



Agenda

DATE 3/7/13 TIME 1:45pm
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**AMENDED
CHARTER REVIEW COMMISSION
March 14, 2013
5:00 pm to 7:00 pm
Genoveva Chavez Community Center
3221 Rodeo Road
Community Room**

1. Roll Call
2. Approval of Agenda
3. Approval of February 28, 2013 Minutes
4. Public Comment
5. Discussion/Possible Action to Remove Frequency of Charter Review from Topics
6. Continued Discussion of Election Topics to include Public Comment
 - A. Term Limits for Elected Officials
 - B. Creation of At Large Districts for City Councilors
 - C. Mail-In Ballots
 - D. Change Municipal Elections to Fall
 - E. Other Election Topics Previously Discussed
 - 1) Ranked Choice Voting by Machine
 - 2) Run Off Elections
 - 3) Off Year Councilors to Resign In Order to Run for Mayor
 - 4) Re-Districting by Independent Commission
 - 5) Limit Contributions to Candidates That Do Not Accept Public Financing
7. Discussion/Possible Action Regarding Future Meeting Agenda(s)
 - A. March 28, 2013 – POLICY ISSUES- Southside Library
 - 1) Create an Auditor/Inspector General Position
 - 2) Salaries to be Set by an Independent Commission
 - 3) Signatures to be Required for Petitions/Recalls
 - 4) Full and Complete Disclosure of Uses for Tax Bonds Prior to Election
 - 5) Broaden Referendum and Initiative Rights of Voters
 - B. April 9, 2013 – POLICY ISSUES – Santa Fe Public Schools Board Room
 - 1) Marijuana as a Low Priority for Law Enforcement
 - 2) Water Conservation
 - 3) Ban on Automatic Weapons and Excessive Ammunition Clips
 - 4) Technological Improvements
 - C. April 23, 2013 – GOVERNANCE ISSUES – Santa Fe Public Library
 - 1) Create Full Time Mayor
 - 2) Mayor to Hire/Fire City Attorney, City Clerk and City Manager
 - 3) Mayor to Act as Chief Executive Officer
 - 4) Other Governance Issues to be Discussed and/or raised
8. Communication from Charter Commission Members
9. Public Comment
10. Adjournment

Persons with disabilities in need of accommodations, contact the City Attorney's Office at 955-6512, five (5) working days prior to meeting date.



Agenda

DATE 3/6/13 TIME 3:20 PM
SERVED BY [Signature]
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CHARTER REVIEW COMMISSION

March 14, 2013

5:00 pm to 7:00 pm

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 - 4) Full and Complete Disclosure of Uses for Tax Bonds Prior to Election
 - 5) Broaden Referendum and Initiative Rights of Voters
 - B. April 11, 2013 – POLICY ISSUES – TBD
 - 1) Marijuana as a Low Priority for Law Enforcement
 - 2) Water Conservation
 - 3) Ban on Automatic Weapons and Excessive Ammunition Clips
 - 4) Technological Improvements
 - C. April 25, 2013 – GOVERNANCE ISSUES – TBD.
 - 1) Create Full Time Mayor
 - 2) Mayor to Hire/Fire City Attorney, City Clerk and City Manager
 - 3) Mayor to Act as Chief Executive Officer
 - 4) Other Governance Issues to be Discussed and/or raised
8. Communication from Charter Commission Members
9. Public Comment
10. Adjournment

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**SUMMARY INDEX
CHARTER REVIEW COMMISSION
Thursday, March 14, 2013**

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	2
APPROVAL OF FEBRUARY 28, 2013 MINUTES	Approved [amended]	2
PUBLIC COMMENT		2-3
DISCUSSION/POSSIBLE ACTION TO REMOVE FREQUENCY OF CHARTER REVIEW FROM TOPICS	Approved removal	4
<u>DISCUSSION OF ISSUES PRESENTED TO DATE REGARDING ELECTION PROCESS:</u>		
TERM LIMITS FOR ELECTED OFFICIALS	Information/discussion	4-6
CREATION OF AT-LARGE DISTRICTS FOR CITY COUNCILORS	Information/discussion	7
MAIL-IN BALLOTS	Information/discussion	7-10
CHANGE MUNICIPAL ELECTIONS TO FALL	Information/discussion	10-13
<u>OTHER ELECTION TOPICS PREVIOUSLY DISCUSSED:</u>		
RANKED CHOICE VOTING BY MACHINE	Information/discussion	13-18
RUN-OFF ELECTIONS	Information/discussion	18
OFF-YEAR COUNCILORS TO RESIGN IN ORDER TO RUN FOR MAYOR	Information/discussion	18-20
REDISTRICTING BY INDEPENDENT COMMISSION	Information/discussion	20-23
LIMIT CONTRIBUTIONS TO CANDIDATES THAT DO NOT ACCEPT PUBLIC FINANCING	Information/discussion	23

ITEM

ACTION

PAGE

**DISCUSSION/POSSIBLE ACTION REGARDING
FUTURE MEETING AGENDA(S):**

All Agendas approved as amended 23-25

MARCH 28, 2013 – POLICY ISSUES – SOUTHSIDE LIBRARY

All Agendas approved as amended 23-25

CREATE AN AUDITOR/INSPECTOR GENERAL
POSITION
SALARIES TO BE SET BY AN INDEPENDENT
COMMISSION
SIGNATURES TO BE REQUIRED FOR PETITIONS/
RECALLS
FULL AND COMPLETE DISCLOSURE OF USES FOR
TAX BONDS PRIOR TO ELECTION
BROADEN REFERENDUM AND INITIATIVE RIGHTS
OF VOTERS

**APRIL 9, 2013 – POLICY ISSUES – SANTA FE PUBLIC
SCHOOLS BOARD ROOM**

All Agendas approved as amended 23-25

MARIJUANA AS A LOW PRIORITY FOR LAW
ENFORCEMENT
WATER CONSERVATION
BAN ON AUTOMATIC WEAPONS AND EXCESSIVE
AMMUNITION CLIPS
TECHNOLOGICAL IMPROVEMENTS

**APRIL 23, 2013 – GOVERNANCE ISSUES – SANTA FE
PUBLIC LIBRARY**

All Agendas approved as amended 23-25

CREATE FULL TIME MAYOR
MAYOR TO HIRE/FIRE CITY ATTORNEY, CITY CLERK
AND CITY MANAGER'
MAYOR TO ACT AS CHIEF EXECUTIVE OFFICER
OTHER GOVERNANCE ISSUES TO BE DISCUSSED
AND/OR RAISED

COMMUNICATIONS FROM CHARTER COMMISSION
MEMBERS

Information/discussion 25-26

PUBLIC COMMENT

None 26

ADJOURNMENT

26

Melessia Helberg, Stenographer

**MINUTES OF THE
CHARTER REVIEW COMMISSION
City Hall Chambers
200 Lincoln Avenue
Thursday, March 14, 2013**

CALL TO ORDER.

A meeting of the Charter Review Commission was called to order by Steve Farber, Acting Chair, at approximately 5:00 p.m., on Thursday, March 14, 2013, in the Community Room, Genoveva Chavez Community Center, 3221 Rodeo Road, Santa Fe, New Mexico.

1. ROLL CALL

Roll call indicated the presence of a quorum as follows:

The Honorable Patricio Serna, Chair [arrived late]
Steven G. Farber, Acting Chair
Roman Abeyta
Brian Patrick Gutierrez
John B. Hiatt
Houston Johansen
Daniel Werwath

MEMBERS EXCUSED

Nancy R. Long, Vice-Chair
Carol Romero-Wirth

OTHERS ATTENDING

Jamison Barkley, Assistant City Attorney
Irene Romero, City Attorney's Office
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance.

2. APPROVAL OF AGENDA

MOTION: Commissioner Hiatt moved, seconded by Commissioner Johansen, to approve the agenda as presented.

VOTE: The motion was approved unanimously on a voice vote.

3. APPROVAL OF FEBRUARY 28, 2013 MINUTES

The following corrections were made to the minutes:

Page 6, paragraph 2, line 1, correct as follows: "...he is in favor of this..."

Page 31, paragraph 9, move "finish discussion on Mayor" to April 25, 2013 meeting [so Vice-Chair Long will be here]

MOTION: Commissioner Hiatt moved, seconded by Commissioner Abeyta, to approve the minutes of the meeting of February 28, 2013, as amended.

VOTE: The motion was approved unanimously on a voice vote.

4. PUBLIC COMMENT

A copy of *Requirements for Runoff in New Mexico Charter Cities*, dated March 14, 2013, entered for the record by Karen Heldmeyer, is incorporated herewith to these minutes as Exhibit "1."

A copy of the URL [Uniform Resource Locator on the worldwide web] for the Video of LWV San Jose Presentation on RCV, entered for the record by Karen Heldmeyer, is incorporated herewith to these minutes as Exhibit "2."

Karen Heldmeyer, 325 E. Burger, said there was some discussion at the last meeting about runoffs, and how runoffs weren't discussed because of conversations on ranked choice voting. She said Albuquerque just changed its rules, and she did do research on the runoff rules for other charter cities and handed those out [Exhibit "1"].

