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Hon. William F. Lang
Jeffrey L. Baker
Stuart M. Bluestone
Hon. Garrey Carruthers
Hon. Celia Foy Castillo
Ronald Solimon
Judy Villanueva

STATE ETHICS COMMISSION

Commission Meeting Minutes of February 4, 2022 | 9:00AM-2:00PM

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
Hon. Celia Foy Castillo, Commissioner
Judy Villanueva, Commissioner
Hon. William Lang, Chair

1. APPROVAL OF AGENDA

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

2. APPROVAL OF DECEMBER 3, 2021 COMMISSION MEETING MINUTES

- Chair Lang sought a motion to approve the minutes of the December 3, 2021 Commission meeting. Commissioner Foy Castillo moved to approve the minutes; Commissioner Bluestone seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and approved the minutes unanimously.

3. UPDATE ON LEGISLATIVE SESSION

Director Farris provided an overview of the 2022 legislative session and highlighted the following updates relevant to the Commission:

- **HB 2 (The General Appropriations Act of 2022):**

Director Farris provided an overview of HB 2 noting that it is responsible for the

Commission's FY 23 annual budget and, as drafted, it benefits the Commission for the following reasons:

- Section 4 of HB 2 provides a 26% increase in funding for the Commission over the previous fiscal year appropriation. The amount appropriated is \$1.193 million and is equivalent to 93% of the Commission's request.
- Section 8 of HB 2 includes a compensation increase which provides for a 7% salary increase for all state employees (implemented in a staggered manner with a 3% increase in April and another 4% in July).
- Sections 12 and 13 of HB 2 includes "BAR authority provisions" that will allow the Commission to request budget adjustment increases of up to \$30,000 that the Commission receives from civil penalties, court ordered judgements or sanctions, and settlement payments derived in the course of its enforcement of the state's ethics laws.

- **The Disclosure Act:**

Director Farris provided an overview of the Disclosure Act and its status in the legislative session:

- The Disclosure Act was introduced this legislative session as HB 149 by Representative McQueen, and co-sponsored by Representatives Garrett, and Townsend, as well as Senator Tallman.
- The bill does not include an appropriation meaning that it is not germane to the budget-centric short session.
- The fact that the bill received sponsorship and was worked on by members of the Legislature, however, bodes well for the Commission in the upcoming 60-day session with respect to moving the bill forward.

- **HJR 9 and SJR 8:**

Director Farris provided the following updates regarding HJR 9 and SJR 8:

- HJR 9 would create an Independent Redistricting Commission and the Ethics Commission would have an appointment role, similar to its appointment role regarding the Citizen Redistricting Committee.
- SJR 8 would authorize the State Ethics Commission to set and review salaries for state elected officers. The bill has received a do-pass recommendation from the Senate Rules Committee and waits in the Senate Judiciary Committee. Director Farris noted that he has not and likely will not appear before any committees to provide commentary on the bill.

4. ADVISORY OPINION 2022-01

- Director Farris provided an overview of advisory opinion 2022-01, which addresses the following question:

A Member of the House of Representatives is contracted to do project work through his local Soil and Water Conservation District. The project is funded with federal funds and is located on federal land. As a Member of the House of Representatives, he has no voice

in determining project funding or other project details. Yet, the Member would like to be certain that no conflict of interest exists in regards to his position as a member of the House of Representatives. Please provide your opinion on this matter.

(To read the full opinion, visit www.NMOnesource.com).

- Chair Lang sought a motion to adopt advisory opinion 2022-01. Commissioner Carruthers moved to adopt the opinion; Commissioner Bluestone seconded. After a discussion on the merits of the opinion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and approved advisory opinion 2022-01 unanimously.

5. ADVISORY OPINION 2022-02

- Director Farris provided an overview of advisory opinion 2022-02 which addresses the following question:

A candidate sought a municipal, school district, or special district elected office, and the candidate received contributions to support the candidate's election to that office. Does the Campaign Reporting Act, NMSA 1978, Sections 1-19-1 to -37 (1979, as amended through 2021) ("CRA"), prohibit the candidate from retaining and using those contributions to support the candidate's subsequent campaign for an office covered by the CRA?

(To read the full opinion, visit www.NMOnesource.com).

- Chair Lang sought a motion to adopt advisory opinion 2022-02. Commissioner Carruthers moved to adopt the opinion; Commissioner Bluestone seconded. After a discussion on the merits of the opinion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and approved advisory opinion 2022-02 unanimously.

6. PROPOSED PROCESS FOR INVESTIGATING MATTERS ARISING FROM UNALLEGED CLAIMS DISCOVERED IN ADMINISTRATIVE COMPLAINTS

- Director Farris provided background on the matter and described the proposal for a process that should control instances where the General Counsel discovers a violation of an ethics law during the investigation of an administrative complaint where the violation is outside of the scope of the complaint. Commissioner Bluestone made additional comments as to the importance and relevance of the proposal by pointing to the Commission's publicly-released administrative case No. 2020-031. After additional discussion on the proposal, no action was taken.

