

# Agenda

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## ETHICS & CAMPAIGN REVIEW BOARD

Tuesday, June 11, 2013

4:00 p.m.

City Council Chambers

1<sup>st</sup> Floor, City Hall

200 Lincoln Avenue

1. PROCEDURES
  - a) Roll Call
  - b) Approval of Agenda
  - c) Approval of Minutes – April 2, 2013
2. NEW BUSINESS
  - a) Consideration and Recommendation of Amendments to Campaign Code and Public Campaign Finance Code.
3. BOARD MATTERS
4. PUBLIC COMMENT
5. ADJOURNMENT

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CITY OF SANTA FÉ  
ETHICS AND CAMPAIGN REVIEW BOARD  
June 11, 2013**

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**MINUTES OF THE MEETING  
OF THE CITY OF SANTA FÉ  
ETHICS AND CAMPAIGN REVIEW BOARD  
June 11, 2013**

A regular meeting of the City of Santa Fé Ethics & Campaign Review Board was called to order by Justin Miller, Chair on this date at approximately 4:00 pm in the City Councilors Conference Room, City Hall, 200 Lincoln Avenue, Santa Fé, New Mexico.

**1. PROCEDURES**

**a. Roll Call**

Roll call indicated the presence of a quorum as follows:

**Members Present:**

Justin Miller, Chair  
Paul L. Biderman  
Tara Luján  
Kristina Martínez

**Members Absent:**

Roderick Thompson, Vice Chair  
Ruth Kovnat  
One Vacancy

**Staff Present:**

Yolanda Vigil, City Clerk  
Melissa Byers, Legal Department  
Geno Zamora, City Attorney

**Others Present:**

Jim Harrington, Common Cause  
Karen Heldmeyer, League of Women Voters  
Carl Boaz, Stenographer

**b. Approval of Agenda**

Chair Miller said the minutes to be approved were in 2013, not 2012

**Ms. Martínez moved to approve the agenda as amended. Mr. Biderman seconded the motion and it passed by unanimous voice vote.**

**c. Approval of Minutes – April 2, 2013**

Mr. Biderman requested a correction on the bottom of page 2 in the last two paragraphs where twice it said “packs” and should say “PAC.”

**Mr. Biderman moved to approve the minutes of April 2, 2013 as amended. Ms. Martínez seconded the motion and it passed by unanimous voice vote.**

**2. NEW BUSINESS**

- a. Consideration and Recommendation of Amendments to Campaign Code and Public Campaign Finance Code.

Chair Miller noted this was the second meeting on this item. Ms. Vigil, Mr. Zamora and Mr. Harrington prepared a number of proposed changes and on April 2 the Board made some suggested revisions to those changes. Mr. Harrington, Ms. Vigil and Mr. Zamora did a great job in revising from that discussion and hopefully the Board could make a recommendation to the Governing Body.

Ms. Vigil asked to have Mr. Harrington present and then have comments. Those parts that were bolded and italicized were the only new proposed changes.

Chair Miller proposed to only go over the new material but if any member wanted more, the Board could consider that.

Mr. Harrington said his report would go quickly because these changes were either things the Board already discussed and others were technical but not likely to be subject to much discussion.

There were three important changes. The first was how to treat volunteer services. Another was a change on reporting thresholds. The third was not to make the same change in the definition of contribution in the public financed campaign code that they made to clarify that a ticket purchase under \$25 was not excluded from the definition of contribution. So publicly financed candidates couldn't go to big events for fund raising and sell lots of tickets.

The first couple were definitions suggested by the Board that never had been defined: “Anonymous contribution” and “charity.” Those were now defined narrowly. Anonymous contribution is any contribution for which the information that the campaign has to provide is not known to the people who are supposed to provide it. Charity is limited to 501c3 organizations - not organizations involved in politics or family trusts or political parties.

Chair Miller on the definition of charity noted that last time Ms. Heldmeyer raised the possibility that that nonprofits could be 501(c)4 as well as 501(c)3.

Ms. Heldmeyer explained that it was considered nonprofit under New Mexico's tax code that had not applied for recognition by the federal government as such.

Chair Miller asked if this definition of charity exclude those organizations unnecessarily.

Mr. Harrington agreed that it excluded them but didn't know if it was unnecessarily. But those who wanted to receive excess campaign funds would need to sign up.

