



Agenda

DATE 12/10/13 TIME 4:20p

RECEIVED BY _____

RECEIVED BY [Signature]

ETHICS & CAMPAIGN REVIEW BOARD

Tuesday, December 10, 2013

4:00 p.m.

Santa Fe Community Convention Center

Coronado Room

201 W. Marcy Street

1. PROCEDURES

- a) Roll Call
- b) Approval of Agenda
- c) Approval of Minutes – November 5, 2013

2. NEW BUSINESS

- a) Consideration of and Possible Action Regarding "Petition for Review of Municipal Clerk's Decision to Accept the Declaration of Candidacy and Issue Public Funding to the Patti Bushee for Mayor Campaign and Request for an Expedited Hearings on Complaints Related to Infractions of the Public Finance Ordinance by Patti Bushee."
- b) Consideration of Preliminary Matters Relating to Case #2013-1; Complaint Filed by Tarin Nix Alleging Violation of "Election and Political Campaign Codes -9-3.6 Seed Money Contributions, Sub-Section Sections A-E and Section 9-3.8 Application for Certification as a Participating Candidate, Sub-Sections B and C." by Patti Bushee Mayoral Campaign and Patti Bushee.

3. BOARD MATTERS

4. PUBLIC COMMENT

5. ADJOURNMENT

Persons with disabilities in need of accommodations, contact the City Clerk's Office at 955-6520, five (5) working days prior to meeting date.

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CITY OF SANTA FE
ETHICS AND CAMPAIGN REVIEW BOARD

December 10, 2013

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**MINUTES OF THE
CITY OF SANTA FE**

ETHICS AND CAMPAIGN REVIEW BOARD

DECEMBER 10, 2013

1. PROCEDURES

a) Roll Call

A regular meeting of the City of Santa Fe Ethics and Campaign Review Board was called to order by Justin Miller, Chair on this date at approximately 4:10 pm in the Santa Fe Community Convention Center Coronado Room, 201 W. Marcy Street, Santa Fe, New Mexico.

Roll call indicated the presence of a quorum as follows:

Members Present:

Justin Miller, Chair
Roderick Thompson, Vice Chair
Paul L. Biderman
Ruth Kovnat
Tara Lujan
Kristina Martinez
Seth McMillan

Members Absent:

Staff Present:

Kelly Brennan, City Attorney's Office
Yolanda Vigil, City Clerk
Zachary Shandler, Assistant City Attorney

Others Present:

Councilor Patti Bushee
Christopher Graeser, attorney for Councilor Bushee
David P. Garcia, Attorney for Tarin Nix
Charmaine Clair, Stenographer

b) APPROVAL OF THE AGENDA

Mr. Thompson moved to approve the Agenda as presented. Ms. Kovnat seconded the motion which was passed by unanimous voice vote.

c) APPROVAL OF THE MINUTES- November 05, 2013

Ms. Kovnat moved to postpone the approval of the minutes of November 5, 2013 until the next meeting. Mr. Thompson seconded the motion and the motion passed by unanimous voice vote.

Chair Miller apologized for the late start of the meeting. He explained that the Board had been given materials when they arrived and he thought appropriate they take a moment to read them.

He said two items are under New Business; one is the consideration and possible action regarding the petition for a review of the Municipal Clerk's decision. The second item is consideration of preliminary matters regarding complaints received by the Board.

2. NEW BUSINESS

- a) Consideration of and Possible Action Regarding "Petition for Review of Municipal Clerk's Decision to Accept the Declaration of Candidacy and Issue Public Funding to the Patti Bushee for Mayor Campaign and Request for an Expedited Hearings on Complaints Related to Infractions of the Public Finance Ordinance by Patti Bushee."

Chair Miller said he would begin with item 2a and the memo from the City Attorney's office in the Board's packet, which the Board has reviewed. He asked the City Attorney to comment on the memo.

Mr. Zach Shandler, Assistant City Attorney said he would refer to item 2a on the agenda as a petition about the Clerk's actions and item 2b as the complaint about Candidate Bushee's actions.

