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Hon. William F. Lang
Jeff Baker
Stuart M. Bluestone
Hon. Garrey Carruthers
Ron Solimon
Judy Villanueva
Frances F. Williams

STATE ETHICS COMMISSION

Commission Meeting Minutes of October 2, 2020 | 9:00pm-2:00pm

Virtually Via Zoom

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[SUBJECT TO RATIFICATION BY COMMISSION]

1. 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 (joined shortly after minutes were approved)
Hon. Garrey Carruthers, Commissioner
Ron Solimon, Commissioner
Judy Villanueva, Commissioner
Frances Williams, Commissioner
Hon. William Lang, Chair

2. APPROVAL OF AGENDA:

- **Amending:** Chair Lang moved to add one item to the agenda: to authorize Commission staff to participate as amicus curiae in *State v. Gutierrez, et al.*, which is currently before the New Mexico Supreme Court. Commissioner Villanueva seconded the motion. Hearing no discussion, Chair Lang conducted a roll-call vote. Commissioner Bluestone was not present at this time due to technical difficulties. All other Commissioners voted in the affirmative, and the agenda was amended unanimously.
- **Approving:** Chair Lang sought a motion to approve the agenda as amended. Commissioner Carruthers moved to approve the agenda. Commissioner Baker seconded. Chair Lang conducted a roll-call vote. Commissioner Bluestone was not present at this time due to technical difficulties. All other Commissioners voted in the affirmative, and the agenda was approved unanimously.

3. APPROVAL OF SEPTEMBER 14, 2020 COMMISSION MEETING MINUTES:

- Chair Lang sought a motion to approve the minutes of the September 14, 2020 meeting. Commissioner Carruthers moved to approve the minutes; Commissioner Baker seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. Commissioner Bluestone was not present at this time due to technical difficulties. All other Commissioners voted in the affirmative, and the minutes were approved unanimously.

4. PRESENTATION TO COMMISSION BY ESPAÑOLA MAYOR JAVIER SÁNCHEZ

- Mayor Sánchez provided an overview of the types of governmental ethics issues that occur at the local level and made a case for the Legislature to expand the Commission’s jurisdiction to local-government officials.

5. PRESENTATION BY NEW MEXICO ETHICS WATCH (NMEW)

- Kathleen Sabo and Tony Ortiz provided a presentation on the Financial Disclosure Act (FDA) and the Lobbyist Regulation Act (LRA).
- Ms. Sabo and Mr. Ortiz discussed their work through NMEW to review and improve these laws and discussed several specific recommendations for improving the FDA and the LRA.

6. ADVISORY OPINION 2020-07

- General Counsel Walker Boyd provided an overview of Advisory Opinion 2020-07.
- Chair Lang sought a motion to issue Advisory Opinion 2020-07 as written. Commissioner Bluestone moved to issue the Advisory Opinion; Commissioner Villanueva seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the Advisory Opinion was issued unanimously.

7. ADVISORY OPINION 2020-08

- Executive Director Jeremy Farris provided an overview of Advisory Opinion 2020-08.
- Chair Lang sought a motion to issue Advisory Opinion 2020-08 as written. Commissioner Carruthers moved to issue the Advisory Opinion; Commissioner Williams seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the Advisory Opinion was issued unanimously.

BEGINNING OF PUBLIC RULE HEARING (NMSA 1978, § 14-4-5.3 & 1.24.25.13 NMAC)

8. PRESENTATION OF WRITTEN PUBLIC COMMENTS

- Executive Director Farris presented written public comments received regarding amendments to 1.8.1.9-10 NMAC (informal advisory opinions) and 1.8.1.16 NMAC (Commission meetings) and proposed 1.8.4 NMAC (code of ethics).
- Director Farris requested that Chair Lang admit the written public comments as exhibits in the rulemaking record. Chair Lang admitted the written public comments into the rulemaking record. Director Farris requested that Chair Lang admit Commission-staff substitute versions for 1.8.1.9-10 NMAC (informal advisory opinions) and 1.8.1.16 NMAC (Commission meetings) and proposed 1.8.4 NMAC (code of ethics) into the rulemaking record. Chair Lang admitted the Commission-staff substitute versions into the rulemaking record.

