



Agenda

DATE 3/20/13 TIME 10:50

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CHARTER REVIEW COMMISSION

March 28, 2013
5:00 pm to 7:00 pm
Southside Library
6599 Jaguar Drive
Small Meeting Room

1. Roll Call
2. Approval of Agenda
3. Approval of March 14, 2013 Minutes
4. Public Comment
5. Discussion/Possible Action to Remove Term Limits for Elected Officials from Topics
6. Discussion/Possible Action to Remove Creation of At Large Districts for City Councilors from Topics
7. Discussion/Possible Action to Remove Mail-In Ballots for Certain Elections from Topics
8. Continued Discussion of Topics For Review to include Public Comment
 - A. Limit Contributions to Candidates That Do Not Accept Public Financing
 - B. Any Carry Over Election Topics Previously Discussed
 - C. POLICY ISSUES:
 - 1) Create an Auditor/Inspector General Position
 - 2) Salaries to be Set by an Independent Commission
 - 3) Full and Complete Disclosure of Uses for Tax Bonds Prior to Election
 - 4) Broaden Referendum and Initiative Rights of Voters
 - D. April 9, 2013 — Santa Fe Public Schools Board Room
 - 1) Signatures to be Required for Petitions/Recalls
 - 2) Marijuana as a Low Priority for Law Enforcement
 - 3) Water Conservation
 - 4) Ban on Automatic Weapons and Excessive Ammunition Clips
 - 5) Technological Improvements
 - E. 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
9. Discussion/Possible Action Agenda Items for Future Meetings
10. Communication from Charter Commission Members
11. Public Comment
12. 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.

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Thursday, March 28, 2013**

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**MINUTES OF THE
CHARTER REVIEW COMMISSION
City Hall Chambers
200 Lincoln Avenue
Thursday, March 28, 2013**

CALL TO ORDER.

A meeting of the Charter Review Commission was called to order by the Honorable Patricio Serna, Chair, at approximately 5:00 p.m., on Thursday, March 28, 2013, in the Small Meeting Room, Southside Library, 6599 Jaguar Drive, Santa Fe, New Mexico.

1. ROLL CALL

Roll call indicated the presence of a quorum as follows:

The Honorable Patricio Serna, Chair
Nancy R. Long, Vice-Chair
Steven G. Farber
Brian Patrick Gutierrez
John B. Hiatt
Carol Romero-Wirth
Daniel Werwath

MEMBERS EXCUSED

Roman Abeyta
Houston Johansen

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 Werwath, to approve the agenda as presented.

VOTE: The motion was approved on a voice vote, with Commissioners Long, Gutierrez, Hiatt and Werwath voting in favor of the motion, no one voting against, and Commissioners Farber and Romero-Wirth absent for the vote.

Carol Romero-Wirth arrived at the meeting

3. APPROVAL OF MARCH 14, 2013 MINUTES

The following correction was made to the minutes:

Page 19, last paragraph, correct as follows: "...protected property right."

VOTE: The motion was approved on a voice vote, with Commissioners Long, Gutierrez, Hiatt, Romero-Wirth and Werwath voting in favor of the motion, no one voting against, and Commissioner Farber absent for the vote.

4. PUBLIC COMMENT

[STENOGRAPHER'S NOTE: There was difficulty in being able to hear people addressing the Commission in the first part of the meeting. I have done the best i can under the circumstances, at times relying on my skeleton notes.]

Rick Martinez, President. Neighborhood Network. Mr. Martinez praised this effort, saying this is a good place to start hearing from the neighborhoods. Mr. Martinez talked about the Neighborhood Federation and the Neighborhood Bill of Rights [Exhibit "1"]. He said Neighborhood Bill of Rights was passed by the City Council, and suggested the Commission look at it, and then read it into the record. Please see Exhibit "1" for the text of the Neighborhood Bill of Rights. He said there was supposed to be a Neighborhood Planner to work with the neighborhoods, but that hasn't been forthcoming. He asked that this Commission consider adopting something in the Charter to protect the neighborhoods.

Chair Serna said perhaps Mr. Martinez can help this Commission to draft the provision he has in mind.

Mr. Martinez said he is willing to help, noting Fred Rowe helped draft the Neighborhood Bill of Rights.