7. RESOLUTION No. 2022-01 (Administrative cases arising under RULONA)

- Director Farris provided an overview of the staff's Resolution No. 2022-01, which relates to the Commission's process for addressing complaints arising under the Revised Uniform Law on Notarial Acts. Director Farris noted that the procedures established by the resolution will ultimately lead to a formal rulemaking to establish the procedures in the New Mexico Administrative Code.
- Chair Lang sought a motion to approve No. Resolution 2022-01. Commissioner Bluestone moved to approve Resolution No. 2022-01; Commissioner Foy Castillo seconded. After a discussion to clarify elements of the resolution, all Commissioners voted in the affirmative and approved Resolution No. 2022-01 unanimously.

8. 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; Commissioner Foy Castillo seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and entered executive session.

---BEGINNING OF EXECUTIVE SESSION---

- The following matters were discussed in executive session:
- Discussions regarding administrative complaints:

Administrative Matters under State Ethics Commission Act:

- a. Administrative Complaint No. 2021-010
- b. Administrative Complaint No. 2021-012
- c. Administrative Complaint No. 2021-020
- d. Administrative Complaint No. 2021-029
- e. Administrative Complaint No. 2021-037
- f. Administrative Complaint No. 2021-039

Administrative Matters under Revised Uniform Law on Notarial Acts:

- a. 2022-NP-04, *In re notary public commission of Stewart*
- b. 2022-NP-06, *In re notary public commission of Kiro*
- c. 2022-NP-07, *In re notary public commission of Rivera*

- Discussions regarding pending civil litigation
- 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---

9. ACTIONS ON ADMINISTRATIVE CASES Nos. 2021-10, 2021-12, 2021-20, 2021-29, 2021-37, & 2021-39

- Director Farris asked the Commission for the following motions on the following administrative cases:
 - o **In administrative case 2021-010, motion to dismiss the appeal.**
 - o Commissioner Baker moved as stated above; Commissioner Foy Castillo seconded as stated above. All Commissioners voted in the affirmative and approved the motion.
 - o **In administrative case 2021-012, motion to extend the investigation period.**
 - o Commissioner Carruthers moved as stated above; Commissioner Baker seconded as stated above. All Commissioners voted in the affirmative and approved the motion.
 - o **In administrative case 2021-020, motion to dismiss the complaint for being filed pseudonymously.**

- Commissioner Carruthers moved as stated above; Commissioner Baker seconded as stated above. All Commissioners voted in the affirmative and approved the motion.
- **In administrative case 2021-029, motion to dismiss the complaint for lack of personal and subject matter jurisdiction.**
- Commissioner Baker moved as stated above; Commissioner Solimon seconded as stated above. All Commissioners voted in the affirmative and approved the motion.
- **In administrative case 2021-037, motion to dismiss the case pursuant to Section 1-19-34.4(C) NMSA 1978 because the Secretary of State certified voluntary compliance with the Campaign Reporting Act.**
- Commissioner Carruthers moved as stated above; Commissioner Baker seconded as stated above. All Commissioners voted in the affirmative and approved the motion.
- **In administrative case 2021-039, motion to dismiss the complaint for lack of jurisdiction and referral to the Carlsbad Municipal School District.**
- Commissioner Foy Castillo moved as stated above; Commissioner Baker seconded as stated above. All Commissioners voted in the affirmative and approved the motion.
- **ADMINISTRATIVE MATTERS UNDER RULONA**
- Director Farris sought motions on the following cases regarding Notaries Public:
 - **In 2022-NP-04, *In re notary public commission of Stewart*, motion to dismiss because the notary no longer lives in New Mexico, and to refer the matter to the Arkansas Secretary of State.**
 - Commissioner Baker moved as stated above; Commissioner Solimon seconded as stated above. All Commissioners voted in the affirmative and approved the motion.
 - **In 2022-NP-06, *In re notary public commission of Kiro*, motion to instruct the staff to send the notary a notice of contemplated action**
 - Commissioner Foy Castillo moved as stated above; Commissioner Bluestone seconded as stated above. All Commissioners voted in the affirmative and approved the motion.
 - **In 2022-NP-07, *In re notary public commission of Rivera*, motion to dismiss the complaint because the Commission lacks jurisdiction for a notary commission that expired prior to January 1, 2022.**
 - Commissioner Carruthers moved as stated above; Commissioner Foy Castillo seconded as stated above. All Commissioners voted in the affirmative and approved the motion.

10. SELECTION OF NEXT MEETING

- Chair Lang confirmed that the next meeting would take place on April 1, 2022.

11. COMMENTS

- Members of the public were invited to address the Commission.
- No public comments were offered.

12. ADJOURNMENT

- Chair Lang raised adjournment of the meeting. With no objections made, the meeting was adjourned.

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