9. PUBLIC COMMENT

- Members of the public were given an opportunity to provide comments on amendments to Rules 1.8.1.9-10 (informal advisory opinions) and 1.8.1.16 (Commission meetings) and proposed Rule 1.8.4 (code of ethics).
- **Gabrielle Ibanez-Guzman** provided comments related to the proposal of Somos Un Pueblo Unido to the Commission to include provisions in the model code to protect the sensitive personal information from disclosure.
- **No other public comments were made.**

**END OF PUBLIC RULE HEARING & CONTINUATION OF COMMISSION MEETING
FOR ACTIONS ON RULES AND OTHER MATTERS (1.24.25.14(D) NMAC)**

**10. ADOPTION OF AMENDMENTS TO TITLE 1, CHAPTER 8, PART 1 NMAC
(INFORMAL ADVISORY OPINIONS AND COMMISSION MEETINGS)**

- Director Farris presented the amendments to Title 1, Chapter 8, Part 1 NMAC, and asked for a motion to adopt the rules as a Commission’s substitute for 1.8.1 NMAC, pending further revision by motion.
- Chair Lang sought a motion to adopt the substitute for 1.8.1 NMAC. Commissioner Carruthers moved; Commissioner Bluestone seconded the motion. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and the motion was passed unanimously.
- Director Farris presented the proposed amendments to 1.8.1 NMAC.
- Commissioner Bluestone discussed 1.8.1.9(A)(4) and moved to strike subparagraph (4) from the proposed rule. Commissioner Carruthers seconded the motion. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and the motion was passed unanimously.
- Commissioner Bluestone discussed 1.8.1.15(A) NMAC and moved: (i) to remove the provision that, as a default requirement, Commissioners must meet in person and instead (ii) to revise the rule to provide that “An individual Commissioner may attend a physical Commission meeting through telephone or web conference” and continuing with the proviso on Commissioner identification. Commissioner Baker seconded the motion. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and the motion was passed unanimously.

11. ADOPTION OF PROPOSED TITLE 1, CHAPTER 8, PART 4 (CODE OF ETHICS)

- Chair Lang sought a motion to adopt 1.8.4 NMAC for discussion and amendment. Commissioner Williams moved to adopt 1.8.4 as stated; Commissioner Carruthers seconded the motion. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was passed unanimously.
- Commissioners Baker and Bluestone discussed adding more clarity to 1.8.4.7(O), the definition of “Sensitive Personal Information.” After further discussion, Chair Lang sought a motion to amend 1.8.4.7(O) to provide that “Sensitive Personal Information means confidential identifying information such as social security numbers or individual tax identification numbers, a person’s place and date of birth, person’s status as a recipient of public assistance or as a crime victim, and a person’s sexual orientation, physical or mental disability, immigration status or national origin, or religion.” Commissioner Bluestone moved to amend the rule 1.8.4.7(O) as stated above; Commissioner Carruthers seconded. Hearing no further discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative, and the motion was passed unanimously.
- After a discussion of additional sections in 1.8.4.10 NMAC, Chair Lang suggested discontinuing discussion of the remaining sections of the proposed rule and to postpone voting to on further amendments until after the staff make considered revisions. The Commissioners agreed and ceased work on the proposed 1.8.4 NMAC.

12. EXECUTIVE SESSION

Chair Lang sought a motion to enter executive session under NMSA 1978, §§ 10-15-1(H)(3) (administrative adjudicatory proceedings) & 10-15-1(H)(7) (attorney-client privilege pertaining to litigation). Commissioner Carruthers moved to enter executive session; Commissioner Villanueva seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and the Commissioners entered an executive session. The following matters were discussed in executive session:

- Administrative Case No. 2020-032
- Participation of the Commission as amicus curiae in *State v. Gutierrez*
- The matters discussed in the closed meeting were limited to those specified in the motion to enter executive session, except that Commissioner Bluestone requested an update on Administrative Case No. 2020-07 and Director Farris provided that update. After concluding its discussion of these matters, the Commission resumed public session upon an applicable motion.

13. ACTIONS ON ADMINISTRATIVE CASES

- Administrative Case 2020-032: Chair Lang sought a motion to dismiss administrative complaint 2020-032 for lack of jurisdiction. Commissioner Bluestone moved to dismiss the complaint as stated above; Commissioner Williams seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and the complaint was dismissed for lack of jurisdiction.

14. APPROVAL OF COMMISSION STAFF PARTICIPATION IN *STATE V. GUTIERREZ, ET AL. AS AMICUS CURIAE*

- Chair Lang sought a motion to authorize the staff to seek and prepare for amicus participation in *State v. Gutierrez, et al.* 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 passed.

15. DETERMINATION OF NEXT MEETING

- The Commissioners agreed to meet next on December 4, 2020.

16. PUBLIC COMMENTS

Members of the public were invited to provide comments to the Commission. No additional public comment was offered.

17. ADJOURNMENT

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

[SUBJECT TO RATIFICATION BY COMMISSION]