Mr. Shandler said in regard to the petition about the Clerk's actions (2a); the City Attorney's office representing the Municipal Corporation of Santa Fe has provided an explanation of the summary of the events. He said they then provided the applicable provisions and some questions that were presented to the Board with a review of the analysis the City Attorney's office provided in their advice to the Clerk, as an arm of the Municipal Corporation.

He indicated that the Board, as a separate arm of the Municipal Corporation, is free to accept or reject the advice provided to the Clerk. He said they looked only at the Clerk's actions under 2a.

He read the questions presented for review as outlined on page 4 of the packet (page 3 of the memo). A summary follows:

- 1- Is the Petitioner an "aggrieved" party within the meaning of the PCFC (Public Campaign Finance Code)?
- 2- If so, is the filing of a Complaint by a third party enough to require the City Clerk to deny or revoke Patti Bushee's certification as a candidate and not to disburse monies from the Fund to her campaign?
- 3- Do the allegations set out in the Complaint require the City Clerk to deny or revoke Patti Bushee's certification as a candidate and not to disburse monies from the Fund to her campaign?

Mr. Shandler said the City Attorney's office provided their analysis of what they believe is the standard review of a governmental or agency action. The review is of the arbitrary and capricious as supported by substantial evidence or inconsistent with law.

Mr. Shandler said the Office then conducted an analysis. The arbitrary and capricious standard requires those acts to be willful and unreasonable, without consideration and in disregard of the facts and circumstances.

Mr. Shandler said the City Clerk's role is not to investigate the accuracy of the attestations and is largely ministerial to ensure the proper documents are submitted.

Mr. Shandler said in this context he thought it important to note that the ECRB has a multistep process that includes receiving a complaint and allowing time for the respondent to respond. The Board then meets to vote on the determination of legal sufficiency and sets a hearing.

Mr. Shandler said at the time the City Attorney advised the City Clerk and she took action; only one complaint had been received. A response was included in the packet today, but the Board has not held a meeting yet to determine the legal sufficiency of that complaint.

Mr. Shandler said when the Clerk made her decision; she had only the Complaint in front of her and not the additional documents. He said the Clerk finished her ministerial duties and followed the Campaign Code in an attempt to be consistent with law.

Mr. Shandler concluded with a discussion about an aggrieved party. He said case citations are included for the Board to discuss if they consider the Petitioner an "aggrieved party." He said considering the facts, both the Petitioner and the Respondent are certified as declared candidates and will be on the ballot regardless of the ruling of this Complaint.

Mr. Shandler said the Petitioner has also been certified as the participating candidate so the Petitioner *will* and *has* received the allotment of funds. He said this Complaint is really about the Respondent's fundraising mechanism as basis of the Complaint.

Chair Miller said he wanted to note that as individuals on the Board, they need to be mindful of potential conflicts of interest. He said as a matter of disclosure, his law firm has contracts with a couple of Joint Powers Agreement entities that involve the City. He said members of the City Council serve on those entities.

Chair Miller said he has discussed this with the City Attorney's office and reviewed his obligations. He reviewed the city code and the state statutes that deal with conflicts. He felt there were no conflicts, but wanted to disclose the information for the record.

Mr. Biderman said he has mentioned in the past that he owns a contract personally with the City in the capacity as an Alternate Municipal Judge. He said having a personal contract with the City means the City Councilors vote on the contract. That represents a statutory conflict under the Governmental Conduct Act

and is an appearance issue of acting in regard to a complaint against a Councilor who would presumably take action on renewing his contract.

Mr. Biderman said he therefore does not feel capable of sitting in this matter. He said he was present out of a personal interest and obligations as a member of the Board, to understand the procedures. He recused himself of participation.

Interim City Attorney Kelly Brennan pointed out that typically when members recuse himself or herself, they are asked not to sit in the front of the room.

Chair Miller asked for comments from the Board at this time.

Mr. Thompson said his first question is if this is a valid complaint, referring to the open letter sent by Mr. Gonzales and Ms. Wurzbarger. He said there is a standardized form for complaints that is a sworn affidavit and he couldn't see how the Board could ignore that. He said in his opinion; the Board does not have a Complaint.

