



# AGENDA

ETHICS AND CAMPAIGN  
REVIEW BOARD  
DECEMBER 14, 2023  
4:00 PM  
CITY COUNCIL  
CHAMBERS, CITY HALL  
200 LINCOLN AVENUE

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## PROCEDURES FOR ETHICS AND CAMPAIGN REVIEW BOARD MEETING

**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.

**Written Public Comment:** Members of the public may submit written comments on legislation by clicking on the comment bubble to the right of the meeting on the public portal at <https://santafe.primegov.com/public/portal> three hours prior to the start of the meeting.

The agenda and packet 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**
5. **DISCUSSION AGENDA AND POSSIBLE ACTION**
  - a. Appointment of Chairperson and Vice Chairperson
  - b. **Case #2023-2.** Complaint Brought Forward by Arcy Baca – 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
  - c. **Case #2023-3.** Complaint Brought Forward by Arcy Baca – 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

- d. **Case #2023-4.** Complaint Brought Forward by Arcy Baca – 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

- e. **Case #2023-5.** Complaint Brought Forward by Pilar Faulkner – 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. **MATTERS FROM STAFF**

7. **MATTERS FROM THE COMMITTEE**

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

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ETHICS AND CAMPAIGN REVIEW BOARD MEETING  
December 14, 2023**

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**MINUTES OF THE CITY OF SANTA FE  
ETHICS AND CAMPAIGN REVIEW BOARD  
THURSDAY, DECEMBER 14, 2023 – 4:00 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 4:00 p.m. at the City Council Chambers, City Hall, 200 Lincoln Avenue, Santa Fe, NM.

**2. ROLL CALL**

Roll call indicated the presence of a quorum as follows:

**Members Present:**

Justin Miller, Chair  
Judith Amer  
Paul Biderman  
Christina Brennan  
Kristina Martinez  
Jose Puentes

**Members Absent:**

One Vacancy

**Staff Present:**

Marcos Martinez, Deputy City Attorney  
Geraldyn Cardenas, Interim City Clerk  
Xavier Vigil, Committee and Contracts Coordinator

**3. APPROVAL OF AGENDA**

Chair Miller said that due to conflicts, the agenda needed to be amended so that Item 5(d) be heard before Item 5(c).

**MOTION:** Member Martinez moved to approve the agenda with an amendment so that Item 5(d) is heard before Item 5(c). Member Amer seconded the motion.

**VOTE:** The motion passed unanimously by voice vote.

**4. APPROVAL OF MINUTES:**

None

## 5. DISCUSSION AND POSSIBLE ACTION

### a. Appointment of Chairperson and Vice Chairperson

#### **CHAIRPERSON**

**NOMINATION:** Chair Miller stated that he was stepping down as Chairperson and nominated Member Biderman as Chairperson.

Member Biderman accepted the nomination and nominated Chair Miller to serve as the Vice Chairperson.

Member Amer seconded the nomination.

**VOTE:** There being no further nominations for Chairperson, the nomination of Member Biderman as Chairperson passed unanimously by voice vote.

#### **VICE CHAIRPERSON**

**NOMINATION:** Member Biderman nominated Member Miller as Vice Chairperson.

Member Miller accepted the nomination.

Member Martinez seconded the nomination.

**VOTE:** There being no further nominations for Vice Chairperson, the nomination of Member Miller as Vice Chairperson passed unanimously by voice vote.

Chair Miller stated that Member Biderman would take over the Chair at the next meeting.

Chair Miller explained the process of the Board. The first step is for the Board to determine the legal sufficiency of the complaint, specifically, whether the complaint on its face states with particularity information, which if true, would show probable cause to believe that there has been a violation of the Code of Ethics, the Campaign Code or the Public Campaign Finance Code. The Board is to dismiss the complaint if it was filed too late, does not state a violation, is frivolous or was filed solely to harass or intimidate, or if the Board lacks jurisdiction to hear the complaint. If the Board dismisses the complaint the matter is resolved. If the board does not dismiss the complaint, it will proceed to a hearing.

