City of Santa Fe

Agenda

ETHICS & CAMPAIGN REVIEW BOARD
Thursday, August 23, 2018
3:00 p.m.
City Council Chambers
1st Floor, City Hall
200 Lincoln Avenue

1. PROCEDURES
   a. Roll Call

   b. Approval of Agenda

   c. Approval of Minutes—May 24, 2018

2. DISCUSSION AND POSSIBLE ACTION
   a) An Ordinance Amending Section 9-3 SFCC 1987, the Public Campaign Finance Code, to Include a Definition for Qualified Small Contribution; Establishing a New Section Regarding Qualified Small Contributions; Establishing a New Section Mandating Matching Payments by the City; Establishing a New Section Regarding Reporting of Qualified Small Contributions and Matching Payments; and Replacing all References in Chapter 9 of Municipal Clerk to City Clerk. (Councilor Romero-Wirth, Councilor Ives, Councilor Villarreal)

      a. Public Comment
      b. Discussion
      c. Possible Action

   b) An Ordinance Relating to the Santa Fe Election Code, Chapter 9 SFCC 1987; Amending Subsection 9-1.2 to Opt-In to the Local Election Act and to Set the Regular Municipal Election Day as the First Tuesday in November in Odd-Numbered Years; Establishing a New Subsection 9-1.18 to Create a Temporary Transition Period During Which the Terms of the City Councilors Elected in 2016 and the Municipal Judge Will End on December 31, 2019 and the Terms of the Mayor and City Councilors Elected in 2018 Will End December 31, 2021; and Establishing a New Subsection 9-1.19 to Create Effective Date Contingent Upon the Voters' Approval of Santa Fe Municipal Charter Amendments at the November 2018 General Election. (Councilor Romero-Wirth, Councilor Vigil-Coppler)

RECEIVED AT THE CITY CLERK'S OFFICE
DATE: 8/17/18
TIME: 3:00 PM

a. Staff update on Charter Election Question on the November 6, 2018 Ballot
b. Public Comment
c. Discussion
d. Possible Action

c) Request for Reconsideration of Board Action--Case #2018-2 and Case #2018-3. Complaint filed by Stephanie Beninato Alleging Violation of SFCC 1987, Section 9-2.15(C); "Posting of Campaign Signs."

3. BOARD MATTERS

4. PUBLIC COMMENT

5. SCHEDULE NEXT MEETING (IF NEEDED)

6. 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 FÉ
ETHICS AND CAMPAIGN REVIEW BOARD

August 23, 2018

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MINUTES OF THE
CITY OF SANTA FE
ETHICS AND CAMPAIGN REVIEW BOARD

Thursday, August 23, 2018

I. PROCEDURES

A. ROLL CALL

A special meeting of the City of Santa Fe Ethics and Campaign Review Board was called to order on the above date by Justin Miller, Chair, on this date at approximately 3:00 p.m. in the City Council Chambers, 1st floor, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

Roll call indicated the presence of a quorum as follows:

Members Present:
Justin Miller, Chair
Paul Biderman
Ruth Kovnat
Tara Luján
Kristina Martínez

Members Absent:
Judith Amer (excused)
Seth McMillan (excused)

Staff Present:
Yolanda Y Vigil, City Clerk
Zachary Shandler, Assistant City Attorney

Others Present:
Jim Harrington,
Karen Heldmeyer
Stephanie Beninato
Carol Romero-Wirth, Councilor
Carl Boaz, Stenographer

B. Approval of Agenda

Chair Miller indicated Ms. Stefanie Beninato had requested to move her item to be heard first under Discussion. He said that would not be a burden to shift the discussion on the agenda.

MOTION: Member Kovnat moved, seconded by Member Biderman to approve the agenda as amended with item C under Discussion heard first.

VOTE: The motion passed by unanimous (4-0) voice vote with Members Biderman, Kovnat, Luján and Martínez voting in the affirmative and none voting against.

C. Approval of Minutes – May 24, 2018

MOTION: Member Martínez moved, seconded by Member Luján to approve the minutes of May 24, 2018.

Member Biderman thought on page 3, fifth paragraph from the bottom on Mr. Harrington's statement about a law that had been "appealed" – was probably meant to be "*repealed*".

