



# AGENDA

ETHICS AND CAMPAIGN  
REVIEW BOARD  
MAY 06, 2021  
ATTEND VIRTUALLY

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## 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, and the ban on public gatherings in excess of those permitted in the current Public Health 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/94440255533?pwd=K2F5VnZPYTIIMTINamZ4bGh3UHZIQT09>

**Passcode: 367661**

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: 944 4025 5533**

**Passcode: 367661**

Phone attendees should press \*9 to use the "Raise Hand" function to be recognized by the Chair to speak at the appropriate time.



# AGENDA

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Agenda: The agenda for the meeting will be posted at <https://santafe.primegov.com/public/portal>.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF MINUTES**
  - a. Ethics Campaign Review Board Minutes – September 12, 2019
5. **NEW BUSINESS**
  - b. 2021 Election Cycle – Candidate Orientation and Questions and Answers.
    1. Board comments
    2. Staff comments on signs and election rules
    3. Candidate and audience questions
6. **DISCUSSION**
  - a. Review of Annual City Public Official Disclosures.
  - b. Legislative Proposal to Assign ECRB the Responsibility for Appointment of Members to the Independent Salary Commission.
7. **DISCUSSION AND POSSIBLE ACTION**
  - a. Amendments to Election Code to (1) Adjust Threshold Contribution or Expenditure Amounts that Trigger Reporting Requirements, and (2) Address Procedures to Resolve Tie Votes.
  - b. Pursuant to Ordinance 2018-28, whether the ECRB Should, as Permitted by the Ordinance, Enact Regulations Permitting the Use of Electronic Signatures on Certain Forms.
8. **MATTERS FROM STAFF**



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9. **MATTERS FROM THE COMMITTEE**
10. **PUBLIC COMMENT**
11. **MATTERS FROM THE CHAIR**
12. **NEXT MEETING:**
13. **ADJOURN**

**PERSONS WITH DISABILITIES IN NEED OF ACCOMMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 955-6520, FIVE (5) WORKING DAYS PRIOR TO MEETING DATE.**

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ETHICS AND CAMPAIGN REVIEW BOARD MEETING  
MAY 6, 2021**

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ROLL CALL	Quorum Present	1
APPROVAL OF AGENDA	Approved	1
APPROVAL OF MINUTES September 19, 2019	Approved	2
NEW BUSINESS – 2021 Election Cycle		
1) Board Comment	Discussion	2
2) Staff Comments	Discussion	2-3
3) Candidate/Audience Questions	Discussion	3
DISCUSSION		
a) Public Official Disclosures	Discussion	3
b) Independent Salary Commission	Discussion	3-4
DISCUSSION & POSSIBLE ACTION		
a) Threshold Contribution or Expenditure Amounts	Approved	4-5
b) Resolution of Ties Votes	Discussion	5-6
c) Electronic Signatures	Discussion	6-7
MATTERS FROM STAFF	None	7
MATTERS FROM THE COMMITTEE	None	7
PUBLIC COMMENT	Discussion	7
MATTERS FROM THE CHAIR	None	7
NEXT MEETING	To be Determined	7
ADJOURNMENT	5:03 PM	7

**MINUTES OF THE CITY OF SANTA FE  
ETHICS AND CAMPAIGN REVIEW BOARD  
THURSDAY, MAY 6, 2021**

**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=pcaqJXbpdlo>.

**2. ROLL CALL**

Roll call indicated the presence of a quorum as follows:

**Members Present:**

Justin Miller, Chair  
Judith Amer  
Paul Biderman  
Ruth Kovnat  
Tara Luján  
Kristina Martinez

**Members Absent:**

One vacancy

**Staff Present:**

Kristine Mihelcic, City Clerk  
Erin McSherry, City Attorney  
Marcos Martinez, Assistant City Attorney  
Jesse Guillen, Legislative Liaison

**Others Present:**

**3. APPROVAL OF THE AGENDA**

**MOTION:** Member Kovnat moved to approve the agenda as presented. Member Biderman seconded the motion.

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

**Note:** Member Biderman was having technical difficulties, therefore, he was not present for the vote.

**4. APPROVAL OF MINUTES:** September 12, 2019

**MOTION:** Member Lujan moved to approve the minutes of September 12, 2012, as presented. Member Martinez seconded the motion.

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

**5. NEW BUSINESS**

**a. 2021 Election Cycle – Candidate Orientation and Questions and Answers.**

**1. Board comments**

Chair Miller commented that the City is in the midst of an election cycle with the offices of mayor and city councilors open.

He welcomed the candidates and explained the role of the Ethics and Campaign Review Board (ECRB) is a seven-member Board. There currently is one vacancy on the Board. The ECRB is charged with enforcing the City Ethics Code, the Campaign Code and the Campaign Finance Code. The ECRB is an advisory body and an enforcement body.

