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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 June 02, 2023 | 9:00AM-12:00PM [Subject to Ratification by Commission]

1. Call to Order

Chairman Lang called the meeting to Order at 9:00 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

Chair Lang sought a motion to approve the agenda. Commissioner Bluestone moved to amend the agenda, adding Informal Advisory letter 2023-015 to the executive session for discussion. Commissioner Solimon seconded. Hearing no discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and approved the agenda, as amended, unanimously.

4. Approval of May 12th Commission Meeting Minutes

Chair Lang sought a motion to approve the minutes of the May 12th Commission meeting. Commissioner Carruthers moved to approve the minutes; Commissioner Foy-Castillo seconded. Chair Lang conducted a vote. All other commissioners voted in the affirmative and approved the minutes.

Commission Meeting Items

5. Advisory Opinion 2023-04

Deputy General Counsel Branch provided an overview of the opinion which addressed the question:

A municipality is considering purchasing a fire truck. The fire truck would be procured under statewide price agreement #10-00000-21-00101 AF, a National Association of State Procurement Officials (“NASPO”) contract led by the State of Mississippi,

which the State of New Mexico has followed that covers purchases of fire trucks and fire apparatuses.

The cost of the truck is over \$2 million. The vendor offers a discount if the municipality prepays for the truck. The time of delivery of the truck does not significantly depend on whether the municipality pays in advance of delivery. (The estimated delivery following the order is approximately 24 months.) The vendor will provide the municipality a 100% performance bond following the receipt of any prepayment. Once the municipality places the order, the municipality's employees will meet with the manufacturer to ensure the fire truck is built to the municipality's desired specifications. The municipality will have the option of not accepting the truck if it does not meet specifications; however, it is unsaid whether in the event of non-acceptance, the municipality would be entitled to a refund (and in what amount) if the municipality had prepaid. May the municipality prepay for the fire truck?

Chair Lang sought a motion to adopt Advisory Opinion 2023-04. Commissioner Bluestone moved to adopt the opinion; Commissioner Solimon seconded. After a discussion on the merits of the opinion, Chair Lang conducted a vote. All Commissioners voted in the affirmative and approved Advisory Opinion 2023-04 unanimously.

(To read the full opinion following its issuance, click [here](#))

Beginning of Public Rule Hearing

NMSA 1978, § 14-4-5.3 & 1.24.25.13 NMAC

Overview

Director Farris introduced the notice of proposed rulemaking, published in the *New Mexico Register*, into the rulemaking records, reviewed how the proposed rules were noticed to the public on the Commission's website and the Sunshine Portal, and presented the amendments to 1.8.1 and 1.8.3 NMAC as follows:

- Amendments to 1.8.1 NMAC, at Section 7, new Sections 10-13, and renumbering old Sections 10 through 16 to Sections 14 through 20 (with no changes): These amendments are proposed pursuant to Paragraph (2) of Subsection A of Section 10-16G-5, State Ethics Commission Act, NMSA 1978. The purpose of the proposed rule is to promulgate rules governing the Commission's initiation, prosecution, and resolution of civil actions to enforce the state's ethics laws.
- Amendments to 1.8.3 NMAC, Sections 7, 9-11, 13-15: These amendments are proposed pursuant to Paragraph (2) of Subsection A of Section 10-16G-5 of the State Ethics Commission Act, NMSA 1978. These amendments are for the purpose of improving the efficiency of commission adjudications and to respond to recent amendments to Section 10-16G-10 NMSA 1978 of the State Ethics Commission Act.

Deputy General Counsel Branch presented the amendments to 1.8.5 NMAC as follows:

- 1.8.5 NMAC (“Complaints against Notaries”): This rule is being proposed pursuant to Paragraph (2) of Subsection A of Section 10-16G-5 of the State Ethics Commission Act, NMSA 1978, and Laws 2023 Chapter 110 (being SB 246, Section 23(C)). The purpose of the proposed rule is to promulgate binding rules governing the Commission’s receipt, investigation, and adjudication of complaints alleging violations of the Revised Uniform Law on Notarial Acts (“RULONA”), NMSA 1978.