The maker of the motion and seconder agreed with the amendment.

VOTE: The motion to approve the minutes as amended passed on a unanimous (4-0) voice vote with Members Biderman, Kovnat, Luján and Martínez voting in the affirmative and none voting against

II. DISCUSSION AND POSSIBLE ACTION (Revised Agenda Order)

C. Request for Reconsideration of Board Action--Case #2018-2 and Case #2018-3. Complaint filed by Stephanie Beninato Alleging Violation of SFCC 1987, Section 9-2.15(C); "Posting of Campaign Signs."

Chair Miller refreshed the Board members recollection that the item had been addressed previously and the materials were included in their packets. The Board had found probable cause that a violation had occurred, and the violation had been promptly dealt with.

He read the motion made by the Board at that time: *"Member Martínez moved seconded by Member Amer that the Board finds violations did occur alleging complaint #2018-2 and #2018-3 and the complaints will be closed without further sanction and to direct staff to highlight sign-related issues before the next election"*. The vote passed by unanimous voice vote.

Chair Miller stated the complainant has asked that the Board reconsider.

Member Biderman stated without a motion from a member who voted in favor of the motion he thought it was not in order to reconsider. However in light of Ms. Beninato's history of interest in the Board's work, and her frequently helpful comments, he wanted to give her an opportunity to speak.

Member Kovnat asked Ms. Beninato to emphasize the reasons the Board should reconsider.

Ms. Beninato replied, during that meeting, she had not been as prepared as she should have been due to her health. More importantly the Board found violations but there was no discussion about sending a letter.

It was more that everyone thought the issue had already been dealt with and *"so let's just have the next City Clerk educate everyone about their responsibility regarding posting signs"*.

Ms. Beninato stated the Board had been specific when looking at proper notice and the requirements and whether those were met, but the discussion disintegrated when they discussed sanctions.

The idea to direct the City Clerk to provide more education is not one of the listed sanctions the Board was to impose and is why she is asking for a reconsideration. There was no real discussion about a letter of reprimand or any other action.

Ms. Beninato said when you do not do anything and let candidates continue to get away with it because the sign was removed, or because everybody was doing it, they end up with a lot of sign violations and non-compliance with ethics.

She thought to be taken seriously the Board needs to act and respond according to the law and the law states you can send a letter of reprimand. She asked that the Board do that because it is appropriate. The two men [in violation] did not even show up at the hearing; they were not here to make a statement or show respect or deference to the Board.

Ms. Beninato stated that by not acting, the Board basically is letting others *"flip them off"* and she preferred that not happen.

She said she additionally would ask that Ron Trujillo be fined $500, the maximum fine, because he has run five times for City office and three times used public funds and should know the law clearly. Mr. Trujillo was in violation on City property and was also was in violation because he had commercial property owners put signs on their property.

The ordinance states under 915.2-D that political signs can only be put on residences. She pointed out that Mr. Trujillo had signs on Cerrillos Road, which she had not complained about, because she did not know about that at the time.

Ms. Beninato continued that blatant disregard for the rules, which are clear, deserve something showing that that is not okay and that the Board would not blow this off and that there would be consequences. She thought there should be consequences, other than the Clerk trying to educate people after the fact. She thought it important "because they want people to obey these ethic rules, which are clearly written on the signs."

She said even though this is not financial malfeasance, it is about getting attention and influencing people about how much support they have, people should play on a level playing field. By ignoring the sign violations the Board is not creating a level playing field.

Ms. Beninato stated as a citizen she is concerned that the candidates getting elected cannot read simple ethics codes regarding signage and that raises competency issues, but for the Board there should be

sanctions. This is not about educating people four years later, it is about sending a letter of reprimand, imposing a fine and in serious cases this could be referred to law enforcement or having someone removed from office. She is only asking for lower levels of enforcement.

Ms. Beninato asked again that the Board not fall down on the job by being strict in their interpretation of her complaint, but not so strict in terms of actually responding to a violation that they had found.

Member Biderman indicated he was not present but read the minutes and thought the Board had acted reasonably in their response.