Acting Chair Farber asked if that is the memo she did which was dated January 20, 2013, and Former Councilor Heldmeyer said no.

Former Councilor Heldmeyer said the League of Women Voters was asked if they could find more information from other Leagues on the question of ranked choice voting, and through Yolanda Vigil, we were able to find a video on the San Jose League of Women Voters on ranked choice voting, and there is

a website attached to it with all kinds of links. She said the video runs 40 minutes and is a very clear presentation on the pros and cons of ranked choice voting. She said that URL is written up for this Committee [Exhibit "2"]. She said the video gives very specific mathematical demonstrations in real time, and is worth looking at.

Former Councilor Heldmeyer said they found out today that there are emails which are being received by the Commission which the public can request, but only if the public knows they exist. She said, "My suggestion would be that for people or groups that are coming to every one of these meetings that you have a sign-up sheet, and those groups can sign up for those emails, so we know what's going on behind the scenes as well as in front of the scenes. Once you're on the list, it won't take any more effort from Irene to just add a few names to the list. So that is our suggestion on that. I will send Irene electronic copies of what I'm handing out today because with the links on it, it's easier if they're electronic."

Acting Chair Farber asked Councilor Heldmeyer if she is looking for email communications that any member of the Charter Review Commission has with anyone else, or just the emails sent out from Ms. Romero to the Commission about trying to schedule a date, or figure out the agenda, or clarify that kind of issue.

Former Councilor Heldmeyer said she doesn't know what kinds of emails Ms. Romero sends out, but there have been some that are substantive that have gone to the Commission they just heard about. She said, for example, if Ms. Romero sends out a legal opinion or a URL where information is located, the people who are following this process should be on the list.

Commissioner Hiatt said "substantive" is the key word.

Acting Chair Farber said the communications essentially have been about process and how to open the process so the public knows what is going on, as opposed to substantive discussions that anybody on the Commission is having about any of the topics to be considered and discussed. He said, for example, over the past two weeks, the only communications were to make clear that we had the agenda for the next month or two in line based on our discussions.

Commissioner Werwath said Ms. Romero did send out a list of charter cities and the links, but that is the only substantive thing that has been sent out. The legal briefs are always presented at the meetings and entered for the record. He said he thinks this is a great idea.

Acting Chair Farber said there will be private discussions, talks on the phone and such, noting the Legislature is debating this right now.

Councilor Ron Trujillo welcomed the Commission to District 4, and thanked all of the Commissioners on behalf of the Council for serving on the Commission and for all of their hard work. He said he reviewed the agenda, and the Cardinals had an easier time choosing a Pope than this Commission has in doing its work. He said the recommendations definitely will help the Governing Body to do the right thing for Santa Fe.

5. DISCUSSION/POSSIBLE ACTION TO REMOVE FREQUENCY OF CHARTER REVIEW FROM TOPICS.

Commissioner Hiatt said one of the topics which came to the Commission from Joseph Maestas had to do with the frequency the Charter Review Commission meets. He read 10.01 from the Charter into the record as follows: "10.01. *Charter review. A charter review commission shall be appointed as needed, but not less frequently than every ten years.*" He said this sentence seems to make this recommendation obsolete.

MOTION: Commissioner Hiatt moved, seconded by Commissioner Werwath, to remove Frequency of Charter Review from topics to be considered and discussed.

VOTE: The vote was approved unanimously on a voice vote, including a vote by Acting Chair Farber.

6. DISCUSSION OF ISSUES PRESENTED TO DATE REGARDING ELECTION PROCESS:

A. TERM LIMITS FOR ELECTED OFFICIALS

Commissioner Abeyta said he worked for a government that had term limits, and perhaps 8 years isn't enough. However, he prefers having terms limits. He said his experience was we always had good participation because of term limits. He said incumbents are hard to beat and they have an advantage, and it could discourage people from running for office because of that advantage. He said he could change his opinion when it comes time to vote on this issue, but he generally favors term limits and believes it would be a good idea to have term limits.

Acting Chair Farber said one of the legal memoranda about which Commissioner Werwath was speaking, was a memo the Commissioners received from the City Attorney that said term limits do not apply to the Governing Body of a municipality. He said if we were somehow to do that, and there was a motion later, it would have to be something prospective.

Commissioner Abeyta asked if we should weed this out so we can pay more attention to those things we know that are in the law over which we have authority to discuss. He doesn't want to spend a lot of time on something on which we have no authority to act.

Acting Chair Farber said when he ran for Council, he ran against a very popular incumbent and defeated them with 56% of the vote. Acting Chair Farber said his argument is that the term limits are the election. If you're doing something and the public doesn't appreciate your positions, you're out if somebody good runs against you. He thinks we have lost good people at the County because of term limits.

Commissioner Abeyta said they have also lost bad people because of term limits.

Commissioner Werwath asked if we could impose a limit of 2 or 3 consecutive terms.

Geno Zamora said, "Unfortunately what has been clarified in case law, is that you can't have an end to a term at the municipal level. Generally speaking, only the state-wide offices have terms to them, which was one term and done. You couldn't have a consecutive term, and that, in and of itself, is a term limit. That was later changed to allowed to allow two consecutive terms for the state-wide candidates, and the Constitution was amended to provide term limits for County Commissioners and for PRC members, and maybe some other offices that I can't remember off the top of my head. What's probably not in your packets, but you may have been briefed by Marcos in the past, is that it has not yet been extended to municipalities, so the phrasing in the original Resolution was to consider whether or not to put language in that says, if the Constitution is amended to allow term limits for Councilors, do you put it in now and then that goes in. But very specifically, with the City of Albuquerque, it was found term limits were not allowed under the New Mexico Constitution for municipalities."

Acting Chair Farber said he doesn't believe anything was introduced by the Legislature in this session to provide for term limits for municipalities, and asked if he is correct.

Mr. Zamora said he is unaware of any introduction, and has not heard anything through the media or seen anything in the briefings we receive from the New Mexico Municipal League.

Commissioner Hiatt asked Mr. Zamora to weigh-in on the issue of whether or not this Commission should take up and decide issues currently not permitted by State law, but could, if we passed them, eventually become successful under State law. He said, "I'm loathe to think about things that I don't have to think about. But Commissioner Abeyta's first comments are that we heard this before from folks, we know what Marcos had said, and so I'm kind of interested in your opinion as to whether or not this Commission ought to be taking these matters up. Not that I'll follow it necessarily, but I'm interested in it."

Justice Serna arrived at the meeting

Mr. Zamora said, "I will provide you the same answer that I do the City Council when they ask for my position on a policy item, which is, I'm an advisor, but not a decision-maker, and so your options are to take this on and place it in the Charter with the caveat that it's not effective until there's an amendment change. The choice of whether you consider that is up to you and the feedback that you receive by the Committee. Either way, the two options are there. One, postpone the discussion and focus on other discussions for a time that the Constitutions allows for it. Or, your option is to go through the debate of this issue, and choose to adopt it when it would be effective in the future, but the decision on pursuing it is really up to you."

Acting Chair Farber noted that Justice Serna has arrived at the meeting.

Justice Serna said he is ill with the flu, but he wanted to attend today and asked Commissioner Farber to continue to preside over the meeting.

Acting Chair Farber updated Justice Serna about the current discussion on term limits.

Commissioner Werwath asked if the current and former Councilors in the audience have comments on this subject.

Former Councilor Heldmeyer said she beat a not very popular incumbent City Councilor. She said personally, she doesn't believe in term limits, and believes the ballot is the term limit. She knows the problems of running against incumbents, because they can raise a lot of money. She ran against an opponent who raised the most money that had ever been raised in a Council race to that point, and both times she won. She said now, with public financing, it is somewhat even less of an issue than it was when she ran. She said, "I understand there's name recognition, there's laziness, all those issues, but I just think if people don't like the person who is representing them that they can run. Our problem has been getting good people to run against incumbents, but if there were term limits and those people were gone, the problem would still be getting good people to run."

Councilor Trujillo said, "Well Steve, I guess I'm a lot like you. I went in against the incumbent and I managed to win, so it can be done."

Acting Chair Farber asked Councilor Trujillo the vote majority of his win.

Councilor Trujillo said, "Two votes. So, yes there may be good people that do get discouraged because you do see the name recognition, but I really feel in my heart if you really want to serve, you go out there, you show the people what you want to do, what you plan on doing and you follow through on that. My thing with term limits – do I truly think somebody can possibly finish what they want in 8 years. I thought I could. Truthfully, there are some things that I am still working on. I'm still trying to get a teen center for this side of Santa Fe and a senior center for this side of Santa Fe. I've been working on that for 6 years now. It's hard. So, sometimes, you can't finish what you started and sometime you can. But as Geno said, I guess, by Charter it's not allowed. If you're going to make these decisions, we at the Council will take them into consideration. To me, if the majority of us wanted term limits, I'd be fine with it, I really would. I've always said new blood is good blood. New ideas, fresh ideas are always welcome to a City as a City grows. Things change, and we can't stay in the past all the time. I, for one, would welcome term limits if that does come. But I'll just let you know right now, I'm running for a 3rd term, because I've got things to finish."

