anderson's work in the community.

"I think she's very plugged into the community," he said. "She's actively involved with families, moms, kids. I think she'll bring a lot of experience and constructive ideas to the school board. So, I think they made a good selection."

The mayor noted he has no say in school board appointments.

Anderson acknowledged her political and communications work — including for local nonprofits — could create conflicts of interest when it comes to her position on the school board.

She recently consulted with the school board's attorney on how to draw boundaries, she said.

"I am highly cognizant of any overlap and will always recuse myself of any issue that overlaps between my clients or my volunteer work or my school board work," Anderson said.

She added she's "really careful to sort of silo that work. That said, I do think that there is potential for collaboration on the school board with various other government entities and community entities."

Noble agreed. "I would ask anybody to tell me why there's a conflict of interest and not an alignment of interest," she said. "Closer alignment to the city is something I've worked on a bunch."

Carmack-Altwhies said she and Anderson already have discussed a plan to avoid potential conflicts.

"We came up with a strategy that if any conflict came up, that she would recuse herself of the vote or discussion on the school board, and obviously I would then take her out of any discussions if there ever was a discussion with the school board," the district attorney said.

"But as I was having that discussion with her, neither of us could come up with any examples in the last three, four, five years of dealings that the District Attorney's Office has had with the school board," she added.

Webber said the short duration of Anderson's work with his campaign — she's contracted through Nov. 2 — likely will prevent any overlaps.

"I think we're 30 days out for the election," he said. "And so I think the issue is very short-lived." If anything concerning arose, he said, they would discuss the issue to ensure "there would not be a conflict or even an appearance of a conflict."

Anderson grew up in Norman, Okla., and comes from a family of educators.

The public school system brought solace for her amid the realities of a childhood deeply affected by poverty and substance abuse.

"Having that experience and having the public schools ... saved my life," she said.

She took college courses for seven years, she said, but did not earn a degree.

At 26, Anderson moved to New York City and worked in the specialty foods industry, and in 2015, she moved to Santa Fe with her husband, Michael, and their kids — in part, she said, to get away from the "hypercompetitive" school system of the nation's largest city.

Anderson said she was drawn to run for a school board seat after watching board members debate key issues over the past few years, such as the dress code and Fiesta de Santa Fe celebrations in schools.

"I will say, I also saw places where I thought the school board could improve," she said. "There were opportunities for growth in the areas around conversations around closing schools [and] the transfer policy."

Tiny Nava Elementary School in District 5 was identified in past years as one of a few midtown schools that could be closed and consolidated due to small and stagnant or declining enrollment numbers. In 2019, Price and former board member Maureen Cashmon voted in favor of closing Nava and two other low-enrollment schools with high rates of transfer students. Their effort did not pass.

Anderson's eldest daughter, 8-year-old Winifred, has attended Nava's home-school program since before the family lived in the district.

Still, Anderson said she doesn't lean one way or the other on the topic of school closures. Instead, she called for better stakeholder engagement and more "robust" conversations surrounding equity.

"I say this as someone who utilizes the transfer policy," she said. "So it's not that I think ... people shouldn't be able to transfer schools."

She noted, however, some schools in the district have high rates of students who transfer from other zones, while many have high numbers kids of transferring out.

Before moving to the District 5 area, Anderson headed Gonzales Community School's Parent Teacher Association. She also worked on a diversity and equity committee through the state Public Education Department, though she'll step down from that position.

She's still part of an equity committee under Santa Fe Public Schools' new superintendent, Hilario "Larry" Chavez. It remains unclear whether she'll be able to continue serving on the panel.

She also is a current board member for the local nonprofit Girls Inc.

Anderson said families can expect her to be a "cheerleader" for the schools of District 5 and an advocate of ensuring more equal distribution of resources between schools.

"And then the well-being of students, and families, and teachers and staff is of my utmost concern," she said. "And that's food security, housing security, culturally responsive resources and mental health."

Jessica Pollard
Education Reporter

EXHIBIT D

https://www.santafenewmexican.com/news/local_news/mayors-campaign-files-ethics-complaint-accusing-union-protectiva-veterans-groups-of-aiding-rival/article_08e7c0c8-0101-11ec-acb2-8f9b2cc91f89.html

Mayor's campaign files ethics complaint accusing Union Protectiva, veterans groups of aiding rival

By Sean P. Thomas sthomas@sfnewmexican.com
Aug 19, 2021



Alan Webber
Jim Weber/New Mexican file photo

JoAnne Vigil Coppler
Courtesy photo



Virgil Vigil, left, president of Union Protectiva de Santa Fe, and Richard Barela, vice president.

Luis Sánchez Saturno/New Mexican file photo

Santa Fe Mayor Alan Webber's campaign filed an ethics complaint against the Spanish fraternal organization Union Protectiva de Santa Fe and two other local organizations this week, alleging illicit political activity in support of mayoral candidate JoAnne Vigil Coppler.

The complaint, filed with the city's Ethics and Campaign Review Board, claims Union Protectiva, as well as the local Veterans of Foreign Wars Post 2951 and American Legion Post 1, violated city code and state law by spending funds to support a candidate, despite the organizations' nonprofit status and failure to properly register with the city.