Jim Harrington said he is here to answer any questions. *[Mr. Harrington's remarks here are for the most part inaudible.]* He was talking about the issue of immigration and the Immigration Committee saying that the City should not be used to enforce federal law.

Chair Serna asked if such a policy already exists.

Chief Rael said there is no language in the charter addressing the enforcement of federal immigration law. He said, however, the Police Department doesn't get involved unless the person has violated the law and/or is wanted for a crime. He said the Police Department does not assist in enforcing federal immigration law, noting the limited police resources. However, the Police are included with regard to felony perpetrators who are illegal aliens.

John Otter said he submitted a request to the Commission previously to remove the contingency on ranked choice voting requiring the use of voting machines. He said yesterday he received a comprehensive letter about a new vote tabulation machine that will be certified. He said there is now a machine in the process which appears to be able to be certified in 6 months. He said this means there will be machine(s) available within the next 6-12 months. Therefore, in the interest of reducing the number of questions on the ballot, he said he is withdrawing his request to remove the provision from the ranked choice voting provision in the Charter providing that ranked choice voting will be implemented when machines and software are available.

Mr. Otter said, with regard to term limits, he feels the citizens should be able to express their opinion in this matter.

Chair Serna said it's unconstitutional, and doesn't see why this Commission should spend a lot of time on something we can't do.

Mr. Otter said there is a misunderstanding that at-large elections would have one faction running everything. He said proportional representation is 1/5 of the vote, which would mitigate the idea that all Councilors could be elected from one District.

Chair Serna reiterated that it is unconstitutional, and therefore won't be considered by this Commission.

Mr. Otter said he would like to say that mail-in ballots are the worst idea for conducting elections, commenting that they are easily manipulated by people buying votes, and are subject to fraud..

Chair Serna advised that the City Clerk said we don't need to make any changes in the Charter in this regard, because we already have the right under New Mexico Statutes.

Mr. Otter said it is a complicated process and doesn't produce the desired results..

Former Councilor Heldmeyer, 325 E. Berger, said she owes the Commission an apology. She said she told the Commission previously that there is no law preventing someone from running for more than one office at the same time. However, there is State law preventing someone for running for more than one office at the same time.

5. DISCUSSION/POSSIBLE ACTION TO REMOVE TERM LIMITS FOR ELECTED OFFICIALS FROM TOPICS.

Chair Serna said he believes it would be a good idea to remove these topics from further discussion, commenting the Supreme Court has found term limits to be unconstitutional and there really is nothing we can do unless the Constitution is changed. He said, although he doesn't vote, he can offer his opinion.

Commissioner Long said this Commission has fully vetted the topics of term limits and at-large districts, and said she agrees with the Chair.

MOTION: Commissioner Long moved, seconded by Commissioner Hiatt, to remove Term Limits for Elected Officials from topics for discussion/possible action.

VOTE: The motion was approved on a voice vote, with Commissioners Long, Gutierrez, Hiatt, Romero-Wirth and Werwath voting in favor of the motion, no one voting against, and Commissioner Farber absent for the vote.

6. DISCUSSION/POSSIBLE ACTION TO REMOVE CREATION OF AT LARGE DISTRICTS FOR CITY COUNCILORS FROM TOPICS.

MOTION: Commissioner Long moved, seconded by Commissioner Hiatt, to remove Creation of At-Large Districts for City Councilors from topics for discussion/possible action.

VOTE: The motion was approved on a voice vote, with Commissioners Long, Gutierrez, Hiatt, Romero-Wirth and Werwath voting in favor of the motion, no one voting against, and Commissioner Farber absent for the vote.

7. DISCUSSION/POSSIBLE ACTION TO REMOVE MAIL-IN BALLOTS FOR CERTAIN ELECTIONS FROM TOPICS.

MOTION: Commissioner Long moved, seconded by Commissioner Hiatt, to remove Mail-In Ballots for Certain Elections from topics for discussion/possible action.

VOTE: The motion was approved on a voice vote, with Commissioners Long, Gutierrez, Hiatt, Romero-Wirth and Werwath voting in favor of the motion, no one voting against, and Commissioner Farber absent for the vote.

8. CONTINUED DISCUSSION OF TOPICS FOR REVIEW TO INCLUDE PUBLIC COMMENT.

A. LIMIT CONTRIBUTIONS TO CANDIDATES THAT DO NOT ACCEPT PUBLIC FINANCING.

Commissioner Hiatt asked if this suggestion came from the League of Women Voters, and asked if they could come up with specific language. He said he read the City Attorney's Memo, and it is still up in the air. He wants to hear some specific language.

