



# Agenda

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## ETHICS & CAMPAIGN REVIEW BOARD

Thursday, March 10, 2011

4:00 p.m.

Historic Preservation Conference Room, 2nd Floor  
City Hall, 200 Lincoln Avenue

1. PROCEDURES
  - a) Roll Call
  - b) Approval of Agenda
  - c) Approval of Minutes – February 17, 2011
2. DISCUSSION MATTERS
  - a) Resolution Repealing Resolution No. 2000-32 that Established the Ethics and Rules Committee for the Purpose of Eliminating the Ethics and Rules Committee.
3. ACTION ITEMS
  - a) Board Consideration of Subcommittee Recommendations Regarding Historic Advisory Opinion Request.
4. BOARD MATTERS
5. DATE OF NEXT MEETING
6. PUBLIC COMMENT
7. ADJOURNMENT

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**CITY OF SANTA FE**  
**ETHICS AND CAMPAIGN REVIEW BOARD**

**March 10, 2011**

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c) Approval of Minutes – February 17, 2011	Approved	1
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**MINUTES OF THE  
CITY OF SANTA FE**

**ETHICS AND CAMPAIGN REVIEW BOARD**

**MARCH 10, 2011**

**a) ROLL CALL**

A regular meeting of the City of Santa Fe Ethics and Campaign Review Board was called to order on this date at approximately 4:00 pm, by Chairman Fred Rowe in the Historic Preservation Conference Room, 2<sup>nd</sup> floor, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

Roll call indicated the presence of a quorum:

**Members Present:**

Fred Rowe, Chair  
Ruth Kovnat  
Patricio Larragoite  
Rebecca Frenkel

**Members Absent:**

Fred Friedman (excused)  
Nancy Long (excused)

**Staff Present:**

Jeannie Price, Legal Department  
Tina Dominguez, Assistant City Clerk

**Others Present:**

John Hiatt  
Jim Harrington, Common Cause  
Charmaine Clair, Stenographer

**b) APPROVAL OF AGENDA**

**Ms. Kovnat moved to approve the Agenda as presented. Mr. Larragoite seconded the motion and it passed by unanimous voice vote.**

**c) APPROVAL OF MINUTES-**

**Minutes of February 17, 2011**

**Ms. Frenkel moved to approve the Minutes of February 17, 2011 as presented. Ms. Kovnat seconded the motion and it passed by unanimous voice vote.**

**d) DISCUSSION MATTERS**

- a) Resolution Repealing Resolution No. 2000-32 that Established the Ethics and Rules Committee for the Purpose of Eliminating the Ethics and Rules Committee.

Chair Rowe asked Ms. Price if she wanted to elaborate on anything in the resolution.

Ms. Price said the new resolution 2011-12 was approved by City Council on February 23 and the Ethic and Rules Committee would no longer exist. On March 30 they would learn what would happen to the Code of Ethics Code and any revisions to the ECRB at that point.

## **ACTION ITEMS**

- a) Board Consideration of Subcommittee Recommendations Regarding Hiatt Advisory Opinion Request

Chair Rowe read the Subcommittee Memo 3a into the record at this time.

"A subcommittee for the Ethics and Campaign Review Board consisting of Rebecca Frenkel, Nancy Long and Fred Rowe (ex officio) met on March 8, 2011 at the request of the Ethics and Campaign Review Board in order to consider the request made by Jack Hiatt and dated February 2, 2011 for an advisory opinion regarding his employment and as land-use consultant on behalf of Beaver Toyota. The subcommittee considered Mr. Hiatt's letter and facts contained in that letter, as well as the information provided by Mr. Hiatt at the Ethics and Campaign Review Board meeting of February 17, 2011.

The subcommittee is of the opinion that Mr. Hiatt's proposed employment as a land-use consultant on behalf of beaver Toyota would violate City of Santa Fe code section 1-7.7 N which states "no present or former public official or public employee shall at any time accept financial compensation for consulting, representing, or advising as to any city matter on which he or she has substantially acted." Mr. Hiatt is a former city public employee and did take action regarding Beaver Toyota's request for a grading permit which he decided to issue prior to the siting of the development. At this time Beaver Toyota has requested Mr. Hiatt's services that would involve the City of Santa Fe and the specific issue of the siting of the proposed development. Therefore the engagement of Mr. Hiatt by Beaver Toyota is in regard to a city matter on which he substantially acted and would be in violation of the code of ethics.