Ms. Kovnat said she is concerned about that, but is also concerned about the question of whether the Petitioner is an aggrieved party under these circumstances. She said it is clear that an opposing candidate *can* be an aggrieved party. She said "where the City Clerk has the power if a violation is found, to retrieve any funds expended; she doesn't see how there is the kind of harm that would invoke the remedy that the open letter – even if considered a complaint- would cause."

Chair Miller clarified Ms. Kovnat's statement: when "the City Clerk has the power to retrieve the funds..."

Ms. Kovnat asked if correct if there is an ultimate finding based on a violation of the code, that the City Clerk has the power to revoke.

Chair Miller said ...that results from the whole process of complaint, a hearing and a decision from this Board.

Ms. Kovnat said pending a decision on the merits, there seems there is not sufficient harm to justify reversing the City Clerk's disbursement of the funds.

Mr. Thompson said while he did not have enough time to digest all of the materials, he does not see how Ms. Wurzbarger continued to be an aggrieved party. He said there could be an argument for Mr. Gonzales, but Ms. Wurzbarger is no longer a candidate.

Chair Miller said in the memo from the City Attorney it states the Board may wish to consider whether Petitioner Javier Gonzales is an aggrieved party. He asked if the Attorney's office intentionally left Councilor Wurzbarger out of the question.

Mr. Shandler directed Chair Miller to page three of the packet (two of the memo), the fifth paragraph.

Chair Miller asked if that was the City Attorney's conclusion based on reading the Petition and the law, but not Ms. Wurzburger herself, who has indicated she no longer is a part of the Petition.

Mr. Shandler said that was correct. He said the Attorneys office to the Municipal Corporation is that she is no longer an aggrieved party, because Ms. Wurzburger has submitted the Affidavit of Withdrawal of Candidacy. He said that is not a representation of what Ms. Wurzburger's position is and the Board is free to accept or reject that position.

Chair Miller said before the Board took action it would be appropriate to hear comments from the public. He asked for those who speak to be mindful of the time and limit themselves to three minutes.

Chair Miller started with the representative for Councilor Wurzburger, the Petitioner.

Public Comments

Ms. Wurzburger said with or without standing, since this was never about Javier Gonzales and herself against the City Clerk. She said they had not challenged the decision of the City Clerk and she wanted to make that clear; nor, does she think this is an issue of being aggrieved.

She said she is interested in seeing this case move forward with respect to the relevant issues as to whether or not the Campaign Code violation with respect to public funding, has indeed occurred. She said from her perspective it would be allowed to be presented and move forward and deal with the real issue.

Ms. Wurzburger She said it doesn't have to do with whether she has been aggrieved or Mr. Gonzales has been aggrieved, etc. She said "this has to do with real issues that deal with how one acts and how one makes one's decisions and when one makes one's decisions; regarding the very clear rules that were laid out by the City Attorney and the City Clerk with respect to how you implement the process."

Mr. Javier Gonzales said this issue has always been for him, an issue of transparency and assuring the rules laid out by the City, regarding qualifying for public finance, were properly followed.

He said he stands with Councilor Wurzburger and also withdraws their Petition. He asked that the underlying issues be seriously considered by this Committee in a timely manner, so the public has an opportunity to review all of the relevant data; so they are able to assess whether the rules were followed and the Public Finance Code was properly administered.

Mr. Thompson said if he heard correctly, the two Petitioners withdrew their Petition. He said he couldn't see why the Board should discuss the issue further.

Mr. Thompson moved that the Board take the Petitioners at face value.

Chair Miller asked Mr. Thompson if he would object to continuing with the public comment.

Mr. Thompson said he would object only on the basis that since the two Petitioners have withdrawn; that seems that the Board would just waste time. He said it isn't that the issues are not important, but the Board

is here on narrow and specific issues and procedures. Mr. Thompson said if the Board doesn't have a Complaint there is no reason to continue to discuss the issue.