Public Comment Regarding Proposed Rules

- Director Farris introduced the written public comment received by the Commission into the Rulemaking record.
- Chris Mechels presented public comment discussing communication mechanisms between the Commission and the public. As he expressed his support for 1.8.1, Mr. Mechels was also interested in formalizing the informal complaint process, along with increased supervision over the economic incentive programs in New Mexico.

End of Public Rule Hearing & Continuation of Commission Open Meeting for Actions on Rules and Other Matters.

1.24.25.14(D) NMAC.

Adoption of amendments to rules governing general provisions (1.8.1 NMAC), administrative hearings (1.8.3 NMAC), and notary cases (1.8.5 NMAC)

6. Adoption of amendments in 1.8.1 NMAC

Chair Lang sought a motion to adopt the proposed amendments in 1.8.1 NMAC. Commissioner Carruthers moved to adopt the amendments; Commissioner Foy-Castillo seconded. After a brief discussion correcting a typo on 11A on SEC Page 14, all Commissioners voted in the affirmative and approved Advisory Opinion 2023-04 unanimously.

7. Adoption of amendments in 1.8.3 NMAC

Chair Lang sought a motion to adopt the proposed amendments in 1.8.3 NMAC. Commissioner Foy-Castillo moved to adopt the amendment; Commissioner Solimon seconded. After a brief discussion correcting a typo on A1 on SEC Page 22, all Commissioners voted in the affirmative and approved Advisory Opinion 2023-04 unanimously.

8. Adoption of amendments in 1.8.5 NMAC

Chair Lang sought a motion to adopt the proposed amendments in 1.8.5 NMAC. Commissioner Carruthers moved to adopt the amendment; Commissioner Villanueva seconded. Hearing no discussion, all Commissioners voted in the affirmative and approved Advisory Opinion 2023-04 unanimously.

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 Carruthers moved to enter executive session;

Commissioner Baker seconded. After brief discussion, Chair Lang conducted a roll-call vote. All Commissioners voted in the affirmative and entered executive session.

---Beginning of Executive Session---

9. Discussion regarding current and potential litigation:
(Manierre)
 - a. Resolution No. 2023-02
 - b. Resolution No. 2023-03
10. Discussion regarding administrative matters under the Revised Uniform Law on Notarial Acts:
(Branch)
 - a. 2022-NP-23 (*In re commission Saenz*)
11. Discussion regarding advisory letters:
(Farris)
 - a. Informal Advisory Letter 2023-015

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---

12. Actions on Civil Litigation

Special Counsel Manierre asked the Commission for the following motions on the following litigative matters:

- **Commission authorization of civil action against an individual expenditure entity and the individuals associated therewith, including the treasurer and the organizer for violations of the Campaign Reporting Act:** Commissioner Carruthers moved as stated above; Commissioner Foy-Castillo seconded as stated above. Chair Lang conducted a roll-call vote. All commissioners voted in the affirmative and approved the motion unanimously.
- **Commission authorization of civil action against the 118 individuals referred to the Commission by the Secretary of State's office for violations of the Financial Disclosure Act:** Commissioner Foy-Castillo moved as stated above; Commissioner Solimon seconded as stated above. After a brief discussion on the plan of action, Chair Lang conducted a roll-call vote. All commissioners voted in the affirmative and approved the motion unanimously.

13. Administrative Matters under Revised Uniform Law on Notarial Acts

Deputy General Counsel Branch asked the Commission for the following motions on the following RULONA case:

- **In 2022-NP-23, *in re commission of Saenz*, motion to issue a dismissal of the**

complaint: Commissioner Carruthers moved as stated above; Commissioner Villanueva seconded as stated above. Chair Lang conducted a roll-call vote. All commissioners voted in the affirmative and approved the motion unanimously.

14. Selection of Next Meeting

Chair Lang confirmed that the next meeting would take place on August 4, 2023. The meeting will tentatively be held via Zoom.

15. Public Comments

No comments by members of the public were made. Commissioner Baker offered some comments regarding media and communications efforts by the Commission, and Director Farris highlighted a new small purchase contract agreement with the Garrity Group, a public relations company.

16. Adjournment

Chair Lang raised adjournment of the meeting. With no objections made, the meeting was adjourned at 11:02 AM.

[Subject to Ratification by Commission]