Acting Chair Farber noted that this wonderful facility, the GCCC, got started when he was on Council. He said there was a group who wanted an ice skating rink and a group who wanted a public facility on the south side that was a gym-type, and it all got together in his first two years on the Council. He said somehow they made a decision to put up a plaque with the names of the Councilors at the time. He said it took 2-3 consecutive Councils to get this done. He said we'll have that discussion at some point.

Mr. Johansen said he agrees there are arguments on both sides of the issue. However, if we were to put this in the Charter it won't go into effect until the Legislature changes the law, which tells him we probably shouldn't continue down this path much longer. He said we will just be "spinning our wheels here and potentially just mucking up the City Charter which already is longer than the Constitution of the entire country. And I would rather have things that already are going to come in effect now, and force things we can't do now, down the road to another Charter Commission when that possibility exists."

B. CREATION OF AT-LARGE DISTRICTS FOR CITY COUNCILORS

Acting Chair Farber said this is the same kind of legal issue as term limits in creating at-large districts for City Councilors, noting we have a memorandum from Marcos Martinez on term limits. He said we've been told it isn't permissible.

Councilor Trujillo said, "It's not permissible, and one of my fears has always been that if we have at-large elections, we would end up with 5 City Councilors from District 1. Guess what, something is before the Council, and we don't want it in District 1, let's shove it to District 3, let's shove it to District 4. You've got two Councilors in each District having a say-so. That's always been what I feared with electing at-large. You'll get 5 Councilor from one District and that District is always going to win."

Acting Chair Farber said that's probably a stronger legal argument, because it's not just a matter of what the State Legislature does, it's a matter of Constitutional law as he understands it.

Former Councilor Heldmeyer said, "The other thing I would add is, again, think about finances. It's much more expensive to run at-large, than it is to run in a District. And one of the reasons Courts have overturned going from districts to at-large is the fear that certain money interests would take over the elections because it takes 4 times as much money to run at large. And that's something to think about."

Commissioner Abeyta said, like the last issue, this Commission should consider not considering these items that aren't allowed right now. We have a lot of work before us, and a short time to do it, and there are arguments on both side which would take a lot of debate for nothing. He said we should move on to the items that are allowed and focus our time on those.

Commissioner Werwath said he concurs with Commissioner Abeyta around things precluded by law, and we should move forward and focus on the substantive items.

After further discussion, it was the consensus among the Commission to put Items A and B on the next agenda for consideration of removal of these items from further consideration.

C. MAIL-IN BALLOTS

Acting Chair Farber said we haven't heard much about this, and asked if someone can address this issue.

Ms. Vigil said she read the League of Women Voters position on this, and noted it is allowed under NMSA §1-23-3, which provides, "*Notwithstanding any other provision of law and regardless of the number of eligible votes within the boundaries, a local government may by resolution of its governing body conduct by all mail ballot any bond election, any election of the imposition of a mill levy or property tax for a specified purpose, or any special election at which no candidates are to be nominated for or elected to office.*" She said right now municipalities are permitted to do all mail ballot elections.

Commissioner Hiatt asked Ms. Vigil if this has been considered since the City has the authority, or if the Commission needs to change the Charter in order to do this.

Ms. Vigil said the Charter does not have to be amended to do this, because it is already allowed under State Statute. She said in the 1990's there was the possibility of doing a mail-in ballot in Santa Fe, it was researched it, but the Council did not go forward with it, so she has not conducted an all mail-in ballot election.

Commissioner Hiatt asked if she knows the reason the Council rejected it.

Ms. Vigil said at that time there was no purge of the voter rolls to remove voters who hadn't voted in an election for some time, or had changed their residence, or filed updated information with the County Clerk. This meant that a ballot could be going to a residence where that person no longer lived. She said in recent years, the Secretary of State and the county clerks have been purging the voter roles of voters who haven't voted after so many elections, noting she is unsure of the criteria for the purge. She said in the 90's it was the idea that a lot of the ballots might not get to the correct person at the correct address. She said the bottom line is it is permitted and we could do it if the Council decided to do so for non-candidate elections.

Acting Chair Farber said then all that would be required would be for the Council to adopt a Resolution for a mail-in election.

Ms. Vigil said this is correct, noting the Resolution would state, for example, it would be an all-mail ballot, there would be no polling places, providing for mailing of ballots 35 days before the election and providing the ballots could be received up to a certain time on the day of election.

Jodie Larson, 107 Tierra Rica, representing the League of Women Voters, said the League did a study on mail ballot elections, which resulted in the position as stated by Ms. Vigil. She said she was the chair of the study committee, and she did a survey of all the county clerks, and 9 counties responded. She said, of the 5 counties which had conducted at least one mail ballot election, 4 reported higher voter turnout than in comparable elections with polling places. She said Eddy County wasn't sure about it, because "it hadn't done a special election similar enough to be sure that they had actual higher voter turnout." On cost, everyone agreed they don't save money. Printing and mailing ballots is expensive. It doesn't seem to be more expensive to conduct elections this way, and the cost essentially is a wash. 8 of the 9 counties that responded said they would be happy to do a mail ballot. The only one that responded negatively, was Dona Ana County because of a lack of confidence in the postal service.

Ms. Larson continued, saying all of the other counties that responded that had conducted mail ballot elections said they would advise other counties to do so. The most frequently cited advantage was greater voter participation, followed by ease of voting for the voters and ease of conducting the election for the clerks. The last category includes less training for the officials, fewer logistical problems, and a bonus of returned undeliverable mail from which forwarding addresses can be collected and posted, which in turn could lower the costs of future elections. Only one clerk responded with a disadvantage, which is the

potential disenfranchisement of voters who don't live where they are registered, and this was from Bernalillo County.

Ms. Larson said in interviews she conducted with the Santa Fe and Los Alamos County Election Bureau Chiefs, they commented on rejected or spoiled ballots. She said if a voter makes a mistake on a ballot at a polling place, a poll worker can issue a new ballot to the voter. However, a ballot marked erroneously that is mailed back is rejected and that vote is not counted, but that's a theoretical disadvantage. In practice, the number of spoiled ballot has not been greater in the elections conducted in New Mexico, at least up to the Fall of 2010 when she conducted the survey.

Commissioner Hiatt said it is interesting that the City of Albuquerque is conducting a mail ballot election currently. He said there was a news article which said about 4,500 of the ballots weren't counted because they hadn't signed the ballot. He said that was about 10% of the ballots, and we could learn from that. He said, "More specifically, to your support of this, did you want us simply to consider that, or have you taken a position, or why would we want to expand what is already available to the City Council if they want to do this kind of election."

Ms. Larsen said the League position just urges any local government to consider this and the League does support using it, because at time of the study the pros outweighed the cons. She said if a local government is considering this kind of election, at that time the League would stand up and be counted in favor.

Commissioner Hiatt asked if the League proposes that this be expanded to candidate elections, or is it satisfactory to limit it to issue elections.

Ms. Larson said this was a local study, and because State law allows only the kinds of elections about which Ms. Vigil talked, the League didn't go further. She said, "If the League did that, we'd have to a state-level study, and we just wanted to do it at the local level."

Commissioner Gutierrez asked when was the last time a special election was held outside of a regular municipal election.

Ms. Vigil said they have had special elections on the questions of a Commission-Manager form of government, and two Charter elections, the first an unsuccessful election to adopt a Charter, and the second a successful election to adopt a Charter..

Acting Chair Farber said the first Charter was adopted in 1997.

Ms. Vigil said the last special election would be on the Charter or Commission-Manager form of government, which were almost back to back.

Acting Chair Farber said since State law allows the Council to do this, we could decide to mandate that these kinds of elections should be mail ballot elections, or do a recommendation that the Council should consider mail ballot elections. He said, however, this may be something that does not need to be in the Charter.

Ms. Larsen said it isn't a part of their position, but the consensus discussion among the members was that in these kinds of decisions, local governments should go on a case-by-case basis at the advice of the election chief. She said personally her recommendation is to leave it in the hands of the local government, and if they wanted to say "listen to Yolanda," they would agree with that.

Ms. Vigil said there have been questions which could have qualified for a separate special election, but in the interest of saving money, the Governing Body usually tries to combine those with a regular election, so we don't have separate special elections. She said the ones she referenced were out of the ordinary and were not in the cycle to be included at a regular municipal election.

Commissioner Hiatt suggested putting this on the next agenda for a decision. He likes the idea, but it appears the City Council already has the authority to do this, and if they listen to the City Clerk, that would make sense as well.

Commissioner Johansen said he agrees.

Commissioner Werwath said, in thinking about the end product which goes to the City Council, even if it is a subject that we removed from consideration, some kind of information about it should be included in that report.

Acting Chair Farber said we could follow in the steps of the previous Commission which issued a report, and we can include that information in it if we decide to do a report, which he thinks we should. The report could say we didn't consider these things for the Charter, but we recommend, for purposes of City governance, that the City consider mail-in ballots whenever practical. He said if we put this on the agenda for the next meeting for removal, we aren't saying don't do it, we are just taking it off for a Charter provision.