**2. Staff comments on signs and election rules**

Clerk Mihelcic stated that the Clerk's Office has started handing out candidate packets. The packets include a section about the ECRB and proposed legislation that is making its way through the process. Candidates have been informed that they can bring questions before the ECRB.

She stated at this time there will not be a presentation about sign placement.

She shared the names of the candidates who are running for office. In District 1, there are four candidates: Councilor Signe Lindell, who is running for re-election; Joe Hoback; Brian Gutierrez; and Roger Carson. In District 2, Councilor Romero-Wirth is seeking re-election. For District 3, Councilor Roman Abeyta is seeking re-election. For District 4, there are two candidates: Amanda Chavez and Gus Martinez. For Mayor, there are currently three candidates: Alan Webber, who is seeking re-election; Councilor JoAnne Vigil Coppler; and Alexis Martinez Johnson.

She said there are two candidates seeking public campaign financing: Alexis Martinez Johnson, Mayoral Candidate and Brian Gutierrez, Councilor Candidate for District 1 are seeking public campaign financing.

### **3. Candidate and audience questions**

Candidate Gutierrez asked when obtaining signatures, how important is it to have the name match the voter registration to be counted as valid?

Member Lujan stated that according to the State Election Code, the petition signature should match the name on the voter registration card. The City Clerk confirmed that was correct.

Candidate Gutierrez asked about fundraisers for seed money. He gave an example of having a get together at a restaurant and fed people for X amount and the restaurant charges Y amount and there was a difference, is that against the Code?

Clerk Mihelcic stated that the question had been presented to the Clerk's Office and they would look into that for Candidate Gutierrez.

## **6. DISCUSSION**

### **a. Review of Annual City Public Official Disclosures.**

Chair Miller stated that one of the duties of the ECRB is to review the disclosure statements. Those have been provided to the ECRB.

Member Kovnat asked if there were disclosures for the candidates.

Chair Miller responded that these are for public officials only, not for candidates.

### **b. Legislative Proposal to Assign ECRB the Responsibility for Appointment of Members to the Independent Salary Commission.**

Erin McSherry, City Attorney, stated that this has already passed two committees and will be heading to the Governing Body.

Michael Garcia, City Councilor, stated that he and Councilor Lindell are sponsoring this legislation. One of the changes to the ordinance is who appoints the members to the Commission. They are proposing to have the ECRB be the appointers of the Commission, including the Chair.

Member Lujan asked how many members would be appointed to the Board and what would their duties be.

Councilor Garcia stated that there are seven members on the Commission: one shall be a member of the Santa Fe chamber of commerce; one shall be a representative

of a neighborhood association; one shall be a representative of a community organization; one shall be a current or retired attorney or judge; one shall be a representative of the human resources industry, or an employment consultant; One shall be a current or retired chief executive officer; and one member shall be appointed at-large.

Councilor Garcia said the Commission's duties are to review salaries from other jurisdictions and determine what the mayor's salary should be. This will be done at least once every four years.

Member Biderman said he understands the value of taking the politics out of the appointment process. He does not see the ECRB members as being politically driven as much as any elected officials would be. However, he may be concerned by what may happen. He thought having a variety of membership is a good approach. But, for the ECRB to be the appointers, he could see someone down the road questioning that because a Board made up of mostly lawyers is making the appointments. He's not sure that the ECRB would do a better job than the Governing Body because by nature, the ECRB is more legalistic and more likely to draw lawyers. But, if the ECRB gets the job, he's sure it will do the job fairly and objectively.

Member Martinez asked what the process would be for membership, would people select submit their names or would the ECRB select independently?

Attorney McSherry said there is an application process that interested persons would follow.

Councilor Garcia said this bill will be before the Governing Body on May 26, 2021. He said if it passes it will take effect in 2023 or 2024 which was confirmed by Attorney McSherry.

## **7. DISCUSSION AND POSSIBLE ACTION**

### **a. Amendments to Election Code to (1) Adjust Threshold Contribution or Expenditure Amounts that Trigger Reporting Requirements, and (2) Address Procedures to Resolve Tie Votes.**

Chair Miller stated that that staff from the City Attorney's Office and Jim Harrington had worked on a draft regarding the threshold contribution. He confirmed with Marcos Martinez, Assistant City Attorney that there was not a draft regarding the tie votes.

He said 7(a) has to do with the registration thresholds for a political committee and reporting thresholds for independent committees and reporting of contributions to political candidates and committees. The bill brings the thresholds up a little bit to align them better with the thresholds the courts around the Country have approved and recognized as constitutional.

He said this issue has been on the Board's radar for a while. There is a draft in front of the Board that could be voted on today. But if the Board feels like it needs more time or more information it does not need to be voted on today.

Attorney Martinez said if this is adopted by the Governing Body then it could apply to this election cycle that the City is currently in. He said that the ECRB could make a recommendation that these changes go into effect after this election.