Before hearing the cases, Chair Miller noted Board member conflicts, real or potential. Member Biderman will recuse himself from Case 2023-3 and Case 2023-4. Members Martinez and Puentes will recuse themselves from 2023-3.

Member Biderman said the two complaints he is recusing himself from (2023-3 and 2023-4) identify improper conduct by the campaign advisor to the two council candidates who were involved. That person is somebody whose family is very close to his family. They had a long friendship, and he couldn't possibly be objective in dealing with that. Since she is implicated, he must step down in those two cases.

Member Martinez said she would have to recuse herself from 2023-3. The case is against Geno Zamora. Mr. Zamora is a friend of hers and she contributed to his council campaign. Her law firm also held a fundraiser for his campaign. This was oversight by her. She said since she's been on this Board, which has been a long time, she has been very careful not to contribute to City of Santa Fe races to avoid any kind of appearance of bias and to make sure that there's not a conflict. It just slipped her mind in this instance so she will be recusing herself from hearing Case 2023-3.

Member Puentes said he would have to recuse himself from 2023-3 and 2023-4. Before he was appointed to the Board, he contributed funds to the Zamora campaign. He also has close ties to the consultant mentioned in 2023-4, as well. Therefore, he had to recuse himself from those two cases.

Member Amer disclosed that when she was employed by the City of Santa Fe as an Assistant City Attorney, Mr. Zamora was the City Attorney. She stated that she has not contributed or been involved in any campaigns. She added that when she worked at the Department of Finance and Administration she had business dealings with Pilar Faulker, but again that was in 2010 and she hasn't contributed or participated in any political campaigns.

Chair Miller confirmed with Member Amer that she could be fair and unbiased in hearing the cases. No other members of the Board had concerns with Member Amer hearing the cases.

- b. **Case #2023-2.** Complaint Brought Forward by Arcy Baca – 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.)

Chair Miller stated that the alleged violations are to Sections 9-2.2(B) and (C) and 9-2.11(A)(5) of the Santa Fe Campaign Finance Code. Complainant, Mr. Baca was not present. He noted that Ms. Faulkner had submitted a response to the Board which the Board has had an opportunity to review. He asked Ms. Faulkner if she wanted to address the Board, she did not.

## 1. Discussion of Actions.

Member Biderman said this comes down to a statement in the complaint and the response to that. The statement in the complaint falls under Question 2 and states “Unfortunately, this report did not segregate individual expenses as required by the regulation.” This is allegedly “a pattern of nondisclosure.” He said he doesn’t see that there is such a requirement. That is stated clearly in the response by Ms. Faulkner. Towards the end she points out that “Section 9-2.11 (A)(5) concludes by stating this report shall be itemized with the total amount paid to each individual or business for the goods services or facilities provided.” That is what in fact she did. The rule does not say anything about each individual expenditure having to be itemized. He said the attachments to the complaint show the items received. But to have to report on the cost of each individual item would be burdensome and it's not part of the rule. For example, one of the items is for J.C. Tolson for reimbursement for walk cards, mailers, signs, email service and consulting and it's \$8,600. If the complaint were stating the law, then every walk card, every mailer, every sign would have to be itemized and that's not what the rule calls for. He said in this case, he thinks there is failure to state a claim.

Member Martinez said she agreed with the analysis by Member Biderman. She also noted that under the Board’s Rules, Paragraph 4, under Complaint Procedures, the complaint was filed on time, She did not believe that it was filed solely to harass or intimidate. She agreed that it does not state a violation for the reasons Member Biderman stated. What Ms. Faulkner did, complies with the rule. What the Board is interested in knowing is who's receiving money and how much and in this case that information is provided. She paid J.C. Tolson \$8,667.58. She did put in there the detail, it's for walk cards, mailer signs, email service and consulting. There is enough information to comply with the rule and therefore, there's no secrecy, there's no “pattern of non-disclosure” from her view. She agreed with Member Biderman’s analysis.

## 2. Action Regarding Whether the Complaint Sets Forth Legally Sufficient Facts, Which, if True, Show Probable Cause to Believe There Was a Violation.