Member Kovnat said she was also not present but assumed the Board had considered all of the issues and there was no reason to reconsider.

Member Martínez said she was the one who made the motion to not take action or issue sanctions. Reading the code in section 6-16.7B it states, "*if we determine there has been a violation, it may*", it does not say we shall issue sanctions.

She thought Ms. Beninato's presentation was very good presentation at the last meeting. The Board's decision was not due to her failing to provide facts but given the reports from Mr. Shandler and Ms. Vigil along with the facts, circumstances and timing, she found it appropriate not to issue a formal reprimand.

Member Martínez appreciated Ms. Beninato speaking to the Board and does take seriously the concern that the candidates and public would not take the Board seriously. But in this situation there was not anything that should be reconsidered.

Member Luján agreed there was nothing to reconsider. She has worked on a lot of campaigns and this is called "the sign war" which can be anything from damaging signs, putting signs in places they do not belong, getting calls from private owners about signs placed without knowledge of the candidate. She thought it difficult to make a judgment without having the facts or someone that came forward about a candidate acting intentionally against the law.

She was comfortable with the decision the Board made and the decision for the City Clerk to take on the responsibility of education. She would not be comfortable giving the reprimands or fines Ms. Beninato had suggested.

Chair Miller indicated **the consensus of the Board seemed there was no need to reconsider the issue** and the matter had been discussed. He noted for the record that Ms. Beninato had left the meeting before the Board had finished discussing the matter. He proposed they move on to Item A.

A. An Ordinance Amending Section 9-3 SFCC 1987, the Public Campaign Finance Code, to Include a Definition for Qualified Small Contribution; Establishing a New Section Regarding Qualified Small Contributions; Establishing a New Section Mandating Matching Payments by the City; Establishing a New

Section Regarding Reporting of Qualified Small Contributions and Matching Payments; and Replacing all References in Chapter 9 of Municipal Clerk to City Clerk. (Councilor Romero-Wirth, Councilor Ives, Councilor Villarreal)

Chair Miller provided background and explained the ordinance resulted from an attempt by the Board in 2015-2016 to address issues in the 2014 election. The Board made recommendations to City Council and some were adopted, and one ordinance and other recommendations were put into a draft ordinance and have yet to be acted on by City Council.

The ordinance today includes the remaining recommendations and is sponsored by Councilor Carol Romero-Wirth.

Chair Miller invited Councilor Romero-Wirth to comment.

Councilor Romero-Wirth thanked the Board for looking at the legislation again. She clarified that this had not been before City Council but was before the Finance Committee. The Finance Committee felt a lot of time has passed and there has been another election. They have asked to have the Board look at the ordinance again and consider whether this is still something the City should put in place.

In addition, the Finance Committee had concerns about the cost to the City and how they could ensure the cost could be contained and predictable. Mr. Harrington had provided a memo to the Board that states it is clear how much is to be budgeted and should funding run short, the cap protects the City. The City could only use the amount of money in the fund and give it out proportionately.

Councilor Romero-Wirth appreciated that the Board would take another look at the recommendations. She hoped they would endorse the bill and make adjustments as needed and it would then return to the Finance Committee and go forward to a public hearing and City Council.

Chair Miller invited comments by Board members. Seeing none, he asked Mr. Shandler about the FIR he had submitted.

Mr. Shandler explained he was trying to pull up the Finance Committee minutes to see their specific questions. He suggested proceeding to public comment first.

1) Public Comment

Mr. Jim Harrington stated as the author that he would speak on the memo. He noted, as Councilor Romero-Wirth had pointed out, it is not intended to say that looking at payouts from the fund is wrong, but that is probably not the best place to look. Those are not costs to the City because they come out of the fund and were deposited at a previous time. Secondly, they are very unpredictable and will become more so because the Office of Mayor is more attractive with a salary and public financing will also become more attractive.

The cap provision will make payouts stay within the range of $600,000-$900,000 every four years and

without a change to the formula, would not go outside of that. What was not foreseen in the design was that the matching funds would be completely eliminated and that is what made the fund grow so large. He still thought it would work as designed.