Chair Miller stated that this bill is not going to the Governing Body yet and it won't go unless the ECRB recommends it.

**MOTION:** Member Biderman moved to recommend the draft rule amendments regarding contributions or expenditures to the City Council. The motion was seconded by Member Amer.

Member Lujan stated that she would like some more information and more time on this, maybe wait until June to see if we're going to get some guidance from the Courts.

Member Kovnat said she supports the motion because our current ordinance is subject to constitutional challenge. These changes are reasonable and putting this before the Governing Body is timely. The Board's role is to recognize the vulnerability of the current ordinance.

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

Members Lujan and Amer explained their votes. They both agreed that there is a need for more information that should be available prior to the bill going forward to the Governing Body.

Chair Miller stated that the concerns that were raised were important. He suggested that maybe one or two of the Board members could volunteer and gather information to address concerns that were raised and asked if any of the Board members were interested.

Member Lujan volunteered to gather more information and Chair Miller said he was willing to help out as well. They could work with the City Attorney's Office and Mr. Harrington as well.

Chair Miller said the second part of this item has to do with reconciling the city ordinance with state election rules promulgated by the secretary of state on how to resolve a tie vote in the ranked choice voting process. He said right now the ordinance states that a tie vote is resolved by drawing lots. The state rules state that a candidate who received the greatest number of combined first-choice votes and transferred votes and then it goes on with a little more detail. So, the issue is the conflict between

the City Code and State regulations. He said the Board could take up this issue at the next meeting.

Member Biderman said that ultimately the City will have to go with the state regulations. He asked if the Board could make that recommendation and ask the City Attorney to come up with a draft bill that could be adopted at the next meeting.

Chair Miller responded that right now there are competing statements between the City and State that could be challenged.

Attorney Martinez said the amendment would be straight forward and could be done.

**b. Pursuant to Ordinance 2018-28, whether the ECRB Should, as Permitted by the Ordinance, Enact Regulations Permitting the Use of Electronic Signatures on Certain Forms.**

Chair Miller said the City Council provided the Board with the authority to enact a regulation permitting the use of electronic signatures on certain forms. This Board has talked about the issue at a couple of the past board meetings and had a subcommittee with Members Martinez, Lujan and Seth working on this issue. This has been a lingering issue and the Board should address it and either decide whether to pursue it or not.

Member Martinez said she had done a lot of research on this issue prior to their last meeting to determine whether the conclusions made by Zach Shandler were correct. He had determined that electronic signatures could not be used. She said she sort of disagreed with that. She said they could decide to use electronic signatures in Santa Fe if they want to.

She said that the Board's rules of practice and procedure give them the authority to enforce the Campaign Code and the Election Code. They don't give the Board the authority to create rules that then must be followed. Ordinance 2018-28 gave the Board that authority but something that was raised at the last meeting and is still an issue that the Board has to decide is whether that was an appropriate delegation of power. The minutes from the last meeting indicated that the City Attorney's Office was going to look into that. She said the questions is whether other boards like ECRB promulgate rules.

She referenced the City of Albuquerque's process for using electronic signatures for their election cycle. She said it seems like something that Santa Fe could do. But it is something that is in the City's court, not necessarily the ECRB's court. The ECRB could come up with a recommendation for the Governing Body to adopt.

Member Lujan agreed with everything Member Martinez stated. She also stated that because of COVID, there is more information out there about electric

signatures. This is a very clear path and make things convenient for the Clerk and the voters.

Clerk Mehelic said she is in full support of this and has been working with the City of Albuquerque to go through their process, however, she doesn't think it could be used for this election.

Chair Miller said he would like for a concrete proposal to come forward next time with a perspective from the City Attorney's Office about what the role is for the ECRB. Should it be done by rule as the City Council said the Board could do or should the Board said we prefer to make a recommendation to the City Council for an ordinance?

**8. MATTERS FROM STAFF**

None

**9. MATTERS FROM THE COMMITTEE**

None

**10. PUBLIC COMMENT**

Jim Harrington commented about the question asked by Candidate Gutierrez at the beginning of the meeting about having fund raisers at restaurants. He said that's a very complicated issue that came up in the 2014 election. There may need to be an advisory opinion from the Board on that.

Chair Miller said right now the questions are being presented to the City Clerk and City Attorney and if they need advice from the Board they can bring those questions forward.

**11. MATTERS FROM THE CHAIR**

**12. NEXT MEETING**

The next meeting will be determined.

**13. ADJOURNMENT**

**MOTION:** Member Lujan moved to adjourn the meeting at 5:02 p.m. Member Kovnat seconded the motion.

**VOTE:** The motion passed by roll call vote.

Approved by:

*Justin Miller*

Justin Miller (Feb 15, 2022 16:06 MST)

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Justin Miller, Chair

Submitted by:

*Melissa D. Byers*

Melissa D. Byers, Stenographer  
For Byers Organizational Support Services