Commissioner Long said Mr. Martinez's memo was more about the amount of the contribution limit being a reasonable amount.

Commissioner Hiatt said then this item will stay on the agenda for discussion for the future.

Chair Serna said it is a topic in which we are all interested.

Chair Serna said the U.S. Supreme Court ruled on contribution limits, although the State Supreme Court did not, noting the State Legislature changed the law this session, and commenting that Senator Wirth's bill is on the Governor's desk for signature.

Responding to Mr. Harrington, Chair Serna said the Code of Ethics is separate and apart from financial contributions.

Mr. Harrington said the only Constitutional restrictions on contribution limits for privately financed candidates is that they have to be adequate in amount to allow, in the court's words, "Candidates to amass the resources necessary to run an effective campaign." He said they struck down, for example, limits of \$100 for State Legislative candidates. He said the \$1,000 for Council and \$2,500 for Mayor is well within the limits.

Jody Larsen, 407 Tierra Rica, representing the League of Women Voters of Santa Fe County, said the League supports limits on gifts and contributions, and would feel comfortable having it in the Charter as well.

Former Councilor Heldmeyer explained the way the League does things. She said at the local, state and national levels, the League has positions and "the wording of the positions is the wording of the positions." She said what the Commission received from the League initially was directly out of League positions. She said it doesn't mean that the League will only deal with things that are specifically related to those direct quotes. She said if what you want is language that specifically relates to contributions of candidates who do not take public money, they can come up with a sentence that addresses that and is still within the realm of our position, so "we can still do that."

Chair Serna asked if there are limits in other communities that we are aware of. He said in Albuquerque, candidates running with public funding will get some \$360,000, which is a lot of money. He said the incumbent is not going to accept public financing, so he would get double or triple that amount. He doubts if there are any limits on that, and he would hate to see Santa Fe get in that type of predicament. It probably is something we should discuss and come up with limits, not necessarily limited to what the person getting public financing will get, but certainly not 10 times more. He said the Commission is open to suggestions. He asked if the City Attorney's office has comments regarding limiting contributions to candidates who do not accept public financing.

Ms. Barkley said she would advise against putting a specific number in the Charter, which might be unreasonable in a few years. She said, from a drafting point of view, it might be wise to just put a general statement in the Charter.

Commissioner Werwath said, for clarification, there is a Campaign Financing Ordinance in Santa Fe with specific numbers. He said we would just be "creating language in the Charter that back-stops that, and suggests that Ordinance needs to be in place so it couldn't be repealed."

Commissioner Long said then the ordinance can be amended over time to change amounts, but does not have a cap on what people can receive if they're not receiving public financing. She said the idea being that you can buy influence with money.

Scott Sheldon, 2301 Las Casitas, suggested language saying that there will be full disclosure. He said it seems if we try to put a limit on it, you are inviting litigation. He favors full disclosure of all amounts received. He said it's up to the people and the press to look at who is paying and what is their interest. He said otherwise, people could say, given recent Supreme Court Decisions, money is free speech. He doesn't agree with that. However, if people give money to a candidate, it should be made public.

Commissioner Long pointed out that the campaign reports are public and are on the City Clerk's website, and people are required to report all contributions, expenditures and such.

Mr. Sheldon asked how much attention is paid to those reports, and Commissioner Long reiterated that the reports are available to the public, and some pay more attention than others.

Mr. Sheldon said we haven't had the experience in Santa Fe with a really expensive campaign, commenting that the \$360,000 which could be generated for a campaign in Albuquerque is serious money.

Chair Serna said he attended a conference in December in Washington, D.C., with Justices from Wisconsin, Minnesota, Michigan and Arizona. He said in Michigan \$8 million was spent on Supreme Court elections because of the United Citizens Case. He said in Wisconsin it is \$6 million, and you can imagine what it is in Texas. He said, "Luckily, the outside money has not come into New Mexico for Supreme Court races, but it could and we're talking millions."

Chair Serna said full disclosure of contributions is something he is sure that we would all agree on, but as to limits, apparently there already is something in place, and we are considering reaffirming that in the City Charter.