Member Kovnat said she supported the bill initially and continues to support it because it seems to be the best way to strengthen publicly financed campaigns. The reason to strengthen them is to curb the influence of large private money in political campaigns, to give candidates an ability to fight back if independent PACs get involved.

She is particularly concerned that public finance is strengthened now in light of the disarray of the election law throughout the country. The emphasis needs to be on the fact that this provides a choice for candidates. Some people will continue to campaign and raise private money, subject to contribution limitations, but others may not be comfortable or want to spend the money to do that. They might believe it is a public good to finance campaigns.

They would have a choice with this amendment to raise small amounts of private money and have that matched by the City to give them some additional ammunition against unregulated forces.

She would love for Santa Fe to be among the cities that strengthens the system in that way. The City has the cap to protect them and she is satisfied that the drain on the City is already in the system - the requirement of funding the fund. This would give candidates a choice they would not otherwise have.

Member Biderman asked if Karen Heldmeyer wanted to comment.

Ms. Heldmeyer indicated she had heard from two groups on this - one is of former and potential candidates. They are concerned if there is not enough money, that candidates would only receive a portion. She thought that might not be a problem in off-year elections but, given the large amount of money raised in the last campaign, there is a decision point.

A candidate could opt out if there is not enough money in the beginning, but after time, the City might say they could only receive part of the money. People have told her that alone would cause them to opt out of public financing. She thought that would be more likely be the mayoral candidates because of the amount of money; or council candidates running in the year that has a mayoral candidate.

Ms. Heldmeyer also heard that this is confusing. So, this would require some education if the ordinance is passed. This is a Band-Aid for the wound created by the Supreme Court and makes things somewhat better but does not prohibit any candidate from raising any kind of money or from having a PAC. It also cannot limit the amount of money candidates could raise but does limit the amount that can be matched.

She thought when the charter amendment for public financing was passed, that people were looking for ways to take money out of the equation and this does not do that. Her hope is that City Council would talk to candidates and, more importantly, get feedback from the public and they need to hear from those who are confused or upset.

Mr. Harrington explained the bill does not allow the candidate, unlike the current law, to opt out of public financing if funding comes up short before they have received any money or started their campaign, but they are not allowed to opt out at the matching stage.

Mr. Harrington noted that the original draft of the bill in 2014 did allow that. He thought it a good idea [not to allow that option] because the possibilities for gaming are too great if candidates are allowed to opt out. People could see the fund is coming up short and line up pledges of private contributions and opt out.

He thought Councilor Heldmeyer was not correct that a lack of opt-out would discourage candidates from taking public financing. The vast majority of council candidates have taken public financing without any matching.

Mr. Shandler read the comments made at the Finance Committee:

- Councilor Lindell said the one publicly financed mayoral candidate in 2018 returned $7k of public money. It was not that the candidate did not feel he did not have enough money.
- She said 16 times City Council seats were up for election and five times the incumbent was unopposed. The major issue is not the issue of money but that incumbents win every time.
- She stated she not sure if the goal was to level the playing field or remove undue influence, which she thought was not possible. If that is the goal they need to limit the size of donations that people privately financed can receive.
- She hypothesized if two candidates ran in every council race and two ran for mayor she had calculated the cost would be $960k for the next mayoral election. She thought that was too much money and could not see the benefit citizens would get from that.
- The Councilor heard two goals; one about making the playing field even. She stated that Mr. Harrington, who wrote the legislation, vehemently said that this was not to level the playing field but to limit the amount of money. "It was like putting your thumb on a watermelon seed. You just can't get there." She wants this to go back to the ECRB to analyze the elections where publicly financed candidates stood up against privately financed candidates.
- Councilor Abeyta said if this moves forward they want some of the scenarios fleshed out.

He deferred to Councilor Romero-Wirth if there were any other comments.

2) Board Discussion

Member Kovnat commented on the term "*leveling the playing field*." That is what the US Supreme Court said was an impermissible objective of any of these laws and a violation of the First Amendment. The purpose of any public financing, from her standpoint, is to encourage excellent people who might not otherwise run for public office to start thinking about it because they do not have time to raise money that would not exist if there were no public financing. She thought in and of itself that should help to drain the role of money from the campaign.