According to city code, any group hoping to advocate for or against a political candidate must register a statement of organization with the City Clerk's Office before circulating campaign material, which none named in the complaint has done.

The complaint refers to several advertisements and Facebook posts, including one paid for by Union Protectiva that ran in the *Santa Fe Reporter* in April. The advertisement, which bore the heading "Mayor Webber's Dark Side," made several allegations, including claims that Webber was a Marxist seeking to divide Santa Fe.

At the time the ad ran, Virgil Vigil, Union Protectiva's president, said he didn't see the ad as political.

Webber called the advertisement "wrong" and "disturbing."

The complaint also cites a widely circulated social media and newspaper ad that attempts to denigrate the city's Culture, History, Art, Reconciliation and Truth process to address public art and monuments, calling it "Cancelling Hispanic Arts Religious Traditions."

VFW Post 2951 and American Legion Post 1 are listed as sponsors of the ad, which also has appeared on yard signs.

In a statement announcing the ethics complaint, Sascha Guinn Anderson referred to three people — Vigil; James Hallinan, a spokesman for Union Protectiva; and Eli Bransford, who makes YouTube videos about Santa Fe and Webber — as “Trump MAGA operatives,” seeking to divide the city.

“Their plan is to divide the city and incite a culture war,” Anderson said in the statement. “City voters have the right to know about the Trump MAGA operatives who are illegally working on behalf of JoAnne Vigil Coppler. We call on Vigil Coppler to repudiate these Trump operatives who are trying to tear apart the fabric of our community and to stop relying on their help to win this election at all costs.”

Both Vigil Coppler, a current city councilor, and Webber are registered Democrats, while former congressional candidate Alexis Martinez Johnson, the third candidate in the race, is a registered Republican.

Martinez Johnson filed an ethics complaint last month against Webber’s campaign, alleging it was using city resources. That complaint came after the mayor’s campaign issued an email announcing his appearance at a city-funded event.

The ethics board held a hearing Thursday on Martinez Johnson’s complaint and decided to dismiss it, finding Martinez Johnson failed to provide specific ethics code violations for the board to consider.

Hallinan provided a statement alleging Webber is retaliating against Hispanics, Catholics, veterans and members of the military by filing a “baseless and desperate” complaint.

“Webber is a struggling mayor who is out of touch with Santa Fe’s history and culture,” the statement continues.

Pat Patterson, who serves as adjutant, or administrative assistant, of American Legion Post 1, declined to comment until the organization could review the complaint.

In response to the Trump supporter rhetoric, Hallinan wrote in a text message that Union Protectiva has “no affiliation with any current President or former Presidents.” He said the statement “makes it clear that Mayor Webber is in fact the one creating divisiveness.”

The Webber campaign’s complaint also refers to an email between Vigil and Vigil Coppler — no relation — which the complaint alleges is evidence of coordination between Union Protectiva and Vigil Coppler’s campaign.

The email, sent to Vigil Coppler in February, begins, “As you know, we are pulling for you to run for Mayor and will support your run.”

The email was sent from Vigil’s AOL email address.

Vigil Coppler said the email was similar to other emails she received from members of the public encouraging her to run. She said the Webber campaign was “grasping at straws.”

“Many people during that time wrote me to encourage me to run,” Vigil Coppler said. “Many, many people.”

Sisto Abeyta, Vigil Coppler’s campaign manager, said she never responded to the email, and there was no coordination between her campaign and the organization.

“There is no coordination that happened,” Abeyta said. “It was an individual who expressed to JoAnne, ‘Run and I will support you.’”

Abeyta said Carlos Trujillo, an outreach manager for Webber’s campaign, had informed the campaign about the email.

Vigil Coppler said Trujillo had worked for her for a short period of time before she officially announced she was entering the race.

"Carlos is the one who is instigating this whole thing," Vigil Coppler said.

Trujillo did not deny the allegation but said he never worked for Vigil Coppler's campaign in any capacity.

"I absolutely shared that email with the campaign," he said in a statement issued by Anderson. "JoAnne's supporters are Trumpian operatives deploying divisive bullying tactics and I will do everything I can to stop MAGA from having an ally in the Mayor's office."

The complaint is the latest between Webber and the fraternal organization.

In June, the organization filed a lawsuit against Webber, asking a judge to order Webber to restore the Plaza obelisk, which activists pulled down with ropes and chains last year during an Indigenous Peoples Day protest.

More recently, in response to a video in which Webber decries vandalism at the Cross of the Martyrs on the 341st anniversary of the Pueblo Revolt, the organization accused the mayor of failing to protect Hispanic culture and history.

The Webber campaign asks the ethics review board to order all the yard signs removed, to impose a \$500 fine per violation against each of the organizations named in the complaint and to require the organizations to file as political committees so they will have to disclose municipal election donations and expenditures.

The complaint also requests a determination on whether the advertisement, social media posts and yard signs qualify as coordinated expenditures in support of Vigil Coppler's campaign and if her campaign failed to report them.

Vigil Coppler said she believes the timing of the complaint was intended to deflect attention from the ethics complaint Martinez Johnson filed against Webber's campaign.

