



AGENDA

ETHICS AND CAMPAIGN
REVIEW BOARD
JUNE 17, 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/96026192134?pwd=Z1hkZGJNOTFHcjFUbDBGcVNlV3dadz09>

Passcode: 499075

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: 960 2619 2134

Passcode: 499075



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

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 CONSENT AGENDA**
5. **APPROVAL OF MINUTES**
 - a. Ethics and Campaign Review Board Minutes – May 6, 2021
6. **DISCUSSION AGENDA**
 - a. Discussion Regarding Legislation Assigning ECRB the Responsibility to Appoint Members to the Independent Salary Commission.
 - b. Update on Legislative Process Following ECRB’s May 6, 2021 Recommendation to Amend Ordinances to Adjust Threshold Contribution and Expenditure Amounts Triggering Reporting Requirements.
7. **DISCUSSION AND POSSIBLE ACTION**
 - a. Discussion and Possible Action on Whether, Pursuant to Ordinance 2018-28, the ECRB Should Enact Regulations or Otherwise Recommend Legislation to Permit the Use of Electronic Signatures on Certain Forms.
 - b. Amendments to the Election Code to Address Procedures to Resolve Tie Votes.
8. **MATTERS FROM STAFF**
 - a. Overview on Campaign Signs Regulation for Candidates and Other Entities.
(Jason Sena, Zoning Code Enforcement Supervisor,
jdsena@santafenm.gov, 955-6336)



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- b. Election 2012 status updates. (Kristine Mihelcic, City Clerk and Community Engagement Department Director, kmmihelcic@santafenm.gov, 955-6521)

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

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ETHICS AND CAMPAIGN REVIEW BOARD MEETING
June 17, 2021**

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a) Electronic Signature Legislation	Approved w/effective date	3-5
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**MINUTES OF THE CITY OF SANTA FE
ETHICS AND CAMPAIGN REVIEW BOARD
THURSDAY, JUNE 17, 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=pcaqJXbpdlo>.

2. ROLL CALL

Roll call indicated the presence of a quorum as follows:

Members Present:

Justin Miller, Chair

Judith Amer

Paul Biderman (arrived at 4:10 p.m. and left at 4:32 pm)

Ruth Kovnat

Tara Luján

Kristina Martinez

Members Absent:

One vacancy

Staff Present:

Kristine Mihelcic, City Clerk

Marcos Martinez, Assistant City Attorney

Others Present:

Melissa Byers, Stenographer

3. APPROVAL OF THE AGENDA

MOTION: Member Kovnat moved to approve the agenda as presented. Member Lujan 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.

4. **APPROVAL OF MINUTES:** May 6, 2021

MOTION: Member Lujan moved to approve the minutes of May 6, 2021. Member Martinez 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.

5. **DISCUSSION**

a. **Discussion Regarding Legislation Assigning ECRB the Responsibility to Appoint Members to the Independent Salary Commission.**

Marcos Martinez, Assistant City Attorney, said he did have anything beyond what was provided in the packet, which was a memo from Erin McSherry, City Attorney which summarized a proposed bill as follows:

The proposed bill realigns the Independent Salary Commission's (Commission's) work schedule with the City's new election cycle; establishes an allowable salary range; corrects a cross reference; establishes an application process for appointees to the Commission; and allows the chamber of commerce representative on the Commission to be from any local chamber of commerce.

Chair Miller said the ECRB would step in and evaluate applications of proposed appointees.

Attorney Martinez recommended holding on this item for now.

b. **Update on Legislative Process Following ECRB's May 6, 2021, Recommendation to Amend Ordinances to Adjust Threshold Contribution and Expenditure Amounts Triggering Reporting Requirements.**

Attorney Martinez said Councilor Romero Wirth is sponsoring this legislation and Councilor Garcia is also interested in sponsoring the legislation which is based on the recommendation of the ECRB. The bill is scheduled to be introduced at the at the Governing Body meeting on June 30, 2021. If all goes well, the legislation will be adopted 30 to 45 days later.

Member Amer asked if there has been a fiscal analysis done for this. If so, how much would it cost the City to implement.

Attorney Martinez said he has consulted with the City Clerk. He doesn't see a lot of fiscal impact. Thresholds are higher, so he sees a positive fiscal impact.

Member Amer said perhaps there would be a decrease in administrative burden.

Chair Miller said if there are any questions of the Board to let the sponsors know the process for coming before the Board. The Board is available to provide information on how they got to their recommendation or to answer questions.

6. DISCUSSION AND POSSIBLE ACTION

a. Discussion and Possible Action on Whether, Pursuant to Ordinance 2018-28, the ECRB Should Enact Regulations or Otherwise Recommend Legislation to Permit the Use of Electronic Signatures on Certain Forms.

Chair Miller said there is consensus from the Board to facilitate this for candidates. The City and City Clerk are receptive to this, with the condition that this could be used in a secure manner. There are two main issues: one does the Board want to take steps, if yes, should the Board promulgate a rule or recommend legislation to the City Council. His sense from past discussion is that the Board is more inclined to make a recommendation to the Governing Body. Attorney Martinez has worked with City legislative staff and put together some draft legislation for the Board's consideration.