It is true they cannot control PACs and part of the bill that passed was with provisions with respect to the definitions of coordination to try to ensure that PACs were not coordinating with candidates. They have no power to infringe the First Amendment rights of PACs to engage in political activities.

Member Biderman commented that they need to go back to the original goal of the ordinance and how it fits into a package of bills given to City Council. Looking at the materials from 2016 including memos, one thing expressed was that if something was not done the independent financing groups could provide a lot of money beyond the public finance amount and people would drop out of the publicly financed system. They referred to 2018 as a problem that loomed ahead and that is what has happened.

Member Biderman noted the first sign of that was of the three candidates in the 2014 race, all of whom took public financing, two complained afterward they would never do that again because they were so beaten by outside groups who essentially doubled the war chest of the winning candidate, even though he did not coordinate.

It was proven in 2018 that only two of the five candidates for mayor attempted to get public financing and was possibly a privately financed race. That undermines the purpose of what they were trying to achieve - to recognize when races become important that they attract money. They attract money that is implicit, efforts to get people to act in ways consistent with the interest of that money.

That means that the influence is potentially there, and they have seen that on the national level. Keeping the underlying goals in mind is the best they can do. They have put in all of the safeguards possible - the $100 limit. No one can say that would influence anyone unduly or when the $100 generates $200 in public funds.

They are trying to restore a degree of integrity to a system that has taken a beating around the country by trying to make public financing as attractive as possible, so people will continue to use it.

Member Biderman noted that Mr. Harrington's memo put perspective in the financial limits of how much the City could be burdened by the ordinance. It does cost money but that is part of the idea. He thought the memo appeared to be accurate and shows there is not a huge amount of risk and even with the initiative they would not end up significantly worse.

He thought they should send this back to City Council with the Board's recommendation.

Member Kovnat asked Mr. Shandler about the box to check when there is no fiscal impact that was not checked. In reading the report she gathered that was because of uncertainty about the additional staff that may be needed to meet the two-day limit to check the report and match it. She asked if that was the only thing Mr. Shandler was unsure about in terms of fiscal impact.

Mr. Shandler replied it is correct for the personnel of the FIR but other costs of the impact on the fund and whether there would be a topping off in the future was explained in Mr. Harrington's memo.

Member Kovnat said the topping off was one piece and was hard to predict - and is equally hard to predict

from not checking the box on the personnel portion. She was trying to get a sense of whether this was a large fiscal impact, or if the Board could say it is not.

Mr. Shandler replied that is a reasonable point, but they would discuss the influx in the next bill about what the election would look like in the future where personnel would be divided.

Chair Miller indicated the most concrete question of the Finance Committee concerns was the concern that the changes would cause a run on City funds. The memo and the law both show a cap per cycle that if reached, would distribute the amount to the candidates in a pro rata fashion.

Chair Miller thought that addressed Councilor Lindell's question.

Mr. Shandler suggested the Board could provide a summation of why this is the number one priority from the ECRB that would be reflected in the minutes.

Chair Miller responded that the Board had already stated the concerns beating them to address the issue in the 2014 election, and what they had done and the recommendations they developed. It has been years since the Board made the recommendations and the ordinance has found its way now to the City Council.

Member Kovnat commented on Councilor Lindell's observation that incumbents usually win. She agreed that is correct, but the power of incumbency is not related to campaign financing. That is not an answer to the desire and propriety of strengthening public campaign finance.

Chair Miller added that both Members Kovnat and Biderman provided eloquent explanations of why this is important to them and their statements were reasonable and thoughtful as to why this is an important issue to the Board.

Member Martínez also thought the Board had addressed this and had been trying to address this when originally done and the reasons are the same now as they were then.

Chair Miller said the Board comments would be included in the minutes.

Mr. Shandler indicated that this will come back to the Finance Committee on September 17 and the minutes would be provided to them and would not require a separate written document.

He recommended making a motion to recommend the ordinance again.

Chair Miller asked if the Finance Committee wanted to hear from members of the Board at their meeting. They would be happy to provide any information or speak to the Finance Committee at that time.

Mr. Shandler indicated Member Kovnat attended the last Finance Committee meeting and it would be up to the Chair and Councilor Romero-Wirth.