Mr. Harrington said he can assure the Commission that the City's current contribution limits are Constitutional, noting the Supreme Court has ruled on that more than once. He said there was language in Justice Kenney's opinion in Citizens United which suggested the Court might be open to looking at that question, but the summary affirms that the Court is not going to reexamine the constitutionality of contribution limits as long as the limits are not so low as to make it really difficult for challengers to run an effective campaign, commenting that ours [the City's] are not.

Mr. Harrington said there is something in the Charter requiring the City to have a campaign finance code which requires candidates to report their financing, commenting that Santa Fe has one of the better laws in the State.

Chair Serna said it is fortunate that cities can have higher standards than the State, and it's fortunate that the State can have higher standards than the U.S. Constitution, because in New Mexico, we rely on our State Constitution for more rights to our citizens.

Mr. Harrington said there is a former Texas Justice of the Supreme Court who has moved to Santa Fe and he volunteers. *[Mr. Harrington's remarks here are inaudible]*

Responding to the Chair, Commissioner Long said the League of Women Voters is going to provide some language in this regard, and will work with the City Attorney's office.

B. ANY CARRY-OVER ELECTION TOPICS PREVIOUSLY DISCUSSED

Chair Serna said he can think of no specific topics for this agenda item and asked Commissioners if they have suggestions, but there were no suggestions.

C. POLICY ISSUES

1) CREATE AN AUDITOR/INSPECTOR GENERAL POSITION.

MOTION: Commissioner Hiatt moved, seconded by Commissioner Long, to postpone this item to the next meeting, of the Commission.

EXPLANATION OF THE MOTION: Commissioner Hiatt said this issue was raised by Commissioner Farber, and he thinks it should be postponed to the next meeting when Commissioner Farber is in attendance.

VOTE: The motion was approved on a voice vote, with Commissioners Long, Gutierrez, Hiatt, Romero-Wirth and Werwath voting in favor of the motion, no one voting against, and Commissioner Farber absent for the vote.

Former Councilor Heldmeyer said, although the League supports it for other bodies, but they don't specifically have one for City Government so they cannot specifically address this issue.

Chair Serna said perhaps Commissioner Farber will enlighten us all.

2) SALARIES TO BE SET BY AN INDEPENDENT COMMISSION.

Chair Serna asked who brought this item forth for consideration, and Commissioner Hiatt said he doesn't recall.

Commissioner Long asked if this is salaries for elected officials only, and Former Councilor Heldmeyer said yes.

MOTION: MOTION: Commissioner Hiatt moved, seconded by Commissioner Long, to postpone this item to the next meeting, of the Commission.

VOTE: The motion was approved on a voice vote, with Commissioners Long, Gutierrez, Hiatt, Romero-Wirth and Werwath voting in favor of the motion, no one voting against, and Commissioner Farber absent for the vote.

3) FULL AND COMPLETE DISCLOSURE OF USES FOR TAX BONDS PRIOR TO ELECTION.

Commissioner Werwath said this item has been distorted somewhat from Former Councilor Heldmeyer's original suggestion, which was a timetable for expenditures that were being requested.

Former Councilor Heldmeyer said this is correct, noting this was a League recommendation. She said the League position is, "The League supports the idea that all tax and bond measure elections should be preceded [from the City] by a clear schedule of proposed expenditures."

Commissioner Long asked Former Councilor Heldmeyer to elaborate on that position.

Former Councilor Heldmeyer said the League currently is doing a study on bond referendums for all governments, because there has been a lot of public confusion about a bond issue and what bond issues will cover. There has also been confusion after the fact, because frequently there are "weasel words" in the bond questions that allow the unit of government to use the money for something else. She said, in and of itself, this is not necessarily bad thing. However, it needs to be made clear to the public. She cited an example from 15 years ago, the bus tax, where the money was to go for buses, but there was

language at the bottom saying, “and other quality of life projects.” She said over the years, some of the money was for buses and some was used for senior centers and youth programs which are good things. However, many people lobbied for money for buses, which was an increment of the GRT and not a bond, but it is a good example of not using funds as understood by the public in voting. She thinks if the public had a more clear idea of how the money was used they might or might not have voted in favor. She said some people had lobbied for it thinking it was only for buses, and some of the literature, not prepared by the City, made it sound as if it was only for buses.

Former Councilor Heldmeyer continued, “If you are going to ask people for money in a bond to be passed, you need to be very clear about how it will be spent.”