**MOTION:** Member Martinez moved to dismiss the Complaint 2023-2. Member Amer seconded the motion and added that she agreed with both of the statements made, that it complies with the rule which says “the name of each individual or business to whom an expenditure has been made in the purpose of each campaign expenditure and the date.” It does not require any kind of sub itemization and for the reasons that Member Biderman said, it would be onerous and unnecessary, and it's not required by the rule.

Chair Miller said he agreed with the comments of Members Martinez and Biderman that the rule requires certain information be disclosed with respect to each expenditure and what it does not require is an itemization to the level of detail that was requested by the Complainant.

**VOTE:** The motion was approved unanimously by voice vote.

**3. Action on Any Steps as Permitted Under Section 6-16**

Not applicable.

- d. **Case #2023-4.** Complaint Brought Forward by Arcy Baca – 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.)

Members Biderman and Puentes recused themselves from hearing this case and would not be in the room during this case.

**1. Discussion of Actions.**

Chair Miller said this a complaint by Arcy Baca, and the respondent is Phil Lucero who was a Councilor candidate in the last election for District 2. He stated that the alleged violations are to Sections 9-2.2(B) and (C) and 9-2.11(A)(5) of the Santa Fe Campaign Finance Code. Both the Complainant and the Respondent were not present.

Member Brennan said she viewed this complaint similar to the one that was just discussed and didn't think everything needed to be reiterated.

Member Amer said for the same reason she stated previously. It complies with the rule in the sense that it stated the expenditures, the name and the address and it doesn't need to be itemized.

Chair Miller confirmed with the Board members that there was not any difference between this case and the last one and no one had a different analysis.

**2. Action Regarding Whether the Complaint Sets Forth Legally Sufficient Facts, Which, if True, Show Probable Cause to Believe There Was a Violation.**

**MOTION:** Member Brennan moved to dismiss Complaint 2023-4 for lack of legal sufficiency. Member Martinez seconded the motion.

**VOTE:** The motion was approved unanimously by voice vote.

Note: Members Biderman and Puentes had recused themselves from hearing this case.

### 3. Action on Any Steps as Permitted Under Section 6-16

Not applicable.

- c. **Case #2023-3.** Complaint Brought Forward by Arcy Baca – 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.)

Members Biderman, Martinez and Puentes recused themselves from hearing this case and would not be in the room during this case.

Chair Miller said with those recusals, there are only three Board members left to hear the case, which is not a quorum. No final action can be taken on this complaint.

#### 1. Discussion of Actions.

Chair Miller said this Complaint raises the same allegations as the previous two Complaints and has the same Complainant, Arcy Baca. Mr. Geno Zamora is the respondent. He offered an opportunity for Mr. Baca to speak but he was not present. He said that Mr. Zamora had provided a written response. He asked Mr. Zamora if he would like to speak.

Mr. Zamora said like the other complaints, the complaint against his campaign is very similar, or almost exact. The Ordinance does not require what was requested by the Complainant. The difficulty, as Chair Miller pointed out, is the lack of a quorum. He confirmed with the City Clerk that the total number of ECRB members is seven. He didn't know if a quorum would be achievable in a future meeting. He said the problem this evening is there is not a quorum of the members present. He said one viable solution is that this case be moved to the end of the meeting and the members excuse themselves, which would give a quorum of the members present at that moment in time. Otherwise, he didn't know how this would get resolved.

Chair Miller asked Mr. Zamora to clarify his possible solution.

Mr. Zamora said there are six members present, three have excused themselves leaving only three members which is not a quorum of the members present. If there were only five members present that would be a quorum of the overall body and three members would be able to act in that circumstance. He was trying to brainstorm an idea so that this complaint does not remain indefinitely. He deferred to the Deputy City Attorney.

Chair Miller asked Deputy City Attorney Martinez if that is a viable procedure.

Deputy City Attorney Martinez said he would be hesitant to construct a majority that way by asking someone to leave. He didn't want someone to question the propriety of that decision once it had been done. His hope is that future appointments will be forthcoming which will allow the ECRB to have a quorum, even with the recusals now. It is also his hope that that can be done in a timely manner. He appreciated Mr. Zamora's position of not wanting this to be hanging out there forever.