Chair Miller said he would like to proceed since he opened with the period of public comment. He pointed out that a motion had been made.

Ms. Lujan said a Point of Order would be to continue where the Board started, with the public comment. She said she would vote to continue with the Point of Order and come back to a vote.

The motion died due to lack of a second.

Chair Miller said he would continue with the public comment portion. He said the Board has heard from the Petitioners and he would like to hear from the representative for the Respondent.

Christopher Graeser said he represents Mayoral Candidate Patti Bushee in response to both Petitions. He said a Response has been submitted.

He said as Vice Chairman Thompson said, the Petition itself is not a conforming Complaint under City Code, He said with respect, he doesn't think the Board has the jurisdiction to consider this. He requested it be dismissed forthwith.

Mr. Graeser said with that said it seems the Petitioners have seen the "writing on the wall and have withdrawn." He said he had no further comment.

Ms. JoAnn Eastham Tapia said she is a native of Santa Fe County and grew up in the City of Santa Fe. She said first and foremost she is a concerned citizen. She said she was struck by Board member Thompson wanting to cut public opinion; she had to dig to find out how "this was going on; the date, time..."

She said she respects Mayoral Candidate Bushee and gladly backed her in the last election for City Council and encouraged Councilor Bushee to run for mayor. She said something happened at the beginning of the year that made her question the campaign ordinance that has been passed.

Ms. Tapia said she had questions. She asked if all donations and campaign funds made for candidates is public information and if that is made available for the general public.

Chair Miller replied yes that is public information. He said he wanted to hear what Ms. Tapia had to say, but in the interest of time, couldn't get involved in questions and answers.

Ms. Tapia said her real concern is if she can still file a complaint as a private citizen. She said not only candidates have a right to file complaints and she believed that more so, public citizens have that right.

She said Ms. Bushee contacted her daughter to donate funds and that was fine. She said her daughter was hounded to donate money. She asked if there is a cut-off date or if candidates wouldn't make it their business to know when they have to stop asking for private funds. She said her daughter has constantly

been asked to donate money...fine...she donated in April. Ms. Tapia said a month ago her daughter was contacted by Ms Bushee's campaign--"could she change the amount of her donation?"

Ms. Kovnat addressed Chair Miller and said although the public comment is interesting; the public comments need to be reduced to a verified complaint.

Ms. Tapia continued with her concern with the check her daughter had signed. She asked if the checks are backdated. She said she is concerned because it has a lot to do with "us being naïve."

Chair Miller asked that Ms. Tapia finish her comments on the agenda item. He said again, he could not get into a question-and-answer session. He explained that Ms. Tapia was welcome to make her point and directed her to the City Clerk's office that would have answers to her questions.

Steven Farber said he is a former City Councilor and has been a civic activist and a lawyer in Santa Fe. He submitted written comments and asked that the comments become a formal part of the record. (Exhibit 1)

Mr. Farber said it is ironic to hear two people come forward and say they are interested in making sure that the rules are followed, when they themselves did not follow the rules. He said being apparent that they had not followed the rules, they were left with a situation to save face in what he thought was a "publicity stunt" to attempt to create a Petition he believed is not authorized under the City ordinances; nor under the ordinances that governs the City process and procedure.

Mr. Farber said the City believes that any Complaint, which is what it should have been, needs to be as indicated by Vice Chair Thompson, a sworn Complaint subject to the penalty of perjury; so the Complaint is something that is taken seriously and for which there is a consequence.

Seeing no further public comment, Chair Miller closed the Public Comment portion at this time.

Mr. Thompson moved to dismiss the open letter as insufficient to qualify as a complaint.

He said the letter is not a sworn affidavit and did not follow the rules and the letter should be dismissed for failure to conform.

Ms. Lujan seconded the motion.

Ms. Martinez said she wasn't sure the Board needs to address the motion in that manner and actually make a finding that the letter is not sufficient, etc., when the Petitioners have formally withdrawn the letter.

Mr. Thompson said respectfully, he was hesitant to do that at this stage because the Board has nothing in writing. He said the two Petitioners spoke, but that wasn't oral testimony it was just public comment. He said until the Board sees a letter withdrawing the complaint, given the Board's quasi-judicial status; he thought it more appropriate to rule.