The Commissioners commented and asked questions as follows:

- Commissioner Romero-Wirth asked Former Councilor Heldmeyer to repeat the League’s stand.

Former Councilor Heldmeyer repeated that stand as follows: “The League supports the idea that all tax and bond measure elections should be preceded [from the City] by a clear schedule of proposed expenditures.”

Former Councilor Heldmeyer said a proposed expenditure could be miscellaneous or something like quality of life, but it should be clear and consistent, and not hidden legal language somewhere, particularly in the literature sent out by the City.

- Commissioner Romero-Wirth said one recent example that come to her mind, is a school board bond election, which the School Board thought would be needed for certain schools. They ended up not needing it for certain schools and put it to use in other schools. She said there was concern about that. She said it was an education bond.

Former Councilor Heldmeyer said another thing that concerned people was they spent money on some schools and then the next year said they were going to close them down.

- Commissioner Romero-Wirth said this has to do with the School Board which this Commission doesn’t control.
- Former Councilor Heldmeyer said it is a measure of clarity for the voters and a measure of fairness, if you’re going to ask voters for money just be very clear and consistent.
- Commissioner Romero-Wirth asked if there is a recent problem, noting Councilor Heldmeyer is citing an example from 15 years ago. She said the only other one she can think of is the Santa Fe River, where people were making donations to the River, and now they’ve gone back and said money collected in the future is going to some other River purpose.

- Commissioner Romero-Wirth noted the 3 things which were cited as examples, and asked Former Councilor Heldmeyer where is the problem currently. She understands generally, but where else have we had this problem specifically.

Former Councilor Heldmeyer said the City hasn't gone to the voters very often. She said an older example is the Railyard. The voters were asked to vote money to purchase the Railyard. A community plan was developed, and half the things aren't being followed anymore. She said there are people who still are very upset about that. She said there haven't been many of these issues on City ballots in the recent past.

Former Councilor Heldmeyer continued, "Let me tell you. People are still angry about these things that happened longer ago, and every time anything connected with that issue comes up, people tend to bring it up." She said the League supports this and an open, transparent and well run government that doesn't ask people for money unless it's very clear about what they're going to do with it, and are equally clear to people voting on an issue. She doesn't think this is a moot question because the City hasn't done it in the last two years. There may be times in the near future where the City is going to be asking for money and citizens have a right to a clear and comprehensive information about how the money will be used.

- Commissioner Romero-Wirth said although she agrees here, she doesn't see where the abuse has been. She said she doesn't think taxpayers would vote for something which isn't clearly laid out, and we have had that in the past and asked what has happened lately.

Former Councilor Heldmeyer reiterated the issue in the past with regard to GRT funding for buses which was voted upon by the public, and sees no reason not to include the League's position in the Charter. Commissioner Romero-Wirth reiterated she is citing issues from the past and she still doesn't see this as an issue currently.

- Chair Serna welcomed City Councilors Carmichael Dominguez and Chris Rivera and asked if they would like to comment on this issue.

Carmichael Dominguez welcomed the Commission to District 3, and thanked them for holding this series of meetings in the community. He said with regard to this issue, he doesn't know that he would be in support of the specific language, but the concept is something beneficial to look at. He said an administrator or City Manager should have some leeway, the ability, to move things around, to shift priorities, noting the Governing Body would have to act on that. He said, "As a member of the Governing Body, the more specificity there is in the beginning, it actually takes some of the burden from us. It requires more in the beginning, to be sure you have a sufficiently detailed plan to make things happen. It takes the vagueness out. It reduces, hopefully, the risk of conspiracy. You know some people are always going to read that being the way they think they are, but takes some of that away. It takes that conspiracy theory away a little bit more. I think as much disclosure and specificity as we can get in the beginning would be better than not. How we get there is a different story." He believes we should spend a little bit of time on the concept.

- Commissioner Romero-Wirth said she agrees with Councilor Dominguez that we should have disclosure and tell the voters what we are taxing, why we are taxing and what we're going to use the money to do. She used the example of a parks bond, when there are funds left over and the City doesn't need more parks, but it needs water systems, or something similar. She said if we are too specific, then what do we do with the bond money, because it can't be returned to the public, and you want to do right on behalf of the people. She believes the City needs leeway and flexibility. She agrees totally this is something we should consider, but cautioned that we have to be careful in the wording.