Member Martinez said that she and Attorney Martinez had gone over the language for recommendation to the Governing Body. If the legislation is adopted, there will be logistics that will need to be worked out by the City Clerk's Office. Allowing electronic signatures can be accomplished with a simple amendment to the ordinance.

Attorney Martinez referred to the draft bill. The language is similar in both sections, 9-3.6 and 9-3.7. The amendment deletes the sort of permissive sentence that allows the ECRB to by regulation, permit the use of electronic signatures on forms for seed money and qualifying contributions and makes it mandatory that the City Clerk shall accept these types of signatures so long as they that the signatures comply with the Uniform Electronic Transaction Act.

Chair Miller asked what the administrative process would be if the legislation were to pass.

Attorney Martinez said according to the Electronic Transactions Act the onus is on the person attempting to accept seed money contributions and qualifying contributions.

Member Kovnat asked if the City Clerk is comfortable with the bill amendments.

City Clerk Mihelcic said she is comfortable with this and supports using technology in as many ways as possible. There are already many jurisdictions that use electronic signatures and there are applications in place that can be utilized.

Chair Miller said that was good for the ECRB to hear because they don't want to impose a burden on the Clerk's Office.

Member Lujan asked if the City would be using the same platform as Albuquerque because that platform was accepted by the Secretary of State (SOS).

Clerk Mehelcic said there are certain programs that the candidates can use. They've also looked at the City of Albuquerque and are looking at using some of the platforms they use.

Member Lujan asked if the Clerk was talking with the Secretary of State (SOS) as well.

Clerk Mehelcic said she's sent communication to the SOS about setting some time to discuss this legislation.

Member Lujan said if it's working in Albuquerque then we don't have to reinvent the wheel. She asked the Clerk to follow up with the Board at some point on how that's going.

Member Amer agreed with Member Lujan. She said it begs the question about what complies with the uniform electronic transaction and a municipality has already gone down that road it would be extremely helpful to see how they've done it. Looking at the act, it talks about the retention of records. The City Clerk would need to retain electronic versions of signatures and would need to retain records for the payments. She also asked about the fiscal impact report and if somebody is preparing that.

Clerk Mihelcic said there are two simple ways to explain. Candidates themselves could utilize apps for the collection of signatures. That could be implemented faster and would have minimal fiscal impact.

The other way would be the way Albuquerque does it. They host the website, and everything is collected there. An RFP would need to be done for those services and that would have a much larger fiscal impact and require more time.

Chair Miller said if the ECRB recommends this legislation, it would take some time to get to the Governing Body. He told the Clerk that if she runs into roadblocks during this process to get with the Board for their thoughts. He asked if the Clerk's Office will be ready when this gets implemented.

Clerk Mihelcic said the time it would take for this legislation to get through the process and the deadlines for signatures, it doesn't seem realistic or reasonable to

expect this ordinance to be implemented for this election. The only way it could be done for this election is to allow candidates to use their own apps and websites. She wants to discuss this with the SOS and County Clerk.

Chair Miller asked if they need an effective date on this legislation.

Attorney Martinez said the Governing Body would be curious about the ECRB's opinion on an effective date. Writing the legislation is easier than implementing the legislation. The FIR would be more intensive. He suggested making it effective for the next election.

Member Lujan said we are in the midst of an election cycle and the date should be set for the next election cycle.

Chair Miller said it sounds like there's an interest in setting an effective date down the road with enough lead time for the Clerk's Office to implement this. He asked Attorney Martinez if it would be appropriate for the Board to vote on the legislation today but incorporate an effective date of January 1, 2022.

Attorney Martinez said the Board can by motion approve the amendments with an effective date of January 1, 2022.

Chair Miller asked the Clerk if that was enough lead time and if she was comfortable with that date.

Clerk Mihelcic indicated she was comfortable with that date.

MOTION: Member Lujan moved to recommend to the Governing Body approval of the legislation with an effective date of January 1, 2022. Member Kovnat 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.

b. Amendments to the Election Code to Address Procedures to Resolve Tie Votes.

Chair Miller said this relates to a proposal to resolve the difference between the City Ordinance which calls for resolution of tie votes in ranked choice voting by drawing lots and the New Mexico Administrative Code which is a more complicated process. There is not draft legislation to present to the Board today, however, the Board could discuss whether legislation should be drafted to resolve the conflict between City ordinance and the New Mexico Administrative Code.

Member Amer asked if rule was provided to the Board.

Chair Miller said no but the citation for the rule is 1.10.14.9(f).

Member Amer asked if Santa Fe is a home rule municipality why would it need to follow the state administrative code.

Attorney Martinez said they would like to avoid any dispute at the time of a tie. His recommendation would be not to have a conflict. He doesn't see any downside to adopting the State administrative code language. He offered to prepare draft legislation to present at the next ECRB meeting.

Chair Miller asked Marcos to share a comparison document between the City Ordinance and ranked choice voting.

Member Kovnat said it strikes her that the state system is more compatible with rank choice voting.

