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Hon. William F. Lang
Jeffrey L. Baker
Stuart M. Bluestone
Hon. Garrey Carruthers
Ronald Solimon
Judy Villanueva
Frances F. Williams

STATE ETHICS COMMISSION

Commission Meeting Minutes of April 2, 2021 | 9:00am-1:00pm

Virtually Via Zoom

[View Recording Here](#)

[SUBJECT TO RATIFICATION BY COMMISSION]

CALL TO ORDER AND ROLL CALL

The meeting was called to order by Chair Lang. The roll was called; the following Commissioners were present:

Jeffrey Baker, Commissioner
Stuart Bluestone, Commissioner
Hon. Garrey Carruthers, Commissioner
Ronald Solimon, Commissioner
Frances Williams, Commissioner
Hon. William Lang, Chair

Commissioner Judy Villanueva was not present.

1. APPROVAL OF AGENDA

- Chair Lang sought a motion to approve the agenda. Commissioner Carruthers moved to approve the agenda; Commissioner Williams seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the agenda was approved unanimously.

2. APPROVAL OF FEBRUARY 5, 2021 COMMISSION MEETING MINUTES

- Chair Lang sought a motion to approve the minutes of the February 5, 2021 Commission meeting. Commissioner Bluestone moved to approve the minutes; Commissioner Solimon seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the minutes were approved unanimously.

3. OUTCOMES OF THE 2021 LEGISLATIVE SESSION

- Director Farris provided an overview of the outcomes of the 2021 legislative session, detailing four bills relevant to the Commission: HB 2 (General Appropriations Act), HB

244 (Ethics Commission and Secretary of State Duties), SB 75 (State Agency Disclosure of Sensitive Info), and SB 12 (Revised Uniform Law on Notarial Acts).

- Commissioner Bluestone inquired about Senate Joint Resolution 4 (Review Of Salaries Every Two Years) and the related House Joint Resolution 12 (Public Officer Salary Commission, CA) both of which, after committee amendments, would have authorized the State Ethics Commission to set salaries for elected state officers.
- Director Farris explained that neither bill received a hearing in the Senate Judiciary Committee.

4. PROCESS FOR APPOINTMENTS TO CITIZEN REDISTRICTING COMMITTEE

- Director Farris provided an overview of SB 304 (Voting District Geographic Data), which includes the Redistricting Act. The Redistricting Act creates the Citizen Redistricting Committee (CRC or Committee), which is comprised of major party and non-major-party members. The State Ethics Commission has the responsibility to select the Chair of the Committee, who must be a retired Justice of the New Mexico Supreme Court or a retired Court of Appeals Judge, and two non-major-party members. Director Farris proposed a process and timeline for the appointment of the three CRC members.
- The proposed timeline is as follows:
 - o **April 2, 2021** – the State Ethics Commission adopts an appointment process.
 - o **The date the Governor signs SB 304**, the application period will open, and the Commission will begin broadcasting the application form and details about the process throughout the state through its website, through print and news media outlets, and through collaboration with community organizations.
 - o **May 21, 2021** – the application period will close.
 - o **May 26, 2021** – Director Farris will provide the Commissioners with a short list of applicants selected for interviews for the non-major-party positions. Director Farris will also provide the Commissioners with a list of all retired New Mexico Supreme Court Justices and retired Court of Appeals Judges who apply for the Chair position.
 - o **May 31, 2021** – the State Ethics Commission’s agenda for the June 4 Commission meeting will become available to the public, thereby publicizing the list of applicants selected for interviews.
 - o **June 4, 2021** – the State Ethics Commissioners will conduct interviews of applicants during the Commission meeting and make final selections of the non-major-party members and the Chair.

- **July 1, 2021** – (the day the Redistricting Act becomes effective) the State Ethics Commission’s General Counsel will administer the oath of office for the three members that the Commission appoints.
- After a discussion on the merits and demerits of the timeline, process, and proposed selection method, Commissioner Carruthers proposed that each interviewee be asked the same set of questions. Commissioner Bluestone moved to approve the process for appointment of the CRC’s Chair and non-major-party members as outlined in the meeting materials, Director Farris’s presentation, and Commissioner Carruthers’ proposal, with the exception that the tie-breaking occur by revote of the Commission. Commissioner Williams seconded the motion as amended above.
- Hearing no further discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was unanimously approved.

