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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 October 14, 2022 | 9:00AM-12:00PM
New Mexico State Capitol Room 309**

[Subject to Ratification by Commission]

1. Call to Order

Chairman Lang Calls the Meeting to Order at 9:03 AM.

2. Roll Call

The roll was called; the following Commissioners were present:

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

3. Approval of Agenda

Executive Director Farris sought an amendment to the agenda, striking items 4, 8, 11, 12b, and 12e. Commissioner Bluestone asked for an explanation for the amendment, and Director Farris explained the amendments were required because of staff illness, the unavailability of the guest speaker, and the investigations relating to stricken items, considering their progress, did not warrant a subpoena. Commissioner Baker moved to amend and adopt the agenda; Commissioner Solimon seconded. Hearing no further discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and approved the agenda as adopted unanimously.

4. Approval of August 5, 2022 Commission Meeting Minutes

Chair Lang sought a motion to approve the minutes of the August 5, 2022 Commission meeting. Commissioner Bluestone moved to approve the minutes; Commissioner Foy-Castillo seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and approved the minutes unanimously.

Commission Meeting Items

5. FY24 Budget Request and Strategic Plan

Executive Director Farris presented the Commission’s FY24 budget request and corresponding strategic plan to the Commission. The Director and Commissioners emphasized the growing role of the Commission in state proceedings, expansions in staffing, and responsibilities.

6. The consequences of *State v. Gutierrez, et al.* for the Commission and potential legislative amendments to the Governmental Conduct Act

Director Farris and Anne Kelly, of the Office of the Attorney General, offered views on the impact of the New Mexico Supreme Court’s opinion in *State v. Gutierrez, et al.* on the ability of the State Ethics Commission and prosecutorial offices to enforce the Governmental Conduct Act. Ultimately, they presented how there should be little to no change in the administration or role of the Commission with respect to enforcement of the Governmental Conduct Act. Director Farris also offered possible amendments to Sections 3, 4, 8, and 9b of the Governmental Conduct Act.

7. Potential legislative amendments for inclusion in 2022 Annual Report

a. Disclosure Act

Director Farris presented a discussion draft of the Disclosure Act, in anticipation of its introduction in the upcoming session. Commissioner Baker asked about comments from legislators, to which Director Farris explained there has been mixed reactions. Commissioner Bluestone expressed a concern regarding legislative familial relationships with registered lobbyists and whether they would require disclosure. Commissioner Villanueva inquired about penalties against those who don’t file. Chair Lang inquired about the appropriate reach of a disclosure statute.

a. Amendments to Campaign Reporting Act

Director Farris presented a discussion draft on the Campaign Reporting Act (“CRA”). The proposed amendments include provisions stating that legislators may not charge interest on their personal loans to their campaigns. Commissioners Carruthers, Villanueva and Chair Lang expressed support for including a provision that confirms that the contributions of single member LLCs and other completely controlled business entities are attributable under the CRA’s provisions regarding attribution and contributions limit. Director Farris said that while there is potential for this amendment, the bill sponsors might not be willing to include such an amendment.

8. Executive Session

Chair Lang sought a motion to enter executive session under NMSA 1978, §§ 10-15-1(H)(3) (administrative adjudicatory proceedings), and 10-15-1(H)(7) (attorney-client privilege pertaining to litigation). Commissioner Baker 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 entered executive session.

---Beginning of Executive Session---

The following matters were discussed in executive session:

- Discussion regarding current and potential litigation:
 - Commission authorization of declaratory judgment action regarding violation of Article IX, Section 14 of the New Mexico Constitution
 - Commission authorization of civil action regarding violations of Section 10-16-8 of the Governmental Conduct Act by a former employee of a local public body
 - Commission authorization of civil action regarding violations of Sections 10-16-3(A), 10-16-3.1(C), and 10-16-4(A) of the Governmental Conduct Act by an employee of a local public body
 - Commission authorization of civil action regarding violations of Sections 1-19-26.4, 1-19-34.3(B), and 1-19-27.3 of the Campaign Reporting Act
- Discussion of administrative matters under the State Ethics Commission Act subject to settlement approval:
 - Administrative Complaint No. 2022-014
- Discussion regarding administrative matters under State Ethics Commission Act
 - Administrative Complaint No. 2022-004
 - Administrative Complaint No. 2022-027 (Leave to issue subpoenas)
 - Administrative Complaint No. 2022-031
 - Administrative Complaint No. 2022-035

- 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---

Upon returning from Executive Session, Commissioner Baker is absent and excused.