MORE INFORMATION



Board dismisses ethics complaint against Santa Fe mayor

Sean Thomas
Reporter

**CITY OF SANTA FE
ETHICS AND CAMPAIGN REVIEW BOARD**

**SAVE SANTA FE CULTURE PAC
Complainant,**

Ethics Board 2021-05

v.

**SASCHA GUINN ANDERSON,
Respondent.**

RESPONDENT’S RESPONSE TO COMPLAINT AND MOTION TO DISMISS

RESPONDENT SASCHA GUINN ANDERSON, by and through her attorneys, Egolf + Ferlic + Martinez + Harwood, LLC (Kate Ferlic and Jeff Herrera, appearing), responds to Complainant Save Santa Fe Culture PAC’s Complaint for Violations of the Santa Fe Code of Ordinances. Respondent requests that this Board dismiss the Complaint because it was filed solely to harass Respondent. In the alternative, Respondent requests that this Board dismiss the Complaint for failure to state a claim upon which relief can be granted.

INTRODUCTION

Sascha Anderson is an involved member of the Santa Fe community. Her passion for civic service has led her to work in different aspects of community life, including various volunteer, elected, and paid roles. At no point, however, has this work generated conflicts actionable by the Ethics and Campaign Review Board (the “Board”). The Complainant has muddled the timeline of Ms. Anderson’s work and omitted key details germane to the questions before the Board to show Ms. Anderson in the worst possible light. However, Ms. Anderson’s civic involvements, when taken in the correct timeline with the relevant facts, are innocuous.

Ms. Anderson was appointed by Mayor Webber to the Santa Fe Women’s Commission (the “Commission”) in November 2020 after a competitive application process. In January 2021, while serving on the Commission—a municipal body—Ms. Anderson’s business contracted with

the office of the District Attorney for the First Judicial District—a political subdivision of the state—to provide communications services. Ms. Anderson served on the Commission from November 2020 until March 2021, at which point she took a leave of absence from the Commission, effective through November 2021. After taking a leave of absence from the Commission, Ms. Anderson’s firm contracted with the Alan Webber for Mayor Campaign to provide communications consulting services. On August 24, 2021 Ms. Anderson filed to run for the District 5 seat of the Santa Fe School Board, a political subdivision of the state separate from the Santa Fe city government. When the incumbent member of the Santa Fe School Board deceased in September 2021, the board members voted to appoint Ms. Anderson to the vacancy as she was the only declared candidate on the November ballot. The Santa Fe School Board members were fully aware of Ms. Anderson’s involvement with other government bodies and the decision to appoint her was cleared with the School Board’s counsel prior to her appointment.

ARGUMENT

The complaint against Ms. Anderson is one in a series of attacks against individuals affiliated with Mayor Webber. The citizen enforcement aspect of the Ethics and Campaign Review Board is a virtue for a city that prizes civic involvement. But individuals politically opposed to Mayor Webber have decided to abuse the open nature of these proceedings to make political hay when they are unable to win a democratic election. The Board has recognized that the other side of the coin when it comes to an open citizen process is the possibility that complaints are levied in bad faith: the Board’s Rules of Organization and Practice instruct that the Board shall dismiss complaints “filed solely to harass or intimidate.” Rules of Organization Practice, Section D(4)(c) (2012).

Further, the allegations concerning Ms. Anderson’s alleged conflicts of interest are vague and ill-defined. Complainants have failed to perform the due diligence necessary to determine

whether there is a legitimate claim before filing. The Board should dismiss this Complaint because it is intended solely to harass Ms. Anderson. In the alternative, Respondent requests that this Board dismiss the Complaint because Complainants have failed to allege facts constituting a plausible legal theory necessary for a complaint to proceed.

I. The Complaint should be dismissed because it was filed solely to harass the Respondent.

The Complaint against Ms. Anderson should be dismissed because it was filed solely to harass. This Board provides an avenue by which citizens may bring good-faith concerns of legitimate conflicts of interest to ensure the promise of good government in Santa Fe. This Complaint is not one such concern.

Here, Ms. Anderson is not responding to a citizen-complainant acting in good faith, but rather a political organization. The organization in question, Save Santa Fe Culture PAC, is an entity politically opposed to Mayor Webber. This organization has accused Mayor Webber of “conspir[ing] behind closed doors to change the very fabric of Santa Fe” and “us[ing] his power as mayor even to the point of greatly overstepping his legal authority.”¹ Rather than taking their legitimate disagreements to the court of public opinion and allowing the citizens to voice policy preferences through their votes, Complainant is abusing the availability of these proceedings in order to harass individuals affiliated with Mayor Webber.

Moreover, this Complaint is not an isolated incident. It is Respondent’s understanding that the Complaint, brought in the name of Save Santa Fe Culture PAC, is one of a series of actions brought by an individual named Aaron Borrego. Mr. Borrego has already filed three court actions concerning public records relating to Ms. Anderson’s work. *See Phaedra Haywood, Real estate investor files third complaint against District Attorney’s Office, Santa Fe*

¹ *What’s happening?*, Save Santa Fe Culture PAC (last visited Nov. 11, 2021), <https://www.savesantafeculture.com/whats-happening>.