The committee commends Mr. Hiatt for bringing this matter to the Ethics and Campaign Review Board and requesting an advisory opinion. The committee additionally commends Mr. Hiatt for his forthright answers to questions regarding his involvement with Beaver Toyota while at the City of Santa Fe and his truthfulness and candor. As Mr. Hiatt was informed, the city council has under its consideration proposed amendments to the code of ethics which, if passed as to this specific provision of the code of ethics, would allow Mr. Hiatt to consult for Beaver Toyota as it has been more than one year since he was employed by the City of Santa Fe.

The subcommittee recommends that the Board adopt its advisory opinion and provide it to Mr. Hiatt."

Ms. Frenkel addressed Mr. Hiatt. She said the Board appreciated that he came forward on the matter rather than waiting until someone complained.

Mr. Hiatt said he wasn't surprised by the Subcommittee's recommendation and would have been surprised if the Board had not adopted it. He asked if the Board considered isolating the incident; was the Board's thought that he shouldn't work for Beaver (Toyota) at all, or was that given any thought. He asked if he does not work on the land use issue and only works on other issues with the City, would the appearance be the same.

Ms. Frenkel said the letter hadn't brought forward for the Board to isolate that portion, though the letter mentioned it.

Chair Rowe said two points were that the Subcommittee concurred in Mr. Hiatt's observation that he wouldn't be surprised of their opinion and would be surprised if the decision was in the other direction.

Chair Rowe said with regard to the second question, the Board as directed by a lawyer, Nancy Long, Chair of the Subcommittee, responded to the request put before them without engaging in hypothetical opinions.

Mr. Hiatt said he would live with the advisory opinion adopted and wait for City Council. He said in terms of bringing the issue to the Board, he thought it better to ask permission than forgiveness and was consistent with his personal code of ethics. He said he hoped his action would set a precedent.

Mr. Larragoite said he agreed with Ms. Frenkel and thanked Mr. Hiatt for bringing the matter to the Board. He said it set the tone and was what the Board was there for and the code revisions would help to address that.

**Ms. Frenkel moved to accept the Subcommittee's advisory opinion as recommended. Ms. Kovnat seconded the motion and it passed by unanimous voice vote.**

## **BOARD MATTERS**

Ms. Frenkel said at the previous night's City Council meeting a Councilor asked that action on the new revised code be done in April. She said she understood other Councilors were hesitant because Ms. Price's last meeting would be March 30.

Chair Rowe said Ms. Price's role was unique and it would be a loss when she retired, particularly the matrix.

Ms. Frenkel said she asked Ms. Price if she would add the matrix to the website and she asked Ms. Dominguez to follow-up on that.

Chair Rowe agreed and said the creation of the matrix was a significant leap forward for the City Council and Staff and hadn't been an easy thing to do. He said it should be hammered home that a matrix was required for all of Chapter 14 and his hope was that Ms. Price's retirement wouldn't retire the matrix concept. He said the matrix presented the options and made the process understandable to the Council.

Ms. Frenkel said she thought the good work done by Mr. Harrington helped in the explanation of the changes.

## DATE OF NEXT MEETING

The Board decided to leave the meeting date open until the week after City Council heard the resolution.

## PUBLIC COMMENTS

Mr. Harrington said one concern on ethics was that Councilor Ortiz would have a lot of amendments the night of the meeting, including those proposed by Karen Heldemeyer. He thought for Mr. Hiatt's sake someone should segregate the code section 1-7.7 N.

Chair Rowe said Mr. Harrington could recommend that to Mr. Hiatt, as the most appropriate to segregate that amendment.

Ms. Frenkel said she was concerned about Mr. Ortiz's amendment that all decisions made by ECRB should be reviewed by City Council.

Mr. Harrington talked about two pre-emption bills in the State legislature; one for City ethics codes and another for campaign codes. He said the ethics code was pushed by Gary King to make the Governmental Conduct Act apply to all cities. He said it was full of holes and the code would state that a city could adopt a more stringent rule.

Mr. Harrington said the City Campaign code would replace the city candidate reporting requirements with State law and exempted cities that had campaign reporting requirements in their charter. He talked about possible amendments and said it was on its way to judiciary.

Chair Rowe said the Legislature acts on a statewide basis and Santa Fe could be unique in having a series of ordinances in Santa Fe which don't exist in other parts of New Mexico.

## ADJOURNMENT

**Mr. Larragoite moved to adjourn the meeting. Ms. Kovnat seconded the motion and it passed by unanimous voice vote.**

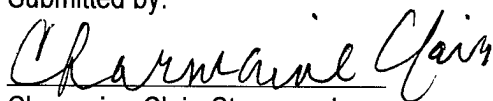
*There being no further matters to discuss and the agenda having been completed, the meeting was adjourned at 4:32 p.m.*

Approved by:

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Fred Rowe, Chairman

Submitted by:

  
Charmaine Clair, Stenographer