D. CHANGE MUNICIPAL ELECTIONS TO FALL

Acting Chair Farber said former Councilor Heldmeyer talked about fall elections.

Former Councilor Heldmeyer said in January, the Commission received a list of Charter cities and when they hold their elections. She has done a little research since then. She said the timing of the current elections are a terrible time for people and candidates to get out, noting the weather can be bad for voter turnout. She said you wonder if people are going to be able to get out to vote. She said this is one reason the other charter cities have moved the election date. She said another reason to change the date, is to hold it at a time when people think of elections, the first Tuesday in November, for example. She said there also are technical things having to do with the City Council which make it better to move it. One is

that the election would not be happening during the Legislature. It would also give new Governing Body members experience in City government before working on the City budget. She said the budget is the single biggest policy decision made by a Governing Body. She said currently people are elected and "boom they're right into the budget cycle."

Former Councilor Heldmeyer said possible disadvantages in changing dates initially might confuse voters. She said the first time this is done, it may provide incumbents with more time in office. She said it could be as much as a year, if the election is to be held in the off-year for whatever reasons. She said both Ms. Vigil and Denise Lamb have expressed concern about availability of voting machines, given the deadline of 42 days prior to and 30 days after an election when a municipal election cannot be held. She said there are specific ideas about why the change might cause problems. She thinks it is important for this body to discuss the pros and cons and see if it is worth discussing with the City Council as a way to increase participation in the election process, which is what we are all interested in happening.

Commissioner Hiatt asked if this recommendation came from Councilor Heldmeyer specifically or from the League of Women Voters.

Former Councilor Heldmeyer said it comes from her specifically and it is not the League's position.

Commissioner Hiatt asked who else we should talk to besides Yolanda Vigil in this regard, and Former Councilor Heldmeyer said Denise Lamb.

Acting Chair Farber asked if this Commission can have some input from the City with regard to how this might impact City staffing, is there a cost to the City in doing this, does it interfere with staffing in the City Clerk's Office, and what are the legal twists involved in extending someone's term if that happens, and what happens if someone doesn't want to accept an additional 7 months.

Mr. Zamora said, "Mr. Acting Chair you have actually answered most of the questions in that discussion which is this. You can't contract the terms, but you could extend the terms, and by extending the terms you could do it in the language of the Charter, saying the existing terms are extended by 7 months, and then it goes on a rotating basis at that point in time. To gather the information, as far as what effect it would on staffing, the elections don't affect the rest of the staff, other than the Clerk's Office. So what I would do, is I would walk 10 feet over to Yolanda and say, hey Yolanda, how does it affect your staff. I think she can give you some of those answers right now, without waiting."

Commissioner Gutierrez asked how much push does a Freshman Councilor have on the Council going in and dealing with budget issues.

Acting Chair Farber said, "I'm not sure where I come down on the final vote of this kind of thing, but the strongest argument, other than increasing turnout, if it fact it would increase turnout, is it is really difficult for a new City Councilor to deal with the budget when you get elected in March and all of a sudden you get that first packet, and then the budget hearings are going to start a month later. I remember David Sena coming to me and saying, I want to sit down with you and explain what you just got yourself into. It is a huge deal, for sure. That's not to say I'm necessarily in favor, but it takes a lot of work."

Ms. Vigil said, "As Councilor Heldmeyer said, it is a 7 month period from when we start our election process to the election date. We start with Nominating Petitions as well as the Public Campaign Financing. We start in August. We release candidate packets in September and that goes all the way through to the election. My big concern is, if we change the election, as far as staffing issues, usually staff likes to take off the summer months to spend time with their kids, to go on vacation. And right now, we're a very small staff. It's myself, and 3 other employees, as well as I utilize other employees from the mail and duplicating section and in the graphic sections. So we're actually very small. We hire one additional person either part time or full time, whatever we need. But my issue is just vacations with their families, because we would probably have to start releasing candidate packets in April to get to an October election."

Commissioner Hiatt asked what it means when you have to leave the machines vacant or empty.

Ms. Vigil said you cannot hold an election 42 days prior to or 30 days after a state-wide, community college or a school board election. She said the machines have to be secured with all the data from those elections. She said also there is a limited number of machines.

Commissioner Werwath asked if it is possible to hold a municipal election on the same day as a general election.

Ms. Vigil said there is was a section in the Election Code allowing municipalities to hold a combined election with the general election. However, it is how you work the different ballots, to separate County and municipal voters. She said she would have to research the statutes to see if it is still allowed.

Former Councilor Heldmeyer said the only charter city which does that is Los Alamos, but that is a combined city-county government and it is a very different kind of election than that of other municipalities. It is a partisan election unlike any other in the State, and it isn't a good role model. She said she would have to research that particular issue as well.

Former Councilor Heldmeyer said, "Let me just throw this in as aside. If you look at the San Jose League of Women Voters video that we've sent, in California they do have the local elections at the same time as the state-wide elections. And that does increase turnout, but I don't know, I'll have to do the research on that."

Ms. Vigil said NMSA §3-8-9 provides, "*Except as otherwise provided by law, a municipal election may be held concurrently with, but shall not be held within 42 days prior or 30 days after any statewide special, general or primary election or any regular school district election.*" She said you need to bear in mind that statewide elections are partisan and municipal elections are non-partisan.

Commissioner Abeyta said it seems having the election in the odd years eliminates a lot of these problems and issues if you are going to do it in the fall. He said the only charter elections in the fall are in the odd years, and they probably found that a lot of the problems are eliminated in doing it that way.

Ms. Vigil said she doesn't believe it could be held later than March in the even numbered years, just because of the timing between the June primary and the November general election, so it would have to be in the odd years.

Former Councilor Heldmeyer said Denise Lamb said it is technically possible, but she wouldn't want to put her staff through that.

Acting Chair Farber said, "My observation is that there's a benefit to trying to maintain, to the greatest extent possible, the non-partisan nature of local municipal elections. If you put it with a general election, it's going to get mixed up with the political party. And I think that someone who runs for Council, being aware the first year that's when the budget issue is. But you'll learn it. It's not a reason by itself, but it clearly is a burden on anybody who first gets elected. You've really got to commit yourself to working real hard to understand if you've not done it before, and try and understand when you're running for election if you got elected what you're looking at having to do."

Commissioner Gutierrez asked if there is a history of the reasons for holding elections in March.

Ms. Vigil said that is set by State Statute, noting as long as she's been around, the election has been the first Tuesday in March of every even numbered year.

Justice Serna said it has been that way for many many years.

Acting Chair Farber said then Santa Fe can do what it wants because it is a home rule/charter City and Mr. Zamora said that is correct.

Commissioner Gutierrez asked the history of why our elections are held on the first Tuesday in March, of the even numbered year.

Ms. Vigil said it is because it was set at that time by State Statute.

E. OTHER ELECTION TOPICS PREVIOUSLY DISCUSSED:

1) RANKED CHOICE VOTING BY MACHINE

A Memorandum, with attachments, dated August 9, 2011, to Mayor Coss and City Councilors, from Yolanda Y. Vigil, City Clerk, regarding Ranked Choice Voting Capabilities, is incorporated herewith to these minutes as Exhibit "3."

Commissioner Hiatt said he would like to hear what the City Clerk thinks about this issue.

Ms Vigil said, in response to questions from Rick Lass, she and Mr. Zamora met with the Secretary of State, noting the response from Bobbie Shearer, Director, State Bureau of Elections, that says the current voting systems do not possess that technical capability. Since municipalities are not authorized to

own their own voting machines, municipalities would have to approach the Legislature for a statutory change to allow them to do so. Please see Exhibit "3," for the complete text of Ms. Shearer's letter.

Ms. Vigil said in March 2011, she spoke with Denise Lamb, and asked her if the M-100 tabulators could be used for ranked choice voting. Ms. Lamb responded that the M-200 precinct tabulator firmware does not have the capability of tabulating ranked choice contests.

Commissioner Hiatt asked Ms. Vigil what the cost would be to purchase machines which would be capable of tabulating ranked choice contests.

Ms. Vigil said she doesn't know, but can research that.

Acting Chair Farber said the City could ask the County to provide the machines.

Ms. Vigil said the County already provides the machines.

Acting Chair Farber said he understands, however, the City could ask the County to provide the appropriate machines for ranked choice voting.

Ms. Vigil pointed out that the Secretary of State has to certify machines which are authorized to be used in New Mexico.

Mr. Zamora said, "The distinction is this. State law only requires purchase of machines to perform as they do, which is a straight ballot. There is no requirement that they purchase anything other than that. So the counties purchase machines that handle a straight ballot. The Secretary of State only certifies machines in accordance with the law, so they only certify machines that provide the straight ballot. And that's why the Secretary of State has recommended you have to go in and get legislative changes either to allow cities to purchase their own machines, or legislation that will require counties to provide ranked choice voting machines and require the Secretary of State to certify the ranked choice voting machines."