New Mexican (Oct. 29, 2021), https://www.santafenewmexican.com/news/local_news/real-estate-investor-files-third-complaint-against-district-attorneys-office/article_54b1360a-38d4-11ec-868b-a34e0cb8864b.html. Further, Mr. Borrego has engaged in harassment against Ms. Anderson on social media. *See id.*

To be clear, this Complaint is not about Mayor Webber or the District Attorney’s office; it is lodged against Ms. Anderson. But the political objectives of the Save Santa Fe Culture PAC make the motivation of the action before this Board crystal clear—the Complainant has filed this Complaint to harass Ms. Anderson because of her affiliation and work on behalf of Mayor Webber. The vague and unsupported allegations of conflicts of interest demonstrate that the Complainants have not done any due diligence in determining a legitimate theory of liability before filing. This Complaint was not filed to find and remedy violations of the Santa Fe Code. Rather, it was filed to raise the political cost of working for Mayor Webber’s campaign. Allowing a baseless complaint such as this to move forward will have a chilling effect on those interested in public service knowing that they may be subject to vexatious actions before this Board. The Board must follow its own Rules and dismiss the Complaint in order to preserve the integrity of these proceedings.

II. The Board should dismiss the Complaint for failure to state a claim upon which relief can be granted.

The Complaint should be dismissed because Complainants have failed to state a legitimate claim actionable by this Board. Valid complaints before this Board must “state the specific provision which has allegedly been violated and the facts which the complainant believes support the complaint.” Section 6-16.3 SFCC 1987. The Board’s Rules of Organization and Practice state that “The Board . . . shall dismiss the case if the complaint . . . [d]oes not state a violation of the Code of Ethics, the Campaign Code, and/or the Public

Campaign Finance Code” Ethics and Campaign Review Board Rules of Organization and Practice, Section D(4)(b) (2012).

Complainants have alleged two claims against Ms. Anderson: 1) she has failed to comply with the required disclosures provision of the Ethics Code under Section 1-7.6 SFCC 1987, and 2) her professional activities for different government bodies constitute a conflict of interest. Claim One should be dismissed because Complainants have failed to allege facts supporting the claim, relying on inferential conclusions about Ms. Anderson’s behavior, contrary to factual occurrences. Claim Two must be dismissed because the Complainants have failed to cite to a specific provision of the Santa Fe Ethics Code and because they have failed to outline a theory of liability constituting a conflict of interest under the Santa Fe Ethics Code.

A. Claim One should be dismissed because Complainants rely on unsupported conclusions to establish liability for failure to provide the required ethics disclosures.

The allegation that Ms. Anderson has failed to provide the required disclosures under Section 1-7.6 SFCC 1987 of the Santa Fe Ethics Code relies on unsupported inferences by the Complainants and the City Clerk’s office. Complainants state, “Ms. Anderson has apparently never provided these disclosures to the City of Santa Fe.” Complaint, at 4. This conclusory remark relies solely on an additional conclusory remark in answer to an Inspection of Public Records Act request from the City Clerk’s office in which the office failed to find the responsive document.

However, Ms. Anderson did, in fact, file her disclosure with the City of Santa Fe upon her appointment to the Women’s Commission. *See* Affidavit of Sascha Guinn Anderson, attached as Exhibit 1. Ms. Anderson’s appointment to the Santa Fe Women’s Commission occurred in November 2020, at the height of the Covid-19 pandemic. *See id.* At the time, many government offices were challenged with adapting to remote work and standard processes and

procedures had to be shoehorned to provide for Covid-safe operations. Even amidst remote operations, Ms. Anderson submitted a paper copy by U.S. mail of the required disclosures. *See id.* While Ms. Anderson avers that she submitted her required disclosures in compliance with the Ethics Code, she cannot provide explanation as to why or how it was misplaced by the City Clerk's office. Moreover, the current City Clerk was not in the position at the time of Ms. Anderson's commission. The current City Clerk has revamped the disclosure procedures to allow for electronic submission. This was not the case at the time of Ms. Anderson's submission. Thus, Ms. Anderson was required to produce a paper copy of her disclosure statement at a time when governments were struggling to cope with remote work amid a global pandemic.

The assertion that Ms. Anderson failed to provide her disclosure to the City Clerk's office is a mere conclusion by inference on the part of the City Clerk's office and the Complainants. It is not supported by facts. Rather, Ms. Anderson's affidavit is sworn testimony that she complied with the requirements of the Ethics Code. Complainants have failed to plead facts controverting Ms. Anderson's testimony and Claim One should be dismissed.

B. Claim Two should be dismissed because Claimants have failed to outline a legitimate theory of liability for a conflict of interest.

Complainants assert a vague allegation that Ms. Anderson's work on behalf of different government entities constitutes a conflict of interest. However, the Complaint fails to detail a legitimate theory under which this Board may sanction Ms. Anderson for her work. Because Complainants fail to specify their theory, Claim Two fails to state a claim and must be dismissed.