Councilor Dominguez agreed, saying that will be part of the specific language being presented. He said the previous Parks Bond is a good example, where we spent all of the money where it was intended to be spent. He said people come and ask how much money the City really spent, for example, Frenchy's Field.

- Commissioner Romero-Wirth said there are people who could argue you can never spend enough money on Parks, so that's a bad example of where you would have left over money. She gave the example of the Schools where they spent the money, built a gym, but there are bond funds left over. She is concerned about tying the hands of elected officials by being too specific, so if there is another critical need those funds can't be used.
- Councilor Dominguez said the language needs to be drafted to give some leeway to the City. He said, "When it comes to the bottom line in taking money from taxpayers, it comes down to 'promises made, promises kept.' You have to make sure that you spend the money where you said you were going to spend it and how you were going to spend it. And that is the primary objective. If there's money left over, I imagine that a process could be built to figure out how to reprioritize that money, and it could be part of the bond. It could contain language, that any money that is left over is to be reprioritized with these priorities."
- Commissioner Romero-Wirth said that's what happened with the buses, where they said we have a bus tax and then we may use it for other quality of life purposes as sort of a catch-all.

Former Councilor Heldmeyer said, "No. It was very different, because the advertising and the brochures that were handed out didn't talk about these other things, it just talked about buses. The proposal on the ballot talked about 'and other quality of life' things, but it wasn't in what was given to the public. She said, yes, you put in a disclaimer, and I think the Parks Bond is a good example, and as you know, some people are still not happy with what happened to that, because it was a very specific list. And some things cost more and some things cost less, and people understand that, and priorities change. But you put that disclaimer in the information you give the voters. This is what we intend to do, but it may be that money... these projects may cost more or less than estimated."

- Commissioner Romero-Wirth asked how we can account for that in the Constitutional language that she is suggesting to be put into the Charter.

Councilor Heldmeyer said, "We're not saying absolute, we're saying clear and consistent. And clear and consistent can be putting in disclaimers.... people are still unhappy... in Phase 1 of the Parks Bond they were promised Park X and they didn't get Park X until the second go round, and it was supposed to be in the first part." She said there's nothing wrong with a disclaimer.

Councilor Dominguez said specifically on the Parks Bond, the issue was whether or not we could spend those funds on personnel costs, on operating costs. So there was money that was left over which the Council decided to use for temporary employees to work on building those parks.

- Commissioner Romero-Wirth asked how that can be done legally.

Councilor Dominguez said, "There was some vagueness in there that allowed us to do that."

- Commissioner Romero Wirth said, "Bonds are bricks and mortar, not a person."

Too many people talking here at the same time to transcribe.

- Commissioner Romero-Wirth said a disclaimer is great, and gives leeway so as to not tie your hands, but you need to be very clear with the voters. She wants to be sure what we put in the City Charter doesn't somehow suggest that the Governing Body can't have some leeway for the situation where there is excess bond money.

Councilor Heldmeyer said that is fine, as long as you get that information to the public.

- Commissioner Romero-Wirth said, "I'm not arguing that point at all."

Too many people talking here at the same time to transcribe.

- Chair Serna said his suggestion is to state the purpose of the bond, with language that any excess funds are to be used for similar purposes which are beneficial to the primary purpose, which would cover this case.

- Commissioner Romero-Wirth said that is too specific for the Charter, although she thinks he is correct in terms of the bond issue itself.

Former Councilor Heldmeyer said, "It's not just what the ballot says, it's the information that the government gives to the public in addition to what's on the ballot, because nobody reads what's on the ballot."

- Chair Serna said the language shouldn't tie their hands, because they have a job to do. He asked Councilor Rivera if he has something to add to the conversation.

Councilor Rivera welcomed the Charter Review Commission to this side of town and the Southside Library, commenting it is much appreciated. He said, as Councilor Dominguez says, "This is the

best kept secret, our beautiful library.” He said there has been great discussion today, and he thinks the Commission has covered all the bases. He said he hasn’t gone through a bond cycle as an elected official, but he agrees that we need to be as transparent as possible with the public in asking them for money. However, he agrees there needs to be some leeway when things change, and a great example is the economy. He said in terms of Tierra Contenta, Paseo del Sol West was supposed to connect by Capital High School a few years ago, and many more homes were supposed to be built. He