Mr. Zamora continues, "Now, as you look through this packet, you are going to see a copy of an email from me to Mr. Lass dated August 22, 2011, because there are issues that could be considered by the Charter Commission. It's 2-3 pages back on the back page. It's dated Monday, August 22, 2011. I'm going to start at paragraph 2:

Thus for ranked choice voting to occur using vote tabulation machines, an amendment to state law would be required to purchase, or require the Secretary of State to impose specifications that all voting machines be technological capable of handling ranked choice voting.

Paragraph 3, addresses an issue raised by Mr. Lass that, well then we can just do hand count on municipal elections. And so, as for hand tabulations, starting in paragraph 3:

The City's Charter only allows for the use of equipment and software for ranked choice voting. As a result, you would need to pursue the following to enable hand tabulation: 1) a charter

amendment expanding the method of ranked choice voting to include hand tabulation, and 2) pursue sufficient appropriation to the City Clerk's Office for staffing an entirely hand counted election noting that in March 2010, there were 47,000 with approximately 27% turnout. Of course the tradeoff of a fully handed counted election with ranked choice added for the mayoral and council races would be that election results would not likely be available for several days after the election.

And by Ordinance the election must be fully counted within 3 days. That's an aside that I'm adding that I've learned since."

Mr. Zamora continued, "There is that issue that could you consider if you wish to retain ranked choice voting, is allowing for hand tabulations and then probably make their recommendation to the Council to provide sufficient appropriations for that."

Commissioner Werwath asked if it is possible to have a hybrid where ranked choice voting would be triggered only where the biggest vote getter still has a minority of votes, and that would trigger a hand recount. Could there be a hybrid of machines on hand to deal with that situation.

Mr. Zamora said, "The difficulty that you have is the ballot that you feed into the machine. So the ballot must work with a straight vote election. Essentially, what you would have to do is come up with a system that counts everything, then you have a rank, that you then pull out the ballots and go by the rank. Theoretically, that could be done. I think one thing to consider is what Albuquerque has considered in its recent charter amendment, which is requiring a certain percentage and then having a secondary runoff election. That has proven to work in Albuquerque. Originally, the percentage was 50%, the election they're in the...."

Mr. Zamora continued, "Let me back up. The original amendment was that a candidate must get 40% or more, and the recent election was to change that to 50% or more for one candidate. Otherwise, a second election for runoff. Has there been a result in that."

Ms. Vigil said it passed and it is now 50%.

Mr. Zamora said, "That's the other option. You can do one election and try to rank them. We don't have the machine and software technology to do that, or go to a second and separate election."

Acting Chair Farber said when he said we already had discussed it, "we've heard from Karen, we've heard from John Otter, we hadn't heard from Yolanda's perspective, and now we're hearing that."

Former Councilor Heldmeyer said, "Could I say one thing that Geno said, but may have slipped by you quickly which is, the way the current Charter is written, you would have to amend it to do hand counting."

Acting Chair Farber said we understand that. He said, "There is a provision in the Charter which is unable to be implemented, so we have to, on some level decide do we allow that to go forward. What do

we do. Do we do nothing. Do we make some suggestions to the community to see what the community wants to do about that issue. We did get some of the charters, not all, by email. Is every single one there. I didn't read them all. I don't know who has. But I tried to look at Las Vegas [New Mexico], because I heard Las Vegas has this hybrid ranked choice. I was wondering how that works, because in reading it, I could not understand it. They don't have machines, I guess."

Former Councilor Heldmeyer said, "No. They don't, but the same problem appears. Las Vegas has two different parts to its charter. It has what was in it before, I think it's 40%, it might be 50%."

Acting Chair Farber said then they have a runoff provision, but they also have a ranked choice provision.

Former Councilor Heldmeyer said, "Yes, and then they have a ranked choice which is very similar to what we say which says, when appropriate machine are available they will have ranked choice. And they have taken that to mean they don't have ranked choice now. They have had one election since the Charter passed, and they did have one election within that election cycle that required a run-off and they did have a runoff.

Commissioner Werwath said I would still like to hear from the Clerk about that, both hand tabulation and the idea of replacing ranked choice with runoffs.

Acting Chair Farber asked Ms. Vigil to address the issue from the City Clerk's perspective and give us a sense of the fiscal impact of a run-off election on the City. And if you're not prepared to do it today you can do it at another meeting.

Ms. Vigil said she isn't prepared to discuss that today. She said an election costs about \$90,000. She said she would like to think about the impacts of hand tabulation and get back to the Commission, noting there are staffing issues involved. And by State law, the canvass must be completed the Friday after the election, and the candidates elected are sworn by the following Monday, neither of which could be done in that time frame.

Acting Chair Farber asked for something in writing by the next meeting.

Commissioner Hiatt said it seems that Mr. Otter is the proponent of all of this, and asked if we have heard from anybody else other than Mr. Heldmeyer and Mr. Otter. He said he reread Mr. Otter's paper, and he underlines the portion which says "when it's financially feasible to have machines that can do this." Commissioner Hiatt said, "If that's all we're focused on, and there's nobody else to talk about it, I'm a little concerned we're not getting it. I'm trying to figure out the impetus to go forward and think about it, because I don't see us getting more money to do this."

Acting Chair Farber said former Councilor Cris Moore first started talking about it. And then it evolved, and the last Charter Review Commission recommended ranked choice voting. And Councilor Heldmeyer and other City Councilors put into the provision that they accept the recommendation, but put in the provision with regard to machines. And that was approved by the electorate. He said, "And Mr. Otter

would say, and other people said, they thought they were getting ranked choice voting and didn't realize what that added phrase was with regard to the voting machines. And they perhaps voted for the Charter thinking there would be ranked choice voting. But it hasn't been implemented because of that provision."

Former Councilor Heldmeyer said there are other people that have no idea what ranked choice voting means.

Commissioner Gutierrez said Mr. Otter led him to believe that you could use the current voting machines and if there wasn't a clear and decisive winner, then it would go to hand count. Is that correct.

Ms. Vigil said, "Yes and no. As Geno and Karen stated, the way the provision is stated in the Charter it allows for ranked choice voting by machine, not allowing hand-tabulation."

Commissioner Werwath said Commissioner Gutierrez is speaking of the technical aspect and not what is allowed under the Charter. He asked if the Charter could be changed to reflect that the initial count is done by machine, and if there is not a decisive winner, can a successive count be conducted by hand."

Ms. Vigil said yes, if the Charter was amended.

Commissioner Gutierrez said then the 1,000 current machines are capable of doing ranked choice voting.

Ms. Vigil said the current machines are not capable of doing ranked choice voting. It would be necessary to feed the ballots into the machine, and if there was no clear winner, the humans would have to hand sort the ballots. She said after the ballots were hand-sorted a different machine would have to be reprogrammed to put in all the candidates, or they would have to do it by hand.

Former Councilor Heldmeyer said, "And let me throw in the part I added to that part of the Charter which worries me more than ranked choice voting, one way or another. The question of spoiled ballots and people's ballots being discounted. If you look at the presentation by the San Jose League of Women Voters, they specifically talk about, one of the things they're considering is buying scanning machines for each voting place, which would scan the ballots to look for mistakes and spit it out if there was a mistake so people could correct it. And there would not be as high a percentage of spoiled ballots. That still doesn't answer the question of absentee ballots, a true absentee ballot."

Former Councilor Heldmeyer continued, "That's the other half of the equation. If somebody checks one name twice, that's a spoiled ballot, and people do that. If you look at the groups, and they're in the San Jose presentation, if you look at the groups that are most likely to be affected by that, they are the poor, the uneducated and the elderly. And in the example they used, there was one precinct, even across precincts, some precincts did better than others, so that some precincts would be at a disadvantage, some parts of town would be a disadvantage to other parts of town."

Acting Chair Farber said Mr. Harrington provided us a report electronically, and they discuss why they made the recommendation they did to the Council. This is one of the issues where we have information on both sides to figure out what, if anything, we do.

2) RUN-OFF ELECTIONS

Acting Chair Farber said this item was previously discussed.

3) OFF-YEAR COUNCILORS TO RESIGN IN ORDER TO RUN FOR MAYOR

Acting Chair Farber said we asked the City Attorney's office to provide us with a legal opinion as to whether off-year Councilors can be required to resign in order to run for Mayor. I remember Mark was shaking his head no.

Mr. Zamora said, "I won't go as far as saying... as proposed it's troublesome. I can't imagine, and I tried to imagine it, drafting this kind of legislation, saying, well if you file as a candidate, then effective X date in the future... you wouldn't want it effective on the date of filing the Candidacy, because you're without a Councilor. You've got a brand new Councilor for 6 or 8 months. It becomes very cumbersome. It is a question as to whether it would be legal, first of all. But second of all, the implementation of it I think has the potential to be a nightmare."