The Ethics Code defines a conflict of interest as "a specific and identifiable prospect of pecuniary gain or loss, other than a gain or loss that is de minimis in amount or shared with a substantial segment of the general public, to any of the individuals or entities here listed from an official act of any public official or employee." Section 1-7.5 SFCC 1987. The official position

with the City of Santa Fe Ms. Anderson held that subjects her to the jurisdiction of this Board was her appointment to the Santa Fe Women’s Commission. For a conflict of interest to occur, there must be a “specific and identifiable prospect of pecuniary gain or loss” to herself or one of a number of closely associated individuals deriving from “an official act.” *Id.* Complainants have failed to identify both an official act Ms. Anderson took on the Women’s Commission *and* any pecuniary gain or loss derived from that act. Moreover, Complainants would be hard pressed to identify an official act from the Women’s Commission given that the Women’s Commission did not meet prior to May 2021, two months after Ms. Anderson took a leave of absence from the Commission. *See* Exhibit 1. *See also Search Results*, PrimeGov (last visited Nov. 11, 2021), <https://santafe.primegov.com/public/portal>, attached as Exhibit 2.

Here, Complainants have merely identified government bodies for which Ms. Anderson has performed work and concluded that this inherently constitutes a conflict of interest. Absent an identification of official acts and pecuniary benefit or loss derived from those acts, Complainants have failed to meet the threshold question of a valid claim. The Board must dismiss this Complaint for failure to state claim.

CONCLUSION

For these reasons, Respondent respectfully requests that the Board grant the motion to dismiss the Complaint because it was filed solely to harass and for failure to comply with the requirements of a valid complaint under the Santa Fe Code and the Rules of Organization and Practice.

Respectfully submitted,

EGOLF + FERLIC +
MARTINEZ + HARWOOD, LLC

By: /s/ Kate Ferlic

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Jeff@EgolfLaw.com
Attorneys for Respondent

EXHIBIT 2

Boards And Commissions

Women's Commission

Date Start

Date Start

Date End

Date Start

Meeting Type

Meeting Type

Item Type

Item Type

Item Title

Item Title

Tracking Number

Tracking Number

Sponsor

Sponsor

Search Results

Search results for **Committee:** 'Women's Commission'

[← Back to Upcoming and Archived Meetings](#)

Meeting Title	Date	Documents	Options
▶ Women's Commission	Nov 09, 2021 05:30 PM	HTML Agenda Notice of Meeting Agenda HTML Packet Packet	
▶ Women's Commission	Oct 12, 2021 05:30 PM	HTML Agenda Notice of Meeting Agenda HTML Packet Minutes	⋮
▶ Women's Commission	Sep 14, 2021 05:30 PM	HTML Agenda Notice of Meeting Agenda HTML Packet Minutes	⋮
▶ Women's Commission	Aug 10, 2021 05:30 PM	HTML Agenda Notice of Meeting Agenda HTML Packet Packet	
▶ Women's Commission	Jul 28, 2021 05:30 PM	HTML Agenda Notice of Meeting Agenda HTML Packet Minutes	⋮
▶ Women's Commission	Jul 14, 2021 05:30 PM	Notice of Meeting Agenda Minutes HTML Packet Packet	
▶ Women's Commission	Jun 30, 2021 05:30 PM	Notice of Meeting Agenda HTML Packet Packet	
▶ Women's Commission	Jun 16, 2021 05:30 PM	HTML Agenda Notice of Meeting Agenda Minutes Packet	
▶ Women's Commission	Jun 09, 2021 05:30 PM	Notice of Meeting Agenda Minutes Packet	
▶ Women's Commission	Jun 02, 2021 05:30 PM	Notice of Meeting Agenda Minutes Packet	
▶ Women's Commission	May 26, 2021 05:30 PM	HTML Agenda Notice of Meeting Agenda Minutes Packet	
▶ Women's Commission	May 10, 2021 05:30 PM	HTML Agenda Notice of Meeting Agenda HTML Packet Packet	

CASE # 2021-6

Complaint Form

(Please print or type)
(Additional pages may be added)

City of Santa Fe
Ethics & Campaign Review Board

Date: 11/1/2021

1. Name of person and/or group charged with alleged violation. Alan Webber for Mayor Campaign / Mayor Alan Webber

2. Please explain briefly the nature of the alleged violation. Political signs placed on public / City of Santa Fe Property.

3. Please state which specific provision(s) or part(s) of the Code of Ethics or Election Code you believe have been violated. 9-2.15 - Temporary political signs - Multiple signs have been placed throughout the City of Santa Fe on public property in violation of the above ordinance.
1-7.7 - Improper gifts; improper transactions

4. Please state the facts you have regarding the violations, including:
the date(s) From 10/30/2021 until current.
the time(s) _____
the place(s) See attached.
people involved _____
other facts _____


5. Are there any witnesses to the violation who are willing to confirm your charge? Please list with addresses, phone numbers and what they know. Jay Baker https://www.facebook.com/jay.baker.507/posts/4487236977996058

6. Attach documentation of actual evidence you have to support your complaint, to this form.

7. What is your name? Maria Bautista
8. Address? 966 Camino Rizo Zip Code 87505
9. Telephone Number? (505) 316-0512 Work: _____
10. Email Address? lunar@cybermesa.com

Received on: November 01 20 21
By: [Signature]
City Clerk's Office

To the best of my knowledge, the above statements are true and complete.
[Signature]
Signature MARIA BAUTISTA

Subscribed and sworn to before me this 1st day of November 20 21

Xavier I. Vigil
NOTARY PUBLIC - STATE OF NEW MEXICO
My Commission Expires: March 25, 2025

day of November 20 21
[Signature]
Notary Public

CITY OF SANTA FE
ETHICS & CAMPAIGN REVIEW BOARD

Violation #1

Hoping to unethically influence the upcoming election, Mayor Alan Webber and the Alan Webber for Santa Fe campaign recently flooded public and city property with Alan Webber for Mayor campaign signs. (Exhibits A, B, C, D, E) Both parties should have been aware this was in violation of the City of Santa Fe Ordinance 9-2.15 - Temporary political signs ("B. Signs shall not be located on or overhang onto public property, including but not limited to, rights-of-way.")