Member Amer asked if there are currently seven members on the Board.

Chair Miller said there are currently six members, but a quorum would be the same number of members, which is four. He said another option out there is that Mr. Baca can see the resolution of two of his complaints and the third presented the same issues. He may realize that the Board has at least expressed its opinion on how this type of complaint should be handled and maybe he'll withdraw. It would make sense for the City Clerk to reach out to Mr. Baca and let him know what the Board's decision was and see how he would like to proceed. He thanked Mr. Zamora for being present and apologized that the Board couldn't decide this case.

**2. Action Regarding Whether the Complaint Sets Forth Legally Sufficient Facts, Which, if True, Show Probable Cause to Believe There Was a Violation.**

Due to the lack of a quorum, the Board could not act on this case.

**3. Action on Any Steps as Permitted Under Section 6-16**

Not applicable.

- c. **Case #2023-5.** Complaint Brought Forward by Pilar Faulkner – 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.)

Members Biderman, Martinez and Puentes returned to the meeting.

**1. Discussion of Actions.**

Chair Miller said this is a complaint brought by Pilar Faulkner. The respondent is Jay Baker which, as the complaint states is an anonymous pseudonym on social media and that touches on the very nature of the complaint that the identity of Jay Baker is not known. The allegation is stated as follows:

“Jay Baker is an anonymous pseudonym on social media. Jay Baker purchased digital ads criticizing city council candidates Pilar Faulkner and Phil Lucero. These

digital ads failed to disclose information required under city law such as the name of the person responsible for the ads and a telephone contact number. Additionally, Jay Baker failed to file as a political committee, name a treasurer and report campaign contributions and expenditures.”

Chair Miller said the complaint sets out um a number of sections of the Code that are alleged to have been violated including 9-2.5(B) and (D) and 9-2.6 as well as if the alleged advertisements exceed the cost of \$500, then 9-2.7 through 9-2.12. The Board’s job is to determine if this complaint states a claim and meets the requirements for the Board to consider it.

Chair Miller said the Complainant is in the audience and would be given a chance to speak. But he would like to hear from the Board first.

Member Amer asked if the Board found that this complaint states a claim, how could the Board have a hearing if the respondent is not known? On top of it all how could the Board assess a penalty if the Board determined that was necessary and appropriate?

Chair Miller pointed out that the complaint is asking the Board to subpoena information from Arcy Baca who the complaint alleges “we believe Arcy Baca knows the identity of Jay Baker and ask the board to subpoena information from him.” So at least that’s one possible thing the Board could do or that’s at least the request from the complainant.

Member Amer asked the City Attorney if the Board has authority to issue subpoenas.

Deputy City Attorney Martinez said the text of the City ordinance does say that the Chair of the Board has the authority to order appropriate discovery and issue subpoenas for the attendance of witnesses or the production of documents. There is apparent authority to issue administrative subpoenas. A further sentence in this provision which I’ll give you the citation is 6-16.4(D). The final sentence of D states “The board may seek enforcement of administrative subpoenas or discovery requests in district court.

Member Biderman said there’s also a provision in 6-16.6, investigations. It looks like there is authority to get an investigator to investigate who this is. He asked if that was correct.

Deputy City Attorney Martinez said the issue may be a budgetary one. No budget for investigations was created in the current fiscal year. But he would like to have the ability to discuss with the administration in the city about whether some other money may be found to support such investigations and get back to the Board. What was said is correct, the Board may investigate the allegations brought before it and they may use a contract with a qualified investigator to do so.

Member Biderman said the contracting line item for the City may be broad enough that any authorized contractor could be retained. Such a contract would be at the Board's request.

Ms. Faulkner said this kind of politicking is an attempt to influence elections. It was done illegally. But more important, if it's not addressed, as a city a dangerous precedent is being set. Organizations that do not follow the Code of Ethics should be stopped. Disclosure is a key part of ethics in elections. She decided to file this complaint because this is a very dangerous precedent to set by allowing this to continue. This Facebook page has consistently put out false information. The information they put out on her was libelous and slanderous. She did not have any fines filed against her at the state. This activity on Facebook could have caused her to lose clients. She is just begging basically for the sanctity of the system. She wanted the Board to subpoena and find out who this is so there can be an end to this kind of "dirty politics."