5. TIMELINE FOR RULEMAKING AMENDMENTS TO 1.8.1 and 1.8.3 NMAC

- Director Farris provided an overview of the timeline for the rulemaking hearing process for amendments to 1.8.1 and 1.8.3 NMAC. Director Farris noted that the amendments are necessary to align the Commission’s administrative processes with the new statutory provisions established in HB 244 and to generally improve the Commission’s administrative process.
- The timeline for rulemaking is as follows:
 - **May 6, 2021** (4 weeks before SEC meeting) – Staff will distribute a draft of amendments to 1.8.1 and 1.8.3 NMAC to the Commissioners.
 - **May 6, 2021** through **May 31, 2021** – Commissioners will provide any commentary and recommendations regarding the staff draft of amendments to 1.8.1 and 1.8.3 NMAC.
 - **June 4, 2021** (Commission meeting) – Commission will issue amendments to 1.8.1 and 1.8.3 NMAC for comment.
 - **June 10, 2021** (NM Reg. submittal deadline) – Staff will submit the amendments to 1.8.1 and 1.8.3 NMAC to SRAC for publication in the NM Register.
 - **June 22, 2021** (NM Reg. Publication Date) – Notice of Proposed Rulemaking will be published in NM Register.
 - **August 13, 2021** (Commission Meeting) – Public Rule Hearing and Rule Adoption.

(Note that this meeting was moved from August 6, 2021 to August 13, 2021).

- **August 26, 2021** (NM. Reg. submittal deadline) – The rule will be filed within 15 days after adoption.
 - **September 14, 2021** (NM Reg. Publication Date) – SRAC will publish the new rule in the NM Register.
- After a discussion on the timeline, Commissioner Bluestone suggested moving the Commission meeting on August 6, 2021 to August 13, 2021 to resolve a scheduling conflict. *(This change and revisions to the subsequent submittal and publication dates is reflected in the proposed timeline above).*

6. UPDATE ON OCT. 1, 2021 SPECIAL REPORT

- Director Farris provided an initial overview on the Commission’s October 1, 2021 report regarding the Commission’s jurisdiction, which will include a discussion of the issue whether the Commission’s jurisdiction for administrative complaints should be enlarged to include local public officers and employees.
- Director Farris introduced Dr. Michael Kiley, the Commission’s Special Project Coordinator assigned to the project.
- Dr. Kiley provided an update on the project and the results of research conducted to date, including:
 - Data on the number of public officials and employees at the county and municipal levels;
 - Research on local ethics oversight bodies across the state;
 - Research on the effects of ethics oversight in government;
 - Research on the costs of ethics oversight relative to benefits;
 - Research on other state ethics commissions with respect to their structure, function, and history of jurisdiction;
 - Correspondence with other state ethics commissions’ directors;
 - Research on potential changes to the State Ethics Commission’s workload; and
 - Research on the resources and budgetary needs associated with jurisdictional expansion
 - Outreach efforts to local governments

7. ADVISORY OPINION 2021-06

- Director Farris provided an overview of advisory opinion 2021-06, which concerns the following question:
 - When a sole source contract is amended, does notice of the amendment need to be posted on the state purchasing agent’s or central purchasing office’s website and the sunshine portal?
 - Decision: Yes.

- Chair Lang sought a motion to approve advisory opinion 2021-06. Commissioner Carruthers moved to approve advisory opinion 2021-06; Commissioner Bluestone seconded. After a discussion of the advisory opinion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and advisory opinion 2021-06 was approved unanimously.

8. ADVISORY OPINION 2021-07

- Director Farris provided an overview of Advisory opinion 2021-07, which concerns the following question:
 - o May legislators who are respondents to administrative complaints pending in the State Ethics Commission vote on proposed legislation that affects the State Ethics Commission?
 - o Decision: Yes.
- Director Farris asked the Commission for a motion to approve the advisory opinion as amended (excising the penultimate sentence of the draft circulated as part of the meeting materials).
- Chair Lang sought a motion to approve the advisory opinion as amended. Commissioner Williams moved to approve advisory opinion 2021-07 as amended; Commissioner Baker seconded. After a discussion of the advisory opinion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and advisory opinion 2021-07 as amended was approved unanimously.