Violation #2

In what seems to be the new normal for Mayor Alan Webber and the Alan Webber for Santa Fe campaign, they have once again violated the city ordinance that forbids the use of city services, personnel, equipment, and facilities for the benefit of a political campaign.

City of Santa Fe Ordinance 1-7.7 - Improper gifts; improper transactions ("E. Misuse of City Resources. A public official or public employee shall not use city services, personnel or equipment for personal benefit, convenience or profit, except when such use is generally available to the public.

H. Improper Political Campaigning. A public official or public employee shall not knowingly request or authorize another person to request that any subordinate of the public official or public employee make a campaign contribution or provide services to a political campaign, and shall not engage in political campaigning while on duty for the city, or use city funds, supplies, vehicles or facilities to benefit or assist a political campaign.")

There have been signs placed on multiple city properties including the Mike T. Jaramillo / Torreon Park (Exhibit A). This benefit was not afforded to any other parties that are running in this election. It is believed Mayor Webber has had over half a million dollars donated to his campaign, mostly from out of state donors. Now he is illegally forcing taxpayers to use their money to contribute to his campaign as well.

Conclusion

I now ask that this board finally stand up and sanction the mayor and his campaign. He has crossed the line many times before during this election, including the "Cool Down" events where a city event was branded to look as though the mayor was hosting it, misuse of the Santa Fe New Mexican's logo doctored to appear as a legitimate newspaper mailing, and now finally completely ignoring city campaign rules by using our taxpayer funded streets and parks to benefit his unscrupulous campaign.

Exhibit A

**1517 West Alameda, Santa Fe, NM, 87501 (City of Santa Fe
Mike T. Jaramillo / Torreon Park)**



Exhibit B

1270 West Alameda, Santa Fe, NM, 87501 (City Of Santa Fe Property)



Instersection of Siler and West Alameda (Estimated 8 Signs)



Exhibit C

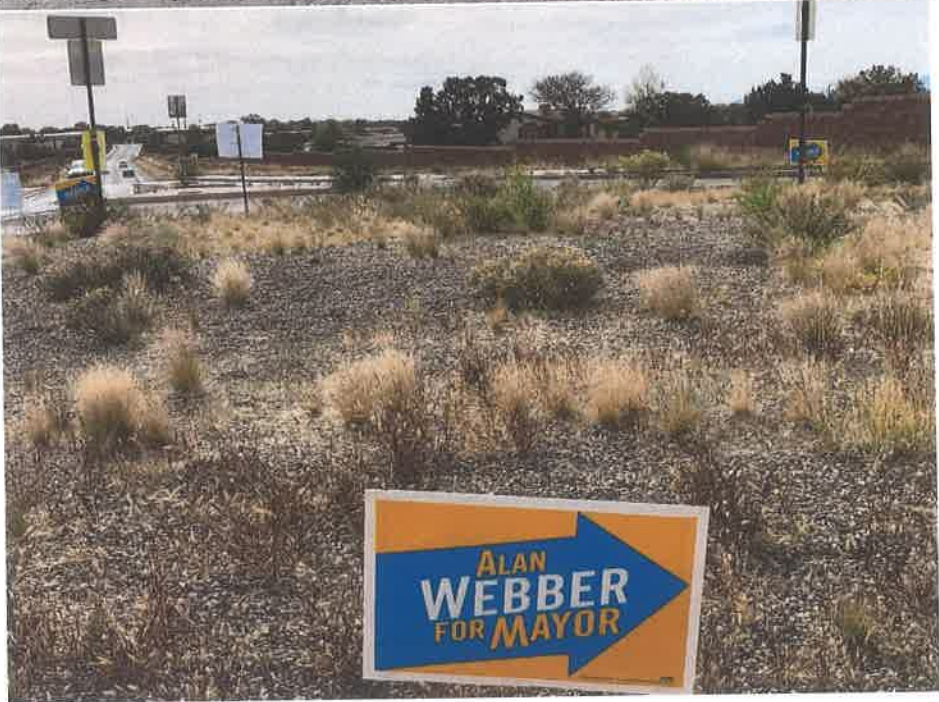


Exhibit D

1718 West Alameda, Santa Fe, NM, 87501



Exhibit E

Intersection of Calle Nopal & West Alameda (Estimated 4 Signs)