Chair Miller asked Ms. Faulkner who she was suggesting that the Board subpoena.

Ms. Faulkner said she was suggesting Arcy Baca because the complaint he filed against her was verbatim of what was on the Jay Baker Facebook post. She also suggested subpoenaing Facebook. They are supposed to be paying attention to these kinds of activities on their Facebook membership. If Facebook is subpoenaed, the Board will find out who the administrators are of that of that page.

Chair Miller asked Ms. Faulkner if she had any other information that Arcy Baca knows the identity of Jay Baker.

Ms. Faulkner said she didn't. She said Arcy Baca and Jay Baker have almost the exact same language when they are posting so there's some sort of relationship there. The conundrum right now is that there is someone that the complaint is filed against, and that person can't be served the complaint so that puts them at an advantage. That's unfair and feels unethical.

Deputy City Attorney Martinez said he noticed in the complaint that many of the advertisements were purchased from the KOB website, and he was wondering if that was an entity that could be subpoenaed for any information related to who purchased the advertisements.

Ms. Faulkner said similar advertisements were also purchased on the Taos News webpage. Jay Baker is all over, doing this in several places. There is no recourse because he can't be served. The only way to find out who he is to subpoena whoever may know his identity.

Chair Miller said there needs to be some basis for the Board's subpoena authority. He asked if there was any information on those ads that identifies Jay Baker. The Board

wants to be sure that the Board has the authority to subpoena and that there are reasonable grounds for it.

Ms. Faulkner said the ads have Jay Baker's name and logo on them.

Chair Miller asked Deputy City Attorney Martinez about the grounds the Board needs to issue a subpoena.

Deputy City Attorney Martinez said he was not familiar with the administrative subpoena process. He wants to engage with the City Attorney and other attorneys in the office who engage in enforcement actions to adequately answer the question.

Chair Miller said since the Ordinance says the chair of the Board has the authority to issue a subpoena, does the Board have to decide that at this meeting or is it something that the Chair can work with the City on, on his own, regarding the applicable standards for administrative subpoenas? Or is that a Board decision?

Deputy City Attorney Martinez said the Code itself suggests that the Chair has that authority. Any question of that authority is reviewable by the entirety of the Board. One path would be for the Board to preemptively authorize the Chair to issue a subpoena to a particular individual or the Chair can on his or her own make that determination with review by the entirety of the Board.

Chair Miller noted that the Section of the Code that is being referred to is 6-16.4(E) regarding the subpoena authority which occurs after the determination of the legal sufficiency of the complaint. So, the Board is still on the hook for making that determination.

Member Biderman said reading that provision, the Board does have to make that determination that the complaint is legally sufficient, timely, not frivolous and that the Board has jurisdiction. If that's done, then the Board needs to set a schedule at this meeting, to hear the complaint. Once that's done, he could discuss with counsel and the Vice Chair what discovery should be undertaken and issue subpoenas.

Member Amer said she was looking at this a different way. Section 6-16.6 says "The Board May conduct an investigation of allegations brought before it rather than simply hearing charges and to do this it shall temporarily contract with qualified investigators." She understands the budgetary problems. Perhaps if the Board went in this direction, it wouldn't be necessary to do any subpoenas. The investigator would be able to determine the actual identity of the respondent. So, perhaps that would be the way to proceed at this point. If ever there was a situation for an investigation, this seems like it shouts out for it.

Member Biderman said that was a good suggestion. He suggested that the Board first make the determination of sufficiency because it would be difficult to get approval for the contract for the investigator without that. The investigator may turn up some

information that says a subpoena is required for that person. Then the Chair has the authority to proceed with that.

Chair Miller confirmed that the consensus of the Board was to move forward with that approach.

**2. Action Regarding Whether the Complaint Sets Forth Legally Sufficient Facts, Which, if True, Show Probable Cause to Believe There Was a Violation.**

**MOTION:** Member Biderman moved to make the determination, as stated in the rule, that the complaint is legally sufficient, was filed timely, is not frivolous and that the Board has jurisdiction to adjudicate it. The motion was seconded by Member Brennan.