Mr. Zamora continued, "The alternatives, which are more concrete... I think the inequity that is trying to be addressed is this. In each Council District you have two Council members, and one of those Council members is in off Mayoral years. So, forever in time, they can run for Mayor and lose and still keep their Council seat. The other position within the District, is always up at the same time as the Mayor, so the other Councilor always has to choose, do I want to be Mayor or do I want to be Councilor. That is an inherent inequity within the District. The way to solve that is either with this proposal, or it is to alter the terms of the Councilors, and that could be that each of the Councilors go to two year terms, and the Mayor stays on the four-year term. Yes, the reaction – twice as many elections for councilors. So Councilors are up every two years, Mayors up every four. And every fourth year, everybody is up at the same time, so you get to choose do you want to be Councilor, do you want to be Mayor."

Mr. Zamora continued, "The other way to do it is actually a way that would make it easier on Councilors and easier on the Clerk, and you change the terms to four-year terms for Councilors and you put everybody up at the same time. So every four years you have a City-wide election and everybody is up in those four years. So you choose Mayor or you choose Councilor at that point in time. Again, the proposal as stated in the Resolution is difficult to implement. I'm giving you two other alternatives to address the same issue if you wish to consider those."

Acting Chair Farber asked, "Geno, in your proposed extended term, so that the Councilors every 4 years run when the Mayor does, means that somebody serving a term currently gets an extra two years."

Mr. Zamora said, "Logistically, you would have to address that. Either you would extend the term of two seats, so that someone actually was in for 6 years. Or what you would do, is on a date certain a particular seat is elected for only two years, and then goes into 4 year terms. Probably a little bit more difficult to create a temporary two-year term, than it is to create a temporary six-year term. But that's how you would address it. You would either, on a date certain unstage the terms by having, I'm going to create District 5 so it doesn't affect any particular Councilor. Imagine for a moment, we have a District 5, we have two Councilors. Position 1 in District 5 would stay on the same cycle. Position 2 in District 5 would have a temporary two-year term to get into the regular cycle, and then thereafter have four-year terms. I'm not saying it's easy either way, but it's a little clearer if you deal with the term issue and you solve the inequity, because I do see that, whether it's a legal inequity or not, there's an inequity that position 1 within the District never has to give up the seat to run for Mayor, and position 2 always has to give up the seat to run for Mayor. And I think that's the concept you may or may not choose to address."

Former Councilor Heldmeyer said, "This is a solution in search of a problem. And, people like having staggered terms for their Councilors. They like having... especially if one of them is new, they like having somebody there who has some experience. But there is nothing in the Charter which prevents someone for running for Council and Mayor at the same time, as we know some people in federal offices will run for their Senate seat and for Vice-President. If people are really that torn up about it, they can plan ahead and run in the cycle they want to run in. They can take a couple years off and come back and get in the cycle they want to get in. For individuals who feel this is a problem, they have solutions. And I don't know why we should be messing around with terms in order to solve a problem that someone perceives they might have."

Mr. Zamora said, "There is a difference at the municipal level Councilor, and we know it's there. We just can't remember if it's in Ordinance or State Statute, that you cannot run for two municipal offices at the same time, so that it must be in State Statute. You cannot, on the same ballot, run for Mayor and run for your Council seat."

Acting Chair Farber asked Mr. Zamora to find out and send a memo to us at some point. He said, "I do think we need for our record, from the City Attorney's Office, something in writing about the illegality or inadvisability or however you want to characterize it, of making someone resign from a duly elected four-year term in order to run for Mayor. Because, I think the Resolution seems to push in that direction, and I, just off the top of my head see some legal problems with that."

Mr. Zamora said, "I'll do that. But today my gut feeling, is that it seems to push toward some type of term limiting. It's an involuntary vacancy."

Acting Chair Farber said it is disenfranchising people who voted for someone for four years, and he guesses they have a property.

Justice Serna said it's a Constitutionally protected property.

Mr. Zamora said, "Correct. If it's an issue that the Commission chose to address, that's why I am pushing toward looking at the terms of office and putting them on an election cycle. There's also a third alternative which is moving Councilors to 6 year terms, so that eventually a term will catch up with the Mayoral term. And that way, position 1 and position 2 within a District, at some point in time, has to choose between Mayor and Council. I think the bottom line inequity to led to that being included in the Resolution is Position 1 never has to choose and Position 2 always has to choose. Or Mayor for 6 years term."

Acting Chair Farber said it seems like a difficult, tricky issue, and the reason we're discussing it is it is in the Resolution. I guess the Commission is going to have to decide how to address this, noting it would be creating a new topic because that isn't on our list of topics, and it can be added, but not tonight.

4) REDISTRICTING BY INDEPENDENT COMMISSION

Acting Chair Farber said there has been some discussion at the City Council about annexation, which means potentially 10,000 more people in the City, and what that does to districting, and the Council doing it, or an independent commission doing it.

Former Councilor Heldmeyer said she is speaking for the League of Women Voters. She said the League has a national, state and local position that there should be an independent, non-partisan city committee that does redistricting so it doesn't become a political tool, but is something that provides fairness and equity to the people in terms of fair representation by their Councilors.

Acting Chair Farber asked if she is suggesting that the Charter Review Commission say that the City shall have redistricting by an independent commission, or do you go further and say and this is what the independent commission should consist of.

Former Councilor Heldmeyer said at this point, the League position is that there should be an independent commission. It is one of those issues you have discussed where the specifics would be worked out by Ordinance. The Charter would talk about redistricting by an independent commission. She said if the City doesn't redistrict after the 10,000 people come into the City, somebody will file a lawsuit to make the City do that. She said redistricting will take place much sooner than 10 years from now.

Former Councilor Heldmeyer said the Commission hasn't discussed this at all, with the large increase in the number of people in the City, unless the Charter Commission wants to talk about increasing the number of Districts, which is something that hasn't been brought up at all, but has been mentioned out in the hustings. There would still have to be redistricting, even if there were 5 districts, to put people in those 5 districts. She said, "I think we have seen a lot of examples, both in this City and elsewhere in the State that redistricting tends to be done, and if you're worried about incumbents staying in forever, redistricting is one of the ways that they do that. Because the incumbents get together and they go, okay, you keep your people and I keep my people, and we'll continue to be incumbents. And independent commissions generally, I won't say 100%, but in most places where an independent commission does redistricting, it is done without regard to keeping incumbents in place. But it is looking at keeping

communities of interest together so they are represented fairly in a representative body.”

Commissioner Werwath asked Councilor Heldmeyer if she has recommendations on how an independent commission would be chosen. He said, “All I can imagine, is people, much like this Commission, being appointed by City Councilors, which I don’t see as truly independent. Are there models out there.”

Former Councilor Heldmeyer said, “There are models. Some of them are, in fact, appointed by elected officials, some are appointed, for larger legislatures, they sometimes are appointed by a committee within the Legislature. Sometimes, they are appointed by... there are characteristics, you have to have – so many from this party or so many from this geographic area. I think every place that has one, does it a little bit differently. So there certainly are models to look at. How many would be appropriate for a small space as Santa Fe, some of the models would be too cumbersome. If you get 9 people on the Council to appoint 9 people, that they are going to represent those other 9 peoples’ points of view, is not necessarily the case.”

Commissioner Werwath said he was trying to understand the League’s and her personal point of view, if having the Commission appointed by the elected officials is enough of an insulation to constitute an independent commission.

Former Councilor Heldmeyer said the League is concerned that it be non-partisan, and since the races are non-partisan that would seem to make sense. Another way it is done is say, we’re going to allocate so many seats to political parties which makes more sense where people are elected by a political party. She believes everyone on the Council are Democrats, and have been Democrats since Cris Moore and David Pfeiffer left the Council.

Acting Chair Farber said he believes Mayor Larry Delgado was a Republican.

Former Councilor Heldmeyer said he was a Democrat when he ran for Mayor, but doesn’t know what he was before.

Acting Chair Farber said, “I can honestly say, when I was on the Council, the Republican Democrat thing, even though Sam Pick was head of the State Democratic party, never came up.”

Former Councilor Heldmeyer said it comes up often in elections, because people will ask you.

Acting Chair Farber said it doesn’t come up in terms of the Council, and Councilor Heldmeyer agreed.

It was the consensus among the Committee to continue to 7:15 p.m. to finish the discussion.

Mr. Zamora said, "Federal law, which is also what we've adopted at the municipal level, requires redistricting at least every 10 years, and it becomes optional to do it less than that. The reason for every 10 years is it follows a census, also because you know there's growth within those 10 years. Growth may take place in ways such as annexation. So, although it isn't required, it is optional for the City Council to do redistricting during annexation. We're in the middle of that process. We don't know absolutely how it will turn out, so let's assume the best case scenario. The best case scenario is that annexation, as it's been publicly discussed occurs by January 1, 2014. It would add 14,000 people, that are counted for redistricting purposes, to the City. And the annexed areas are all adjacent to District 3, and so it would add 14,000 to District 3. Again, with it being permissive, redistricting would have to start occurring in about a month and be complete by the first meeting in July, again assuming population additions."