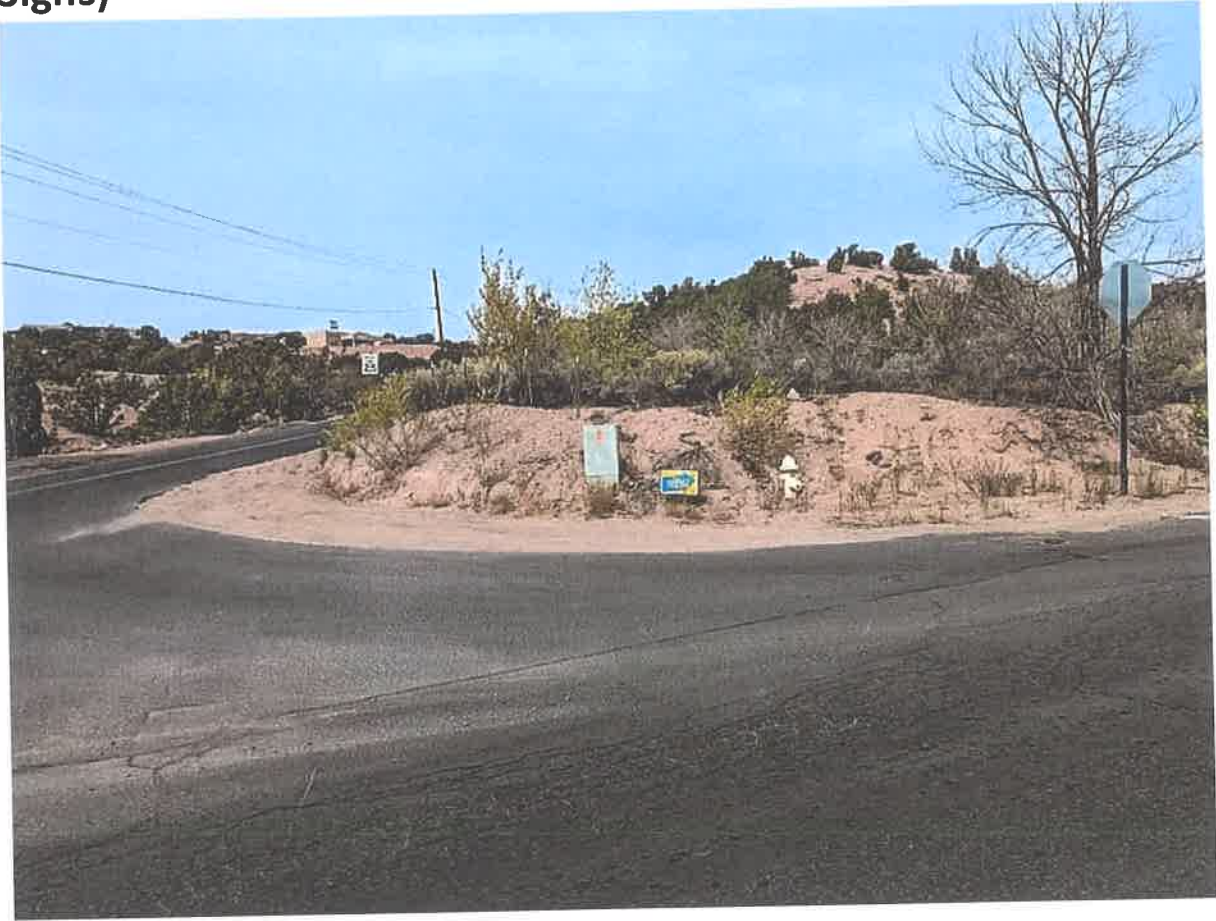


Exhibit E



Exhibit E



Exhibit E



**CITY OF SANTA FE
ETHICS AND CAMPAIGN REVIEW BOARD**

MARIA BAUTISTA
Complainant,

v.

**ALAN WEBBER FOR MAYOR CAMPAIGN and
MAYOR ALAN WEBBER,**
Respondents.

**RESPONDENT’S PROPOSED VOLUNTARY STIPULATION AND MOTION TO
DISMISS**

Respondent Alan Webber, in his capacity as a candidate for office and his official capacity as Mayor, by and through his attorneys, Egolf + Ferlic + Martinez + Harwood, LLC (Kate Ferlic and Jeff Herrera, appearing), responds to Complainant Maria Bautista’s Complaint for Violations of the Santa Fe Code of Ordinances. Respondent proposes a voluntary stipulation in response to Complainant’s Claim One. Respondent moves to dismiss Claim Two for failure to state a claim upon which relief can be granted.

I. Respondent proposes to voluntarily stipulate that campaign signs were placed in violation of the Campaign Code.

Respondent adamantly denies placing any signs on public property. In fact, Respondent does not know how these signs came to be placed on public property. Respondent acknowledges that the signs in the photographs attached to the Complaint appear to be on public property. However, no agent or employee of the Alan Webber for Mayor campaign placed these signs on public property, nor did they direct anyone to do so. Respondent has fully complied with the provisions of the ordinance concerning political signs, including the designation of a liaison contact responsible for managing campaign signs and removal of signs.

By their nature, temporary political signs may be easily moved without the knowledge or direction of political campaigns. Detractors of a particular candidate may dispose of such signs or move them to interfere with the campaign's objectives or demoralize its supporters. It is even possible that these signs were placed on public property by the Respondent's detractors for the purpose of filing this Complaint.