Member Kovnat said since the Committee was particularly interested in the financial impact on the fund, she thought it could be useful for the Board to adopt the information provided at this meeting on impact.

Member Luján agreed and thought that would be the fair thing to do. In addition it would be fair also to report back to Councilor Lindell.

Member Lujan wanted to discuss the analysis requested and whether Councilor Lindell provided specifics on how she thought the analysis should be done.

Mr. Shandler recalled that the Councilor wanted the Finance Committee Staff to give a race by race breakdown of who was publicly funded, privately funded and who prevailed in the last several elections.

Chair Miller said that information had not been presented to this Board either. He said he was hearing that the board wanted to adopt the explanation of the memo and the section of the ordinance that caps the expenditures and to recommend approval of the ordinance.

Member Kovnat replied she was looking for a way the Board could be responsive to the Finance Committee's request that the Board provide information on the impact. She was persuaded by Mr. Harrington's numbers and thought the board to discuss and decide if they wanted to send that information to the Finance Committee.

Chair Miller indicated that Mr. Harrington's memo is in the materials and derived from Section 9-3.4 and 9-3.10 of the Code - *the allotment to the campaign finance fund and the amounts distributed to candidates and the impact of the proposed ordinance on the distribution of the fund.*

Member Biderman explained he referred to Mr. Harrington's memo but did not mean to exclude Mr. Shandler's work, which he thought should be forwarded as well. He thought the memo was a valuable addition in that it explained what he thought the Finance Committee wanted.

Councilor Romero-Wirth said the Finance Committee had information developed by Staff showing the amount of money that had been used over time, the amount of money that was brought in and how much of that had been used. They now have a better feel for the use of the money and the flow of the money in the fund.

She said the Finance Committee is not yet aware of the new way of thinking that rather than looking at the payouts they should be looking at the fund itself and the law that states how much money the City is committing to in each election cycle.

Councilor Romero-Wirth said the Committee's big concern if they were to put the bill in place is if they would bleed the City dry. They will now have a better understanding with the memo and the information they received from Staff on how the fund has been used and their concerns would be addressed.

She added that they would always welcome if a member of the Board wanted to attend, because they

could assist in the conversation and the thinking behind the bill.

Member Biderman asked to confirm the dates for the Finance Committee meeting on September 17 and the City Council meeting scheduled the 29th and that the bill would not be on that agenda.

Mr. Shandler replied that might be part of the process called the second reading. He offered to check the times and dates for the Board.

3) Possible Action

MOTION: Member Kovnat moved to support the ordinance amending the Public Finance Code and recommended it move forward to the Governing Body for approval, seconded by Member Biderman.

VOTE: The motion to approve the ordinance moving forward to the Governing Body passed unanimously (4-0) by voice vote with Members Biderman, Kovnat, Luján, and Martínez voting in favor and none against.

B. An Ordinance Relating to the Santa Fe Election Code, Chapter 9 SFCC 1987; Amending Subsection 9-1.2 to Opt-In to the Local Election Act and to Set the Regular Municipal Election Day as the First Tuesday in November in Odd Numbered Years; Establishing a New Subsection 9-1.18 to Create a Temporary Transition Period During Which the Terms of the City Councilors Elected in 2016 and the Municipal Judge Will End on December 31, 2019 and the Terms of the Mayor and City Councilors Elected in 2018 Will End December 31, 2021; and Establishing a New Subsection 9-1.19 to Create Effective Date Contingent Upon the Voters' Approval of Santa Fe Municipal Charter Amendments at the November 2018 General Election. (Councilor Romero-Wirth, Councilor Vigil-Coppler)

Chair Miller explained this results from action in the last Legislature and opts the City into holding elections on the first Tuesday of November and for the change to be effective on the passage of the amendment to the City Charter.

1) Staff Update on Charter Election Question on the November 6, 2018 Ballot.

Councilor Romero-Wirth explained what they are trying to do is fairly easy but has many steps.

The Council passed a resolution that will go to the voters in November. The County has agreed to put the question on the ballot of whether people want to amend the City Charter to take out the provisions that prevent moving the election.