Chair Miller said there is a motion and a second; two "yes" votes. He asked if there were members opposed.

Ms. Kovnat and Mr. McMillan were opposed to the motion. The motion died.

Ms. Kovnat said her concern is that the Board would make a move that would have precedential status and chill the ability of members of the public to watchdog the public comment system. She agreed with Ms. Martinez and said she doesn't think the Board needs to reach that question now.

Ms. Kovnat moved that the Board dismiss the petition on the basis that they understand that it has been withdrawn by the Petitioners. Ms. Martinez seconded the motion.

Mr. Thompson said he understands the concern about setting a precedent, but he what he is proposing is not on a question of law, it is a mere technicality. He said the City has the form for a reason; to reduce doubt so when open letters of complaints, etc. are sent, the procedure is known. He said people fill out *this* form and turn in at *this* time and under *these* circumstances, etc.

Mr. Thompson said the Board knows that was not done in this case. He wanted to set the precedent for people to at least fill out the form correctly and be a sworn affidavit. He said this is very simple procedurally and the precedent the Board would set by voting on his motion is that at the very least, a person should do that [follow procedure].

Ms. Kovnat said as she understands the Petition, the Board is asked to review the action of the City Clerk and that already comes from the Board's powers to review any action of the City Clerk. She sees that as distinct from the complaint process.

She said Mr. Thompson is right that the Board should develop a procedure for review of the City Clerk's actions and it could be in the development of that, they would want verified petitions. She said she hesitates, in the context of this case to rule that way, because the Board doesn't need to go that far.

The motion to dismiss the Complaint based on the Petitioners' withdrawal of the Complaint, passed by unanimous voice vote.

- b) Consideration of Preliminary Matters Relating to Case #2013-1; Complaint Filed by Tarin Nix Alleging Violation of "Election and Political Campaign Codes -9-3.6 Seed Money Contributions, Sub-Section Sections A-E and Section 9-3.8 Application for Certification as a Participating Candidate, Sub-Sections B and C." by Patti Bushee Mayoral Campaign and Patti Bushee.

Chair Miller said when the meeting was scheduled the Board had received the complaint but had not received a response from the Respondent, who by the rules has 10 days to respond (December 17th). The Board has just received the response.

He said this is to decide preliminary matters of how the Board would proceed. He asked the City Clerk or Attorney's office to give the Board a sense of their options and how the procedures would/could work.

Mr. Shandler said according to City Code 6-16.4 upon receipt of a Complaint and now, the receipt of a Response, the Board shall determine the following:

1- If the face of the Complaint sets forth legally sufficient facts, which if true, show probable cause to believe there is a violation.

2- If the Complaint was filed within one year after the Complaint was discovered or reasonably should have discovered the facts.

3- If the Complaint is frivolous or intended solely to harass and intimidate and if the Board lacks jurisdiction to adjudicate the Complaint.

Mr. Shandler said the Board would need to make that determination at the next meeting. He said if the Board makes the determination that the Complaint is legally sufficient they would set a process with witness lists and time tables set out according to the Rules of Organization.

He said the Board would schedule a meeting when they would vote on the legal sufficiency of the complaint.

Chair Miller asked if the Board could form a Complaints Committee to review the complaint. He said the Complaints Committee could present their thoughts as part of the overall Board review of the Complaints, at the next meeting.

Mr. Shandler said the Board rules state clearly that a committee could be formed to consider the sufficiency of the Complaint.

Chair Miller said the Board had changed their rules about the formation of the subcommittee. He read from B 7 of the Rules and Regulations: *subcommittees shall be made only upon motion and finding by the Board that the benefits of the proposed referral, in anticipated saving of the Board's time or expedition in the disposition of the case, will outweigh any potential costs in terms of reduced openness of the Board's proceedings or diminished prestige of its judgments.*

He said the Board could defer to a Complaint Committee or set another meeting to decide the validity of the Complaint.