9. Actions on Civil Litigation

Director Farris asked the Commission for the following motions on the following litigative matters:

- **Commission authorization of declaratory judgment action regarding violation of Article IX, Section 14 of the New Mexico Constitution:** Director Farris sought a motion to authorize the attorney staff to file a declaratory judgment action seeking a declaration that, considering its refundability and transferability provisions, the new solar development income tax credit violates the Anti-Donation Clause of the New Mexico Constitution. Commissioner Carruthers moved as stated above; Commissioner Solimon seconded as stated above. Chair Lang conducted a roll-call vote. Commissioners Carruthers, Solimon, Villanueva and Chair Lang voted in the affirmative. Commissioners Bluestone and Foy-Castillo voted in the negative. The motion failed for lack of consent

of “at least two members of the largest political party in the state and two members of the second largest political party in the state” under NMSA 1978, Section 10-16G-3(H).

- **Commission authorization of civil action regarding violations of Section 10-16-8 of the Governmental Conduct Act by a former employee of a local public body:** Director Farris sought a motion to authorize the staff to file a civil action against Mary Lou Kern for violations against Sections 10-16-8, revolving door provisions, of the Governmental Conduct Act. Commissioner Bluestone moved as stated above; Commissioner Foy-Castillo seconded as stated above. Chair Lang conducted a roll-call vote. Commissioners Bluestone, Carruthers, Foy-Castillo, Solimon, Villanueva, and Chair Lang voted in the affirmative and approved the motion. Commissioner Baker is absent and excused.
- **Commission authorization of civil action regarding violations of Sections 10-16-3(A), 10-16-3.1(C), and 10-16-4(A) of the Governmental Conduct Act by an employee of a local public body:** Director Farris sought a motion to authorize the staff to file a civil action against Hector Rangel for violations against Sections 3A, 3.1C, and 4A of the Governmental Conduct Act. Commissioner Bluestone moved as stated above; Commissioner Foy-Castillo seconded as stated above. Chair Lang conducted a roll-call vote. Commissioners Bluestone, Carruthers, Foy-Castillo, Solimon, Villanueva, and Chair Lang voted in the affirmative and approved the motion. Commissioner Baker is absent and excused.
- **Commission authorization of civil action regarding violations of Sections 1-19-26.4, 1-19-34.3(B), and 1-19-27.3 of the Campaign Reporting Act:** Director Farris sought a motion to authorize the staff to file a civil action against Working Families Organization for various violations against the Campaign Reporting Act. Commissioner Bluestone moved as stated above; Commissioner Solimon seconded as stated above. Chair Lang conducted a roll-call vote. Commissioners Bluestone, Carruthers, Foy-Castillo, Solimon, Villanueva, and Chair Lang voted in the affirmative and approved the motion. Commissioner Baker is absent and excused.

10. Actions on Administrative Complaints Nos. 2022-004, 2022-014, 2022-006, 2022-031, and 2022-035.

Director Farris asked the Commission for the following motions on the following administrative cases:

- **In administrative case 2022-004, motion for a 90-day extension:** Commissioner Bluestone moved as stated above; Commissioner Solimon seconded as stated above. Chair Lang conducted a roll-call vote. Commissioners Bluestone, Carruthers, Foy-Castillo, Solimon and Villanueva voted in the affirmative and approved the motion. Chair Lang recused himself. Commissioner Baker is absent and excused.
- **In administrative case 2022-014, motion for settlement approval:**

Commissioner Carruthers moved as stated above; Commissioner Villanueva seconded as stated above. Chair Lang conducted a roll-call vote. Commissioners Bluestone, Carruthers, Foy-Castillo, Solimon, Villanueva, and Chair Lang voted in the affirmative and approved the motion. Commissioner Baker is absent and excused.

- **In administrative case 2022-027, motion for subpoena authorization:** Commissioner Carruthers moved as stated above; Commissioner Foy-Castillo seconded as stated above. Chair Lang conducted a roll-call vote. Commissioners Bluestone, Carruthers, Foy-Castillo, Solimon, Villanueva, and Chair Lang voted in the affirmative and approved the motion. Commissioner Baker is absent and excused.
- **In administrative case 2022-031, motion for an order of dismissal due to a lack of jurisdiction:**
Commissioner Bluestone moved as stated above; Commissioner Solimon seconded as stated above. Chair Lang conducted a roll-call vote. Commissioners Bluestone, Carruthers, Foy-Castillo, Solimon, Villanueva, and Chair Lang voted in the affirmative and approved the motion. Commissioner Baker is absent and excused.
- **In administrative case 2022-035, motion for an order of dismissal due to a lack of jurisdiction:**
Commissioner Foy Castillo moved as stated above; Commissioner Solimon seconded as stated above. Chair Lang conducted a roll-call vote. Commissioners Bluestone, Carruthers, Foy-Castillo, Solimon, Villanueva, and Chair Lang voted in the affirmative and approved the motion. Commissioner Baker is absent and excused.

11. Selection of Next Meeting

Chair Lang confirmed that the next meeting would take place on December 9, 2022. The location and method for this meeting will be determined by the Chair.

12. Public Comments

Commissioner Villanueva highlighted a recently-published article in the Santa Fe New Mexican praising the Commission's work.

No additional public comments were made.

13. Adjournment

Chair Lang raised adjournment of the meeting. With no objections made, the meeting was adjourned at 12:17PM.

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