The ordinance is to make clear to voters exactly what the City is doing; 1) opting into the Local Election Act and 2) moving the election date from March in even numbered years to November in odd numbered years.

Councilor Romero-Wirth continued that they want to be clear this would move the election to November 2019, thereby shortening the terms of the current elected officials, who would have the choice to lengthen or shorten their terms.

The ordinance will be contingent on the passing of the Charter amendments by voters in November. They are being transparent about their intent and what would happen for the voters.

Member Luján asked the offices for election that would be on the ballot if the elections are moved to November odd number years.

Councilor Romero-Wirth replied at the State level the plan is to have nonpartisan elections in odd-numbered Novembers and partisan elections in even-numbered years. That would get voters used to voting every November.

Member Kovnat applauded the transparency objective but assumed if the referendum failed this would go away.

Councilor Romero-Wirth replied that was correct. The other piece besides the ordinance, is voter education to make clear why they are removing items from the Charter etc.

Member Biderman offered some observations that there were a couple of other points; this is not just for City elections but everything on the ballot people vote for such as irrigation districts. This would save people from having to come out numerous times for so many elections and turnout of 3% of the voters and combine the elections and save money as well.

He thought impact that has not been addressed was the impact on the public financing in terms of when funds are distributed. The City wants to avoid fund distribution happening so late that it would not be useful for the candidates. They could end up with no one wanting public financing because they would never get the money and time.

Councilor Romero-Wirth noted they are aware of the overlay and there is possibly a fix at the State level in the next session. If not the City is also working on an ordinance to fix that.

Chair Miller asked what else would change if the City opts in to the Local Election Act, other than the election date.

Councilor Romero-Wirth replied one was who runs the elections, which would be run in large part by the County. However significant parts like public financing would remain with the City.

Ms. Vigil added that the County would run the election day and absentee and early voting. The nominating petitions, qualifying contributions, seed money, reporting - public and private- and complaints would remain

with the City.

Councilor Romero-Wirth added that special elections would be done by mail.

Ms. Vigil added whether the City opts in or not every municipality holding a special election would be conducted by the County and the municipality would have to pay for each special election. That would be outside of what the City puts into the fund.

Councilor Romero-Wirth noted that HB98 has almost 300 pages.

Chair Miller said that made him wonder what changes would be needed to the City Code.

Councilor Romero-Wirth said much of the City Code is no longer relevant because the County would be conducting the elections and the other items are in place that Ms. Vigil outlined and would not change.

The timing of public financing money is an issue but there are fixes for that.

Ms. Vigil indicated the filing of the declaration of candidacy would be filed at the County level and she needs to clarify, but she thought the bill allows declarations to be filed both at the City and the County. That would need to be worked out with the County.

In addition the release of the campaign-finance monies is tied to when the declaration of candidacy is filed, and they would need a different date for that. They amended the original of what was in the State Election Code to specify a different date and that is specified in an ordinance. All of that needs to be aligned.

Chair Miller liked the idea of having a unified date for elections but wondered what else they were not aware of that would need to be done. He thought it seemed to require a significant cleanup of the City ordinances to go with the bill. Also if the ordinance passed, the City Charter amendment is mandatory. He thought everything had not been thought through yet.

Councilor Romero-Wirth replied if the City opts in, the State would dictate a lot of how the election would be run and things in the ordinance would no longer be relevant. Also the State is allowing the City the choice to opt in or not and if they do opt in and decide down the road they do not want that, they could opt out. That would require a review of any changes to the ordinances.

The sponsor of the bill at the State level explained to City Council that they allowed the ability to opt in and then opt out because they feel the City would not want to opt out once in.

Chair Miller asked to confirm that the amendment to the Municipal Charter has already been set up and would be going to the voters.

Councilor Romero-Wirth indicated it would and is Resolution #2018-055 that went directly to Council and was approved and the BCC (Board of County Commissioners) accepted the resolution as well. The County

will put it on their ballot and the City is essentially in Daniel Ivy Soto's words *"hitching a ride"* on the County elections.

The City would not be conducting elections in November. The County and the Secretary of State have made room in their ballot to ask whether the City Charter should be amended to allow them to move the elections from March to November.