Mr. Biderman asked if the Board could resolve that now.

Chair Miller thought the definition was pretty good. There were plenty of 501(c)3 organizations around. He personally didn't have any objection to it.

Mr. Biderman thought an organization that had tax exempt status couldn't lobby.

Mr. Harrington said they cannot endorse candidates but 501(c)4 organizations could.

Mr. Biderman said he didn't want any public funding to be used for political purposes.

Mr. Harrington agreed. There was not a tighter category in the IRS code as 501(c)3.

Chair Miller suggested it might not be perfect but this seemed the best they could do.

Mr. Harrington said the next category in the ordinance was the question of the contradiction over volunteer services. Ms. Vigil and Mr. Zamora came up with a great way to handle it for now. They interpreted it to mean that it counts as a contribution and the subsection says "without compensation." It seemed to be the only solution possible.

If all services were said to be contributions then no one could use public financing so they could toss that one. So the only question was whether you want to count. One solution would be to count services if the person made a living doing that. Washington State said it was not a contribution if commonly provided by campaign volunteers.

In the discussion he overstated a part - the advantage of privately financed if some services were contributions. But there was a limit on private funded campaigns of \$1000 for councilors and 2500 for mayor.

In 1976, the Buckley amendment said the person could participate personally but at standard rates so it was problematic. A lawyer could only give three hours and the thousand dollar cap would be used up. Otherwise, if not paid, they were real volunteers.

Mr. Biderman was impressed with the thought that went into the report in the memo. He was going to emphasize that point. The effort was to take a lot of money out of elections. But it served the purpose of allowing people to put in their personal time.

Mr. Harrington said his research was based on random cases about financing campaigns. 13 of 15 of them said services were not contributions.

The next change was "contributor" that was not defined anywhere.

Mr. Biderman noted that "tickets" was skipped.

Mr. Harrington said that was under public financed.

Mr. Harrington said when the candidates wrapped up their campaign they had to get rid of capital assets. The code says you would return unused funds to contributors but that wouldn't work for a capital asset. So the change was to give the overage to the city, then the city could use it or sell it and put proceeds in the general fund.

Chair Miller asked if they set a dollar value for distributing tangible assets in this way. He wouldn't want the city to be a jumping ground for tangible assets that would have no value.

Mr. Harrington didn't know.

Mr. Biderman said it would be a good fund raiser for non-profits to get rid of computers, etc.

Ms. Luján asked how they would define those assets that could be included.

Chair Miller said the only problem was that the ability to keep it yourself was really restricted here. It was tangible assets and that was different from capital assets.

Mr. Zamora thought putting a threshold such as not greater than \$50 so office supplies could be consumed by volunteers or stored in a garage.

Ms. Luján agreed with putting a value on it. She asked if this was micro-managing the campaign. At the end of the campaign you have to account for everything left over. She asked how effective that was.

Mr. Harrington thought \$100 was a fair threshold.

Chair Miller thought tangible asset threshold would be a resale value of \$500.

Ms. Luján added that it would be reusable also. Signs left over wouldn't be reusable.

Chair Miller agreed. The signs would have to have value for resale so it wouldn't apply.

Mr. Biderman asked if they thought about anti-donation problems.

Mr. Zamora thought that was only for public funded campaigns. For this one, he suggested to make it singular - any single asset over x value must be distributed.

Mr. Harrington said the public funded had different issues. So he proposed any singular asset with \$100 resale value.

Ms. Luján suggested over \$200. Mr. Zamora agreed.

Chair Miller restated it as "Any tangible asset with an estimated resale value of \$200." It should be the

same in 2-b on the next page.

Mr. Zamora said that left open the possibility of someone turning in less than that value (in 2-b). Chair Miller agreed.

Mr. Harrington said the next change was >> and was stricken in this draft.

Chair Miller said they skipped over anonymous contributions on page 6. It was not unknown people per se. If a campaign got a donation that didn't have all the information, they could go to the person to get the other information needed.

Mr. Harrington said if they couldn't get that information, then it should be given back.

Mr. Zamora said that was within the scheme of B. You could have people walk up and say here, and this is anonymous.

Ms. Luján suggested giving a maximum amount that could be used.

Mr. Zamora thought they usually knew who gave it.