However, the Respondent does not believe that this Complaint merits a factual investigation and subsequent hearing. Expending such resources to determine who moved political signs is not in the interest of this Board. As required by the Campaign Code, the Respondent has removed all political signs. *See* Sec. 9-2.15(H) ("All political signs shall be removed within five (5) days after the election."). Therefore, Respondent proposes the below stipulation as settlement with the Board.

Respondent proposes a voluntary stipulation in response to Complainant's first claim concerning Sec. 9-2.15 of the Santa Fe Campaign Code. The Ethics and Campaign Review Board's (the "Board") Rules provide for settlement proceedings in which "[a]ny formal complaint alleging a violation . . . may be resolved by a voluntary stipulation on the part of the respondent, if approved by the Board at a public meeting upon consideration of any comments by the complainant." Ethics and Campaign Review Board Rules of Organization and Practice, Sec. I (2012).

Sec. 9-2.15(B) of the Campaign Code states that temporary political "[s]igns shall not be located on or overhang onto public property" Sec. 9-2.15(B) SFCC 1987. Respondent proposes the following voluntary stipulation in answer to the allegation that Respondent has violated this provision:

- Temporary political signs supporting the Alan Webber for Mayor campaign were photographed.
- Some of the signs appear to be on public property.

- The presence of the signs on public property constitutes a violation of Sec. 9-2.15(B) of the Santa Fe Campaign Code.
As a proposed sanction, the sign liaison for Respondent shall ensure that the signs

photographed in the Complaint have been removed from public property in accordance with Sec. 9-2.15(E) of the Campaign Code.

II. Claim Two must be dismissed for failure to state a claim because this conduct is not of the type contemplated in the Ethics Code.

The Board must dismiss the second claim against Respondent because the alleged facts, taken as true, do not constitute a violation of the Ethics Code. The Board's Rules state that "The Board . . . shall dismiss the case if the complaint . . . [d]oes not state a violation of the Code of Ethics, the Campaign Code, and/or the Public Campaign Finance Code" Ethics and Campaign Review Board Rules of Organization and Practice, Section D(4)(b) (2012). Here, taking Complainant's allegations as true, the Complaint fails to state a violation of the Ethics Code as a matter of law.

The purpose of the Ethics Code is "to adopt standards of behavior for public officials and employees of the city of Santa Fe that insure that decisions are made without consideration of personal benefit to the decision maker[.]". Sec. 1-7.3(B) SFCC 1987. An improper placement of yard signs does not rise to such a level. The Ethics Code contemplates and exists to prevent conflicts in which the public's interest is overridden by an elected official or public employee's own personal benefit. The existence of yard signs on public property in this matter in no way rises to the level of an ethical conflict.

The language of the ordinances at issue makes clear that Ethics Code seeks to prevent public officials exerting influence, misappropriating resources, or abusing the public trust through other means which they have access to only by virtue of their public position. For example, the provision against improper political campaigning states that "a public official or

public employee shall not . . . engage in political campaigning while on duty for the city, or use city funds, supplies, vehicles or facilities to benefit or assist a political campaign.” Sec. 1-7.7(H) SFCC 1987. Respondent asserts that the yard signs were not placed on public property by any campaign official, employee, or agent. However, even if it were the case, the placement of yard signs on public property is not a violation that occurred because the candidate in question is also the incumbent mayor. All campaigns have equal opportunity to place yard signs on public property. The existence of the signs on public property is not an abuse of Alan Webber’s authority as mayor. Rather, it is an extremely common campaign practice in which campaigns fail to meet the strict provisions of the temporary political sign ordinance. Myriad campaigns have unwittingly engaged in this same behavior. The allegations, even if true, cannot and do not rise to the level of an ethical violation.

The structure of the Ethics Code and Campaign Code instructs that the conduct alleged was not intended to be remedied under the Ethics Code. As discussed above, the Campaign Code includes an entire section dedicated to the regulation of temporary political signs. *See* Sec. 9-2.15 SFCC 1987. Given this, it is unlikely that the drafters of the Campaign Code envisioned that candidates for public office who also currently serve in public office or in the public’s employ be doubly liable for the same conduct. The Campaign Code acknowledges that temporary signs are likely to find placement on public property, even without the explicit direction of the Campaign. *See* Sec. 9-2.15(E) SFCC 1987 (“The city manager shall request candidate liaison contacts to remove their own candidates’ unlawful signs within twenty-four (24) hours and upon their failure to do so shall impose a fine of fifty dollars (\$50.00) per sign per day.”). It is clear from the structure of the ordinances at issue that the temporary political sign ordinance was intended to be the proper section to adjudicate and regulate the placement of signs

on public property. Claim Two must be dismissed for failure to state a claim as a matter of law because the alleged behavior does not give rise to an ethical violation.

CONCLUSION

For these reasons, Respondent respectfully requests that the Board agree to the proposed voluntary stipulation in regard to Claim One. Respondent further requests that the Board grant the motion to dismiss Claim Two for failure to comply with the requirements of a valid complaint under the Santa Fe Code and the Board's Rules of Organization and Practice.

Respectfully submitted,

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