Ms. Kovnat suggested polling the Board members as to their availability to see if the Board could act expeditiously as a full Board.

The Board members discussed the next meeting date and their availability. The next meeting was decided to be on December 16th, 2013.

Ms. Brennan said the next hearing should be one where the Parties could present their view and would thus need to be available.

Mr. David Garcia said he represents Tarin Nix, the Complaining Party and their position would be to ask that the Complaint be heard on the 16th as a Committee as a whole.

Mr. Christopher Graeser said they have filed a Response, whether there is a supplemental Response or not; they do waive the time period to enable the Complaint to be heard before the 17th of December.

Mr. Graeser pointed out there is a Finance Committee meeting on December 16 and his client, as a member of the Finance Committee, has that obligation.

Chair Miller confirmed the possibility of the date and time of the meeting with the City Clerk.

Ms. Vigil said four o'clock on 16 December was possible and the Council Chambers is available.

3. BOARD MATTERS

There were none.

4. PUBLIC COMMENT

Jeff Greene said he is one of five candidates for City Council in District Two. He said he filed a complaint yesterday with the ECRB on the official complaint form and one of the pieces of evidence he has given to the City Clerk and he has more copies. He asked the procedure and if he should give those to the City Clerk at this time, to give to the Board.

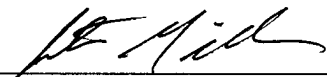
Chair Miller indicated he could give the paperwork to the City Clerk.

5. ADJOURNMENT


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

There being no further matters to discuss and the agenda having been completed, the meeting adjourned at 5:05 p.m.

Approved by:


Justin Miller, Chair

Submitted by:


Charmaine Clair, Stenographer

steven g. farber

attorney at law

santa fe, new mexico 87504-2473

To: Ethics and Campaign Review Board
c/o Yolanda Vigil, City Clerk

From: Steven G. Farber

Date: December 10, 2013

PUBLIC INPUT FROM STEVEN G. FARBER, AN ATTORNEY AND INTERESTED CITIZEN AND VOTER, REGARDING THE LACK OF JURISDICTION OF THE ETHICS AND CAMPAIGN REVIEW BOARD TO HEAR AND/OR ENTERTAIN THE "OPEN LETTER" AND PURPORTED PETITION JOINTLY FILED BY REBECCA WURZBURGER AND JAVIER GONZALES TO OVERTURN THE CITY CLERK'S DETERMINATION TO PROVIDE MAYORAL CANDIDATE PATTI BUSHEE WITH PUBLIC CAMPAIGN FUNDING SINCE SAID THE DOCUMENT IS HARASSING AND DOES NOT COMPLY WITH THE ETHICS AND CAMPAIGN REVIEW BOARD CITY CODE PROVISIONS AND IT WAS FILED FOR PARTISAN POLITICAL PURPOSES AGAINST CANDIDATE PATTI BUSHEE

It is a cardinal rule that our government is one of delegated powers. The Ethics and Campaign Review Board's powers and duties under the City of Santa Fe Code are set forth in Section 6-16.2. The Ethics Board has no powers other than those specifically delegated to it by the Santa Fe Governing Body through the adoption of the Ordinance establishing the Ethics and Campaign Review Board.¹

The Ethics and Campaign Review Board process pursuant to Section 6-16.3 requires that a matter being presented to the Board must be done by a sworn and particularized complaint. That provision reads:

Any person may make a sworn written complaint, under penalty of perjury, of a violation of the Code of Ethics, the Campaign Code or

¹ I would have made this submission sooner but I was abroad from November 24, 2013 to December 7, 2013 celebrating the birth of a newly born grandson and having just arrived back in Santa Fe this past Saturday I am now aware of this meeting set by the Board.

the Public Campaign Finance Code. The complaint shall state the specific provision which has allegedly been violated and the facts which the complainant believes support the complaint. The sworn complaint shall be filed with the city clerk, who shall promptly refer the complaint to the board and furnish a copy of the complaint and any supporting documentation to each respondent who is alleged therein to have violated the Code of Ethics, the Campaign Code or the Public Campaign Finance Code. The complaint shall be filed within one (1) year after the complainant first discovered or reasonably should have discovered the facts on which the complaint is based. (Ord. #2005-14, §19; Ord. #2009-45, §2)