Mr. Zamora continued, "Although I can't discuss what was in executive session relating to annexation last night, we did state we went in on annexation. What I can say, conceptually, outside of the executive session, the options of the Council are this: Begin redistricting prior to completing annexation, and secondarily if you do it now, then any changes to the Charter regarding a redistricting commission, if a commission were adopted, their actions would be postponed, probably until 2020. Or, complete annexation, go through next year's election, and if the election itself contains the Charter amendment for an independent redistricting commission, they would have the option of doing that work next year."

Mr. Zamora said, "The option is, redistrict now voluntarily, or not, and see what the sentiment is one year from now."

Former Councilor Heldmeyer said, "When the City redistricted 10 years ago, it was done under the threat of a lawsuit. According to the federal law, we did not have all the information we needed to do redistricting. However, we did have a substantial amount of it. A person filed a lawsuit who did this all over the country, but happened to have a sister in Santa Fe, filed a lawsuit that we had to redistrict before the 2002 election. And, in a very short period of time, the City Council redistricted in order not to have to deal with that lawsuit, although there were attorneys fees paid to that person who filed the lawsuit. So there are things you can do, and things you can take chances on, but the odds are that if redistricting isn't done when annexation is done, it sounds like things are going well, but who knows when that's going to happen. If the annexation takes place without redistricting before the election, the odds are, somebody is going to file a suit, and the City may find itself having to redistrict in a hurry, because that's what happened in 2002. But, this Charter wouldn't apply anyway, if the Charter isn't voted on until 2014."

Mr. Zamora said, "Just a brief clarification, and your representation is absolutely correct. What I should have said to make it more clear, redistricting is required every 10 years immediately after the census and prior to the first election after the census. That's why, after the 2000 election, you were going to face a lawsuit if you didn't redistrict in time for the 2002 election. That would not apply in this instance, because we've already redistricted after the 2010 election."

Former Councilor Heldmeyer said a lawsuit still could be filed by people saying they don't get sufficient representation, but that's a different issue.

Mr. Zamora said, "A suit could certainly be filed. It would be dismissed, but a suit could be filed."

Acting Chair Farber would like to put this discussion on the April 9th agenda for a vote.

5) LIMIT CONTRIBUTIONS TO CANDIDATES THAT DO NOT ACCEPT PUBLIC FINANCING

Acting Chair Farber said the Commission received a Memo from Marcos Martinez.

Mr. Zamora said, "I haven't seen the Memo, but we already do this."

Acting Chair Farber said the issue was whether it should be in the Charter as opposed to Ordinance.

Mr. Werwath said if it is in the Charter, it would require the City to have an Ordinance in place to protect against the situation where a group of City Councilors conspire to completely remove the Ordinance, noting this has been discussed.

Acting Chair Farber said it will be "the City shall have." The City shall have an Ordinance so the City later could not, not have an Ordinance. He said like the prior example, sort of like a policy statement: The City shall have an Ordinance.

Mr. Zamora said, "My short answer is that I don't see why not, because if we already have the authority to do so by Ordinance, we could also do it by referendum which is a citizen-based ordinance, and a Charter amendment is parallel to a referendum."

Acting Chair Farber said, as Commissioner Werwath said, the reasons to have that, would be so there wouldn't be conniving to not have one, to not have an ordinance."

7. DISCUSSION/POSSIBLE ACTION REGARDING FUTURE MEETING AGENDA(S):

Commissioner Hiatt said he is ready to recommend approval of the next 3 meetings. However, based on the discussion this evening, he would like to ask the Commission if it would be permissible to move certain of the items for decision at the next meeting. He thinks several of the Commissioners are ready to make a decision on term limits, at-large districts, mail-in ballots, ranked choice and runoffs. He said given last meeting's discussion where he was over-ruled trying to move ahead with decision-making because we had talked about going out to the districts, he didn't want to do that again, so he is asking prior to making a motion.

Acting Chair Farber said Item #7 was to add more discussion to the April 11th meeting or even at the next meeting, regarding the redistricting issue.

Commissioner Hiatt said he was going to suggest moving the redistricting to a later meeting because it's worth talking about some more. He said, "I was thinking of those which are catching some traction with the group, I was thinking of moving them two meetings down the way. But the ones that seem to be coming to a head, I thought we'd put those in the next meeting if people wanted to make a decision. I guess what I'm suggesting is to remove them from further consideration.'

Acting Chair Farber said, "I heard that for A, B and C, but I didn't hear that we are prepared to vote to eliminate ranked choice or runoff."

Commissioner Gutierrez said he doesn't feel comfortable with removing that at his point, but he is in favor of removing A, B and C.

MOTION: Commissioner Hiatt moved, seconded by Commissioner Werwath, to approve the Agenda Items under Item #7 for the next 3 meetings, and include on the next meeting agenda on March 28, 2013, those items listed under 6(A), (B) and (C), for discussion and possible action.

DISCUSSION: Yolanda Vigil, City Clerk, said she won't be available for the meeting of March 28, 2013, and it has Signatures to be Required for Petitions/Recall on the agenda. She said if you have questions which require an answer in writing she can do that, or do you want her just to give you the numbers.

FRIENDLY AMENDMENT: Acting Chair Farber said, "Perhaps we should at least put on the agendas for the next meetings, some continuing discussion about redistricting, particularly in the context of the annexation. And then move the Signatures to be Required for Petitions, if you are available, Yolanda, for the April 9th meeting." Ms. Vigil said she will be available on April 9th. Acting Chair Farber said they will put this at the beginning of the agenda so she doesn't have to attend the entire meeting. **THE AMENDMENT WAS FRIENDLY TO THE SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER COMMISSIONERS.**

VOTE: The motion was approved unanimously on a voice vote.

A. MARCH 28, 2013 – POLICY ISSUES – SOUTHSIDE LIBRARY

- 1) CREATE AN AUDITOR/INSPECTOR GENERAL POSITION**
- 2) SALARIES TO BE SET BY AN INDEPENDENT COMMISSION**
- 3) SIGNATURES TO BE REQUIRED FOR PETITIONS/RECALLS**
- 4) FULL AND COMPLETE DISCLOSURE OF USES FOR TAX BONDS PRIOR TO ELECTION**
- 5) BROADEN REFERENDUM AND INITIATIVE RIGHTS OF VOTERS**

B. APRIL 9, 2013 – POLICY ISSUES – SANTA FE PUBLIC SCHOOLS BOARD ROOM

- 1) MARIJUANA AS A LOW PRIORITY FOR LAW ENFORCEMENT**
- 2) WATER CONSERVATION**
- 3) BAN ON AUTOMATIC WEAPONS AND EXCESSIVE AMMUNITION CLIPS**
- 4) TECHNOLOGICAL IMPROVEMENTS**

C. APRIL 23, 2013 – GOVERNANCE ISSUES – SANTA FE PUBLIC LIBRARY

- 1) CREATE FULL TIME MAYOR**
- 2) MAYOR TO HIRE/FIRE CITY ATTORNEY, CITY CLERK AND CITY MANAGER**
- 3) BAN ON AUTOMATIC WEAPONS AND EXCESSIVE AMMUNITION CLIPS**
- 4) TECHNOLOGICAL IMPROVEMENTS**

8. COMMUNICATIONS FROM CHARTER COMMISSION MEMBERS

Commissioner Werwath provided an update on outreach, noting there are 35 people following the Commission on Face Book currently, which increases by a factor of 10, the number of people who attend meetings. He said with the adoption of the schedules for the next 3 meetings, he can finalize the stuff for the website. He said he still would like a concise document which outlines all of the things the Commission is considering, which can be added as a template for the final report which is provided.

Acting Chair Farber suggested that Commissioner Werwath and Commissioner Hiatt could communicate and get a list of those things to present to the Commission, and they said they would do so.

Acting Chair Farber said there was discussion about a survey, and asked if we are going to be able to do that.

Commissioner Werwath said they should be able to do it, commenting Joyce Bond hasn't yet responded to his latest email, so he doesn't know the status, and he hasn't looked at the website. He will be ready to present a draft at the next meeting.

Commissioner Gutierrez thanked Ms. Romero for scheduling the meeting at a later time.

Commissioner Hiatt thanked Jamison Barkley for her input.

Acting Chair Farber asked the meeting start time for the next 3 meetings.

Ms. Romero said it is 5:00 p.m., noting she will send out the updated schedule via email.

Acting Chair Farber said he would hope for better attendance at the next meetings, commenting the Commission is open to suggestions to get better participation, noting it has been advertised at the City's website, on Face Book and Twitter.

Commissioner Werwath said he is waiting for an agreed upon process to have a press release to go out from the City and hopefully get some press coverage.

9. PUBLIC COMMENT

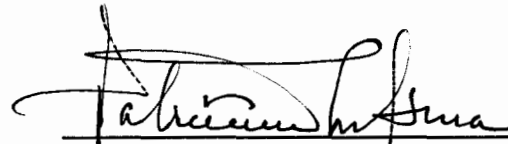
There was no further public comment.

10. ADJOURNMENT

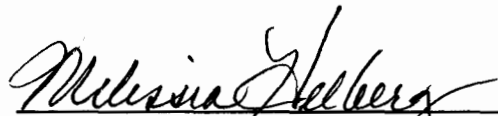
There was no further business to come before the Commission.