Ms. Vigil explained the Resolution was emailed to the Board and page 4 of the packet is the actual question as it will appear on the ballot. The first page has the BCC's resolution stating their approval to place the question on their ballot for November 6, 2018.

Councilor Romero-Wirth said to further edify changes being made to the Charter, the Charter states they swear in newly elected officials six days after the election. By opting into the Local Election Act people will elect their City Councilors, Mayor and Municipal Judge in November. The Act states they will not take office until January 1, 2019 and is another good point why this is good because voters will not only get in the habit of voting every November but would allow for proper transition for those newly elected officials.

Member Biderman indicated he thought this would be postponed to avoid Councilors having to shorten their terms, but it appears they have decided not to do that.

Councilor Romero-Wirth explained doing it this way it will shorten the terms about 2½ months but if they wait until November 2021 the terms would have to be lengthened by almost a year.

Member Biderman said as a former state judicial educator they found it difficult to get to the municipal judges and train them after they were elected because they took office so quickly. Many of them take the bench without any background and the more that opt in, the better the training will be for judges.

Councilor Romero-Wirth agreed. This is good governance and will make things a lot easier. This allows time for orientation and for the Mayor to put in place a transition team and for City Councilors who have to be on top of a lot within a short time to get to know people they would be working with and the roles they play.

Ms. Vigil addressed Member Biderman and explained for the municipalities that do not opt in, those officials elected in March would not take office until April 1 and would also have a transition.

Member Kovnat asked if there would be a program to educate the public before the November election on the significance of voting for or against the bill.

Councilor Romero-Wirth replied there is, but it would not be as large or as complicated as rank choice voting, but they definitely need to put money and time in to help educate the public. She noted that what they are doing is not difficult but there are a lot of legal pieces to make it happen.

Ms. Kovnat asked Ms. Vigil if her role with the City in educating the candidates would also remain.

Ms. Vigil replied it would and she would conduct all of the education and pre-meetings before the release of candidate packets, and all remain with the City.

Mr. Shandler noted this will also go to the Finance Committee on September 17 and they will be interested in whether the Board made a recommendation. He asked if they wanted to hear public comment.

2) Public Comment

Mr. Harrington said there is a problem with the candidate filing day and as prescribed in the State law is too late for publicly financed candidates to get their money. Senator Ivy Soto has asked for fixes for that problem and he and the Senator have discussed the two alternative fixes.

One possibility would be to allow candidate filing day and ballot qualification day to be determined by the municipality when there is public financing. The other option is to allow candidates who qualified for public financing to automatically be qualified for the ballot and not have a separate filing day. If none of that happens, the City could choose not to require a candidate to have to be qualified for the ballot to get public financing.

The City would have safeguards built in and a candidate that does not qualify, would have to give the money back. A problem with that is a lot of candidates would have spent the money, so it would be better if this was fixed at the State level.

Mr. Harrington thought a bill might need to be introduced in Council during the session to have everything in place if they have an election in November.

3) Board Discussion [discussed above]

4) Possible Action

MOTION: Member Martinez moved to recommend to City Council the adoption of the ordinance, seconded by Member Kovnat.

Member Biderman questioned whether they should include recommending to the voters to adopt the amendment to the Charter.

Councilor Romero-Wirth explained City Council and the BCC have approved the bill and that was not before the Board, but any fix might come before them at a later date.

VOTE: The motion to recommend the resolution be adopted by the Governing Body passed by

unanimous (4-0) voice vote.

III. BOARD MATTERS

Mr. Shandler explained both bills are on the same legislative track and both would be in front of City Council on September 12 as a ministerial act for the request to publish, not as a public hearing. Both bills would go before the Finance Committee on September 17 and before the City Council on October 10 as a public hearing.

IV. PUBLIC COMMENT

There was no other public comment.

V. SCHEDULE NEXT MEETING (IF NEEDED)

No meeting was scheduled.

VI. ADJOURNMENT

Member Luján moved, seconded by Member Biderman to adjourn the meeting at 4:41 p.m. and the motion was unanimous.

Approved by:

Justin Miller, Chair

Submitted by:

Carl G. Boaz for Carl G Boaz, Inc.