9. EXECUTIVE SESSION

- Chair Lang sought a motion to enter executive session under NMSA 1978, §§ 10-15-1(H)(2) (limited personnel matters), 10-15-1(H)(3) (administrative adjudicatory proceedings), and 10-15-1(H)(7) (attorney-client privilege pertaining to litigation). Commissioner Carruthers moved to enter executive session after a short break; Commissioner Solimon seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the Commissioners entered executive session.

---BEGINNING OF EXECUTIVE SESSION---

- The following matters were discussed in executive session:
 - a. Administrative Complaint No. 2020-07
 - b. Administrative Complaint No. 2020-31
 - c. Administrative Complaint No. 2020-40
 - d. Administrative Complaint No. 2021-04
 - e. Administrative Complaint No. 2021-05
 - f. Administrative Complaint No. 2021-06
 - g. Administrative Complaint No. 2021-08

- Annual performance evaluation by Commissioners of the Executive Director's tenure from November 2019 to present.
- The matters discussed in the closed meeting were limited to those specified in the motion to enter executive session. After concluding its discussion of these matters, the Commission resumed public session upon an appropriate motion.

---END OF EXECUTIVE SESSION---

10. ACTIONS ON ADMINISTRATIVE CASES

- **Administrative Complaint Nos. 2020-07 & 2020-040**
General Counsel Boyd asked the Commission for a motion to instruct staff to continue its investigation for another 90 days in administrative case nos. 2020-07 and 2020-040 under 10-16G-11(A) of the State Ethics Commission Act.
- Chair Lang sought a motion to authorize the staff as stated above. Commissioner Carruthers moved to authorize the staff as stated above; Commissioner Bluestone seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved unanimously.
- **Administrative Complaint No. 2020-31**
- Director Farris asked the Commission for a motion to forward the Financial Disclosure Act claims over which the Commission has jurisdiction to the Secretary of State pursuant to the joint powers agreement between the Commission and the Secretary of State, while noting that the claims related to the Governmental Conduct Act, for which the Commission has jurisdiction, remain pending subject to the State Ethics Commission Act and the Commission's rules of procedure.
- Chair Lang sought a motion as stated above. Commissioner Solimon moved as stated above; Commissioner Williams seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved unanimously.
- **Administrative Complaint No. 2021-04**
- Director Farris asked the Commission for a motion to dismiss the claims asserted under subsections 10-16-3(a) and 10-16-3(b) of the Governmental Conduct Act for lack of jurisdiction and refer the same to the Interim Legislative Ethics Committee.
- Chair Lang sought a motion as stated above. Commissioner Williams moved as stated above; Commissioner Carruthers seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. Commissioner Bluestone recused himself from voting. All other Commissioners voted in the affirmative, and the motion was approved.
- **Administrative Complaint No. 2021-05**

- Director Farris asked the Commission for a motion to dismiss the claims in the complaint for lack of jurisdiction.
- Chair Lang sought a motion as stated above. Commissioner Carruthers moved as stated above; Commissioner Baker seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved unanimously.

- **Administrative Complaint No. 2021-06**
- Director Farris asked the Commission for a motion to dismiss the claims in the complaint for lack of jurisdiction.
- Chair Lang sought a motion to authorize the staff as stated above. Commissioner Williams moved as stated above; Commissioner Solimon seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. Commissioner Baker recused himself from voting. All other Commissioners voted in the affirmative, and the motion was approved.

- **Administrative Complaint No. 2021-08**
- Director Farris asked the Commission for a motion to dismiss the claims in the complaint for lack of jurisdiction and refer the same to the Interim Legislative Ethics Committee.
- Chair Lang sought a motion as stated above. Commissioner Williams moved as stated above; Commissioner Solimon seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was approved unanimously.

11. PUBLIC COMMENTS

- Members of the public were invited to address the Commission.

- **Lilly Irvin-Vitela** from New Mexico First thanked the Commissioners for their work in building the Commission’s credibility over the past year. Ms. Irvin-Vitela also thanked Director Farris for his work on the redistricting task force that New Mexico First convened. She additionally thanked the Commission for its discussion on the importance of communities of interest in the redistricting process.

- **Clifford Reese** thanked the Commission for the issuance of the two most recent advisory opinions and for the Commission’s work relating to the Procurement Code.

- No additional public comments were offered.

12. DETERMINATION OF NEXT MEETING

- The Commissioners agreed to meet next on Friday, June 4, 2021.

13. ADJOURNMENT

- Chair Lang moved to adjourn. Hearing no discussion or opposition, the meeting was adjourned.

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