Jim Harrington, a member from the public, provided a little bit of history. He said Santa Fe adopted ranked choice voting before the Local Election Act was adopted. The Local Election Act gave the Secretary of State the authority to draft rules. It looked like she almost copied Santa Fe's except for this issue on the tie votes. Because there is an ambiguity, he would suggest that Santa Fe follow the example of Las Cruces and adopt the Secretary of State rules by reference.

Chair Miller clarified with Mr. Harrington that he was talking about a more extensive procedure which included adopting the Secretary of State rules.

Mr. Harrington said the only conflict is the tie voting, however, it would be safer and better to do a clean sweep and adopt the Secretary of State's rules.

Member Lujan said the tie votes issue needs to be addressed. She agreed with Mr. Harrington's position that since the Local Election Act has been adopted, the City should comply with that fully, including the rules of the Secretary of State's Office.

Chair Miller said it sounds like the City Attorney's staff could draft legislation to resolve the tie votes issue only or decide whether all the Secretary of State Rules should be incorporated by reference.

Member Biderman joined the meeting at 4:10 p.m.

Chair Miller asked if everyone agreed to ask the staff to draft legislation. He indicated that he saw heads nodding in agreement.

Member Lujan asked to get a working draft of the proposed legislation.

Attorney Martinez said he would send the draft to the Board members individually to avoid Open Meetings Act issues. He asked the Board members to respond to him individually as the point person.

8. MATTERS FROM STAFF

a. Overview on Campaign Signs Regulation for Candidates and Other Entities.

Jason Sena, Code Enforcement Supervisor said Code Enforcement would be enforcing the Code regarding signs. They don't have a set date as to when the candidates can set up their signs. The Code is straight forward on how to enforce. They have not had too many problems with signs in the past. Candidates are good and picking up their signs.

Chair Miller asked if there any changes being considered.

Clerk Mehelcic said the sign regulations are addressed in the City Code and are included in the candidate packets.

b. Election 2021 Status Updates.

Clerk Mihelcic notified the Board that there are several candidates running for election. In District 1, there are four candidates; in Districts 2 and 3 there are single candidates and in District 4, there are two candidates and possibly a third candidate.

She said there is information on the City Clerk's page regarding this election. For this year, the SOS office provided forms in Spanish and there are also seed money forms in Spanish.

She said because of the number of candidates in the mayoral race and the number of candidates in the District 1 race, rank choice voting will be triggered in those two races. The City Clerk's Office will be working collaboratively with the Santa Fe County Clerk's Office on the education piece of ranked choice voting.

Member Lujan asked about the petition signature forms that were not approved by the SOS. She said some candidates had already collected signatures on those forms. She asked when the deadline is to turn in the forms.

Clerk Mihelcic said that were some clarifications that needed to be made on the forms that had historically been used by the City Clerk's Office. She worked with the County Clerk and the Secretary of State's Office to provide the approved form from the Secretary of State's Office. Historically there had been a deadline for all nominating petition forms. The City is working to get the City election aligned with the Local Election Act. The deadline for petition signatures for candidates utilizing private campaign financing is August 24th. The deadline for candidates utilizing public campaign financing is July 19th.

Member Lujan asked how many of the initial forms had been completed and turned in.

Clerk Mihelcic said they provided updated forms fairly quickly. There were three candidates that had picked up the forms. They spoke with them and provided new forms.

Member Lujan asked if she is going to accept the original forms if they are turned in.

Clerk Mihelcic said she notified the candidates, after speaking with the SOS, that the preference would be to use the form approved by the Secretary of State's Office. They had already sent the original forms out but any that were signed they agreed to get those signatures again. She stated that this is a transition year, she is a new City Clerk and there is a new County Clerk. They are working through things procedurally and collaboratively along with the Secretary of State.

Chair Miller and other Board members expressed their appreciation for the City Clerk's efforts and work during this election cycle.

9. MATTERS FROM THE BOARD

Member Biderman said he'd like to start meeting in person again.

Chair Miller asked the City Clerk if the City is close to allowing committees to meet in person.

Clerk Mihelcic said they are working to get many of the committees back in person, hopefully by the middle of July or beginning of August. The Attorney General was encouraging meeting on Zoom, however, the City is testing hybrid meetings.

Member Biderman left the meeting at 4:32 pm.

10. MATTERS FROM THE CHAIR

There were no matters from the Chair.

11. NEXT MEETING

None scheduled, however, Chair Miller said there would be a meeting possibly in the next quarter.

12. PUBLIC COMMENT

Chair Miller said public comment was not listed on the agenda, but he opened up the floor for public comment.

Roger Carson, a candidate, thanked the Board for having this opportunity and expressed that the Board is doing a great job.

12. ADJOURNMENT

MOTION: Member Amer moved to adjourn the meeting at 4:38 p.m. Member Martinez 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.

Approved by:

Justin Miller

Justin Miller (Feb 15, 2022 16:07 MST)

Justin Miller, Chair

Submitted by:

Melissa D. Byers

Melissa D. Byers, Stenographer
For Byers Organizational Support Services