The “Open Letter” submitted by Rebecca Wurzbarger and Javier Gonzales and denominated a petition is fundamentally flawed since it does not follow the procedures and processes set out in the City Code and the Ethics Committee’s Rules and Regulations. The attempt to interpose a petition in lieu of a sworn complaint is an attempt to circumvent the clear City Code provisions that require sworn complaints to be presented to the Ethics and Campaign Review Board for consideration. The phrase from Section 9-3.17 of the City Code apparently relied upon that states “... any decision by the Clerk is reviewable by the ECRB by an aggrieved Party.” Significantly it does not relieve the alleged or purported aggrieved party from complying with the strict and clear process of filing a sworn and particularized complaint with the Ethics and Campaign Review Board to initiate action by the Board as required by the City Code and the Board’s Rules.

It is noteworthy that the City Clerk has made a positive determination that public monies may be used to finance the campaign of Mayoral Candidate Patti Bushee and that the City Attorney, or any attorney designated by the City Attorney, has not seen fit under Section 6-16.4 to interpose any objection to the determination of the City Clerk or to file a complaint alleging any violations of the Public Campaign Finance Code by Mayoral Candidate Patti Bushee.

The frivolous and harassing nature of this petition filed by Rebecca Wurzbarger and Javier Gonzales is clearly seen when at the very top of the purported petition they denominate it an “Open Letter”. Why is this “Open Letter” denominated as such other than as an attempt on the part of these two political allies to create a partisan and hostile atmosphere misusing both the City Public

Campaign Finance Code and the City's Ethics and Campaign Review Board Ordinance?

There are no provisions within the City's Ethics and Campaign Review Board Ordinance that I have reviewed that state that a petition submitted by an aggrieved party and submitted to the City's Ethics and Campaign Review Board should be treated any differently than the requirement of the City Code and the Board that to initiate a proceeding before the Board there must be a sworn and particularized Complaint as per Section 6-16.3. To do otherwise would allow a political circus to ensue in this City where any aggrieved party could assert any allegation no matter how harassing, frivolous, or meritless without fear of any consequence for abusing the Ethics and Public Finance Ordinance processes.

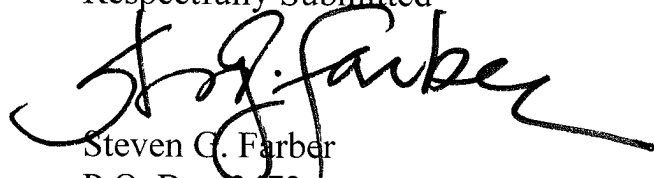
The protections built into the Ethics and Campaign Review Board Ordinance requiring a sworn complaint provides necessary checks and balances to assure that the City's Ethics and Campaign Review Board Ordinance and the Board are not easily used for partisan political purposes.

A sworn Complaint, submitted upon penalty of perjury, adds the necessary levels of protection to the Ethics Board Complaint process to attempt to weed out partisan use of a very important component of open and transparent government.

The "Open Letter" and purported petition is not a sworn complaint made under penalty of perjury and it is not on the prescribed form as required by Rules of the Board. See, Board, Rule D.1 (a) (2008). Under Code Section 6-16.4 the Board is charged with the important role which brings integrity to the process of determining the legal sufficiency of the complaint. The "Open Letter" jointly submitted by Rebecca Wurzbarger and Javier Gonzales purporting to be a petition is legally insufficient. The Board lacks jurisdiction to hear this "Open Letter" purporting to be a proper petition or complaint.

Therefore, the Board should dismiss the "Open Letter" purporting to be a petition and not allow its proponents any further opportunity to abuse the Board's Process.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "S.G. Farber", with a long horizontal flourish extending to the right.

Steven G. Farber

P.O. Box 2473

Santa Fe, New Mexico 87504

505-988-9725

www.stevenfarberlaw.com