MOTION: Commissioner Hiatt moved, seconded by Commissioner Werwath, to adjourn the meeting.

VOTE: The motion was approved unanimously on a voice vote, and the meeting was adjourned at approximately 7:20 p.m.



The Honorable Patricio Serna, Chair



Melessia Helberg, Stenographer

Requirements for Runoff in New Mexico Charter Cities (3/14/13)

Albuquerque

Top vote getter receives less than 50% of the votes for any municipal office

Gallup

Top vote getter receives less than 40% + 1 of the votes for any municipal office

Hobbs

Top vote getter receives less than 40% + 1 of the votes for any municipal office

Las Cruces

Top vote getter receives less than 40% of the votes for any municipal office, or two candidates each get at least 40% of the vote and tie

Las Vegas

Top vote getter receives less than 50% + 1 of the votes for any municipal office

Note: Current charter offers the possibility of ranked-choice voting when appropriate technology is available, but this has never been implemented. Las Vegas has held one actual runoff election since the charter was adopted.

Rio Rancho

Top vote getter receives less than 50% of the votes for any municipal office

Video of LWV – San Jose Presentation on RCV

<http://vimeo.com/17194782>

featuring San Jose City Clerk Lee Price

pros and cons

empirical data

Consensus of San Jose LWV on RCV:

Do not change current system of runoffs

Consensus report with the League's reasoning available at:

<http://www.lwvnet.org/ca/sjsc/StudyofInstantRunoffVoting.html>

Note: The LWV – Santa Fe County has no position on RCV, but does support runoffs.

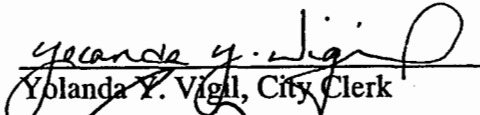
Exhibit "2"

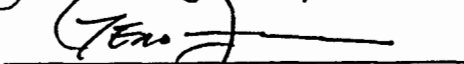
City of Santa Fe, New Mexico

memo

DATE: August 9, 2011

TO: Mayor Coss & City Councilors

FROM: 
Yolanda Y. Vigil, City Clerk


Geno Zamora, City Attorney

RE: Ranked Choice Voting Capabilities

This memo is to inform you that we met with Secretary of State Dianna Duran regarding ranked choice voting capabilities. Attached is a response from Secretary Duran which states that the current voting systems do not possess the technical capability for ranked choice voting and that it does not appear that either the Election Code or the Municipal Election Code provides a mechanism for municipalities to purchase their own voting systems.

Secretary Duran further states that if the City wishes to purchase voting systems that are technically capable of supporting ranked choice voting, we would need to seek a solution through the New Mexico Legislature.



STATE OF NEW MEXICO
DIANNA J. DURAN
SECRETARY OF STATE

July 27, 2011

Ms. Yolanda Vigil
City Clerk
City of Santa Fe
P.O. Box 909
Santa Fe, New Mexico 87504-0909

Re: Ranked Choice Voting Capabilities

Dear Ms. Vigil:

You inquired as to whether the voting systems currently owned by the State of New Mexico, and supplied by Santa Fe County to the City of Santa Fe to conduct your municipal elections are capable of supporting ranked choice voting.

Based on the information from the vendor, Election Systems and Software, Inc., the current voting systems do not possess that technical capability.

Section 1-9-6 NMSA 1978 provides that the county clerk "shall make available to a municipality located in the county, a sufficient number of voting systems necessary to conduct the municipal election."

It does not appear to our office that either the Election Code or the Municipal Election Code provides a mechanism for municipalities to purchase their own voting systems. If the City wishes to purchase voting systems that are technically capable of supporting ranked choice voting, you would need to seek a solution through the New Mexico Legislature.

If you have any further questions or concerns, please contact our office.

Best regards,

A handwritten signature in black ink, appearing to read "Bobbi Shearer".

Bobbi Shearer
Director, Bureau of Elections

**VALERIE ESPINOZA
COUNTY CLERK**

(505) 986-6280

E-Mail: vespinoza@santafecounty.org
County Courthouse
102 Grant Avenue
Santa Fe, New Mexico 87501
Corner of Grant and Palace Avenues



Denise Lamb
Chief Deputy Clerk
Bureau of Elections
(505) 995-2768

E-Mail: dlamb@co.santa-fe.nm.us

March 21, 2011

Ms. Yolanda Vigil
Santa Fe City Clerk
P.O. Box 909
Santa Fe, NM 87501

Dear Ms. Vigil:

You recently enquired about the possibility of using Santa Fe County's Elections Systems & Software voting machines for your municipal elections using Ranked Choice Voting.

We have been informed by Mr. Carlyle Crandall, Director of Technical Services for Elections Systems & Software, that the M100 precinct tabulator firmware (5.2.1.0 and 5.2.1.1) does not have the capability of tabulating Ranked Choice contests.

If we receive any firmware upgrades from the State of New Mexico in the future that would enable the machines to tabulate ballots in Ranked Choice contests, we will immediately advise you.

Should you have any additional questions, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Denise Lamb", written in a cursive style.

Denise Lamb, Chief Deputy Clerk
Bureau of Elections

Cc: Valerie Espinoza, County Clerk
Rick Padilla, Voting Systems Supervisor

VIGIL, YOLANDA Y.

From: ZAMORA, GENO I.
Sent: Monday, August 22, 2011 1:22 PM
To: 'ricklass@cybermesa.com'
Cc: VIGIL, YOLANDA Y.
Subject: RE: Ranked Choice Voting

Rick,

The response to your question is that same as we have described previously. State law requires municipalities to use county machines for its elections. State law also requires that County machines be approved and certified by the Secretary of State. The machines utilized by Santa Fe County which are approved and certified by the Secretary of State are not technologically capable of handling ranked choice voting elections. This was articulated in the Secretary of State's letter to Yolanda, a copy of which you have received.

Thus, for ranked choice voting to occur using vote tabulation machines, an amendment to state law would be required to accomplish one or more of the following: 1) allow municipalities to purchase their own machines, and/or 2) require the Secretary of State impose specifications that all voting machines be technologically capable of handling ranked choice voting.

As for hand tabulation, the City's Charter only allows for the use of equipment and software for ranked choice voting. As a result, you would need to pursue the following to enable hand tabulation: 1) a charter amendment expanding the method of ranked choice voting to include hand tabulation, and 2) sufficient appropriation to the City Clerk's office for staffing an entirely hand counted election (the March 2010 election had 46,990 registered voters with approximately 27% turnout). Of course, the tradeoff of a fully hand counted election with ranked choice added for the mayoral and council races would be that election results would not likely be available for several days after the election.

Again, the conclusion is that state law needs to be amended to allow for machine counted ranked choice voting to occur in a New Mexico municipality. Accordingly, you may wish to pursue such amendments before the New Mexico Legislature.

Sincerely,

-Geno Zamora

Geno Zamora - City Attorney
City of Santa Fe - 200 Lincoln Ave - Santa Fe, NM 87504
(505) 955-6512 office - (505) 955-6748 fax gizamora@santafenm.gov

-----Original Message-----

From: ricklass@cybermesa.com [<mailto:ricklass@cybermesa.com>]
Sent: Monday, August 22, 2011 11:36 AM
To: ZAMORA, GENO I.
Cc: VIGIL, YOLANDA Y.
Subject: Ranked Choice Voting

Hi Geno, Yolanda

fyi, I just sent the following letter to the mayor and councilors, because I have yet to hear a definitive reason that the city cannot amend its election code to allow for the use of a machine other than those provided by the county.

If there is something other than the memo from the Secretary of State's office, please forward it to me.

Thanks,
Rick

Dear Councilor,

Call me crazy, but I am writing to you one final time before election 2012 begins, in the earnest hope that you will create an ordinance to pave the way for implementation of Ranked Choice Voting.

As you know, the city charter calls for implementation "in 2010, or as soon thereafter as equipment and software for tabulation of votes and the ability to correct incorrectly marked, in-person ballots, is available at a reasonable price".

We have demonstrated three ways that implementation can be achieved in the case a runoff is required. (1) by hand tallying the results; (2) by hand sorting the ballots based on first place choices and refeeding the ballots into existing machines; or (3) by buying or leasing a single machine capable of conducting the runoff.

Again, we need a simple ordinance that would allow us to use a machine other than those provided by the county, and extend the canvassing period to allow for time to conduct the runoff. The memo you recently received from the Secretary of State's office merely reiterates that state law requires municipalities to use county machines, but it does NOT address the issue of whether the city can amend its election code for this purpose. As a home rule charter city, Santa Fe has created its own election code, and can amend it to allow use of a different voting machine.

It seems to me that the onus is on the city to show that the equipment and software is NOT available at a reasonable cost, since it has been demonstrated that the runoff can be done with existing equipment, and since the charter requires Ranked Choice Voting when that condition is met.

Sincerely,
505-920-0540
ricklass@newmexico.com

Rick Lass