Member Amer added, as stated in the Complaint, the ads do not contain the person responsible or the telephone contact number.

Member Biderman acknowledged that as a friendly amendment.

**VOTE:** The motion was approved unanimously by voice vote.

**3. Action on Any Steps as Permitted Under Section 6-16**

Chair Miller said typically the next step would be to establish procedures for a hearing, including prehearing activities, which could involve the investigation and subpoena powers of the Board. The Board is to conduct a public hearing regarding the complaint and set a date of hearing, discovery, witnesses, etc. He asked how the Board wanted to proceed in this case given the unusual status, that the respondent is unknown. There also needs to be some intermediate discovery and subpoena activity that needs to be discussed with the City.

Member Brennan asked if the Board could set the hearing far enough in advance so that there could be some investigation done first.

Member Amer said that is the way to proceed or else the other way is to specifically authorize the Chairman of the Board to find an independent contractor to investigate or both.

Member Biderman said perhaps the Board could authorize the Chair to proceed in accordance with the procedures set out in 6-16.4 and 6-16.6 with the reference being to start with the investigation, if possible. But if there's no money to hire an investigator, he doesn't want to have to call the Board back to a meeting to discuss if the Board can go with the other option.

Chair Miller referred to 6-16.4(D) "If the board determines that the complaint is legally sufficient...the Board shall at the same meeting set a schedule for hearing the complaint." So, the Board should at least set a hearing date.

Deputy City Attorney Martinez said that sounded correct. He thinks the Board would have the authority to amend that date if new information required. But for purposes of satisfying this sentence in the Code, it would be advisable for you to set a hearing far enough out that the date could be amended based on the facts.

After discussion by the Board and confirmation from Ms. Cardenas, the hearing was set for the first Thursday in April of 2024.

**MOTION:** Member Amer moved to set the hearing on the first Thursday in April and to authorize the Chair to work with the City on the budget and a contract for an independent investigator and authorize the Chair, in accordance with 6-16.4(D), to potentially issue subpoenas for attendance of witnesses or the production of documents. The motion was seconded by Member Martinez.

Member Biderman confirmed with Member Amer that appropriate discovery was included in the motion.

**VOTE:** The motion was approved unanimously by voice vote.

## **6. MATTERS FROM STAFF**

There were no matters from staff.

## **8. MATTERS FROM THE COMMITTEE**

Member Biderman suggested that the Board meet more frequently than they have been meeting, at least on a quarterly basis, even if the Board does not have anything specific.

Member Amer said 6-16.1(H) says the Board shall meet at least four times yearly and on an as needed basis.

Chair Miller said usually in an election year there are a lot of meetings that come when complaints come rolling in, that didn't happen until just before the election this year and those complaints came in too late for the Board to address them before the election. He wanted to be mindful of everybody's time and not call meetings when there's not actual pending matters. He agreed with Member Biderman that meeting regularly is a good thing and it keeps everybody engaged and allows the Board to address issues before they come up.

**8. MATTERS FROM THE CHAIR**

There were no matters from the Chair.

**9. NEXT MEETING:** April 4, 2024

Chair Miller asked if anyone wanted to make public comments. There were no public comments.

Ms. Amer asked what it would take to get a seventh member on the Board.

Ms. Cardenas said she is working with the administration to find a seventh member for appointment.

Chair Miller said the City worked hard to get the two members appointed.

**11. ADJOURNMENT**

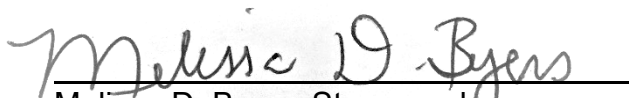
**MOTION:** Member Brennan moved to adjourn the meeting at 5:20 p.m. Member Martinez seconded the motion.

**VOTE:** The motion was approved unanimously by voice vote.

Approved by:

\_\_\_\_\_  
Justin Miller, Chair

Submitted by:

  
\_\_\_\_\_  
Melissa D. Byers, Stenographer  
For Byers Organizational Support Services