Mr. Harrington reminded the Board that this project started with a realization of loop holes by making lots of contributions, each under \$25. The report had to be a total of contributions. The no threshold solution was the better solution.

Chair Miller thought they had a good discussion on that last time.

Mr. Harrington said the next change was judicial candidates. They heard from a Santa Fé reporter on this one. It appears to apply to someone who was passing for the first time.

Mr. Harrington went on to the public finance code with the following changes proposed.

First was to settle the exclusion of any ticket under \$25. That was a serious loophole. They proposed to take that out.

Next was the definition of contribution and they proposed the same change on volunteer services.

The next was a little thing - candidates have a complication with seed money to keep a bank account open. They have three days to repay that seed amount and five days was more reasonable.

Interest on campaign accounts was the next one. All through the code was defined reporting on the contributions "including interest." It was probably sufficient to just say no interest rates should be received. The last change was disposition of tangible assets for publicly financed campaign.

Mr. Biderman asked if a campaign was publicly funded and the candidate didn't use it for that purpose

whether it was public money any more. He thought it probably was not. But the constitution for anti-donation clause was to make sure any assets not used would come back to the city. It would be safer to just give it back to the city.

Ms. Vigil said that was on page 19 beginning at line 17.

Chair Miller understood there were no recommended changes to that.

Mr. Harrington said that covered the changes. Councilor Calvert might sponsor this, especially the volunteer services. Mr. Harrington was persuaded they had done the right thing.

Chair Miller sensed the Board was pretty comfortable with these changes.

## **PUBLIC COMMENT.**

Ms. Heldmeyer said services being given to the candidates. When she ran for office she had people on her team and that included an attorney who was there and his whole . A professional writer helped with some writing and didn't expect to be paid. On behalf of the League of Women Voters, they were not taking a position on these changes because they didn't have one on point.

Elections should be as open as possible. They were clashing on the issue of anonymous contributions. Some were concerned about any missing information that it would be an anonymous contribution and would revert to the City.

Information about business didn't need to be collected for contributions under \$25.

Mr. Zamora said regarding Ms. Heldmeyer's second point that it was a point Councilor Calvert raised about consistency and might raise an amendment as to where it goes. He favored removing a threshold for businesses and just collect the same information.

Mr. Harrington said maybe that they should excuse someone who was missing just one piece of information. Sometimes it was a lot of trouble to find the donor.

Chair Miller said on Ms. Heldmeyer' first point about personal services they would take that out of the contribution section.

Ms. Heldmeyer explained she wasn't coming down on it rely pointing out those were common occurrences.

Mr. Zamora agreed. It was a concern they had. Regardless of what someone did in their professional life, as long as it was voluntary it was acceptable. Legal services was a big one.

Chair Miller understood that volunteers could bring their personal skills to the campaign.



**Mr. Biderman moved to approve the proposed ordinance with the agreement of a \$200 threshold on tangible assets to recommend to Council. Ms. Luján seconded the motion and it passed by unanimous voice vote.**

Ms. Vigil said Councilor Calvert would introduce this tomorrow evening for notice to publish with final approval on July 31.

Chair Miller was impressed with the changes that went into it.

### **3. BOARD MATTERS**

Mr. Biderman recommended that the Mayor appoint someone to fill the vacancy on ECRB.

Chair Miller said he already sent that request.

Mr. Zamora said with the transition of Ms. Barkley leaving, that was some of the work he was focusing on and was trying to get the letter out.

He said Mr. Zack Schandler was coming from State employment would be hired and was being assigned to the ECRB.

Chair Miller noted that Ms. Martínez' term and his term were up on July 1 and understood they were to serve until otherwise notified.

Mr. Zamora agreed. Board members whose terms expire continue in that capacity until replaced or renewed with ability to act as board members.

### **4. PUBLIC COMMENT**

There were no other public comments.

### **5. ADJOURNMENT.**

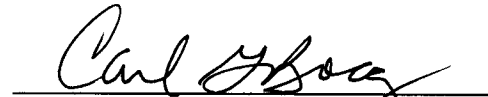
**Ms. Luján moved to adjourn the meeting. Ms. Martínez seconded the motion and it passed by unanimous voice vote.**

The meeting was adjourned at 5:06 p.m.

Approved by:

  
Justin Miller, Chair

Submitted by:

  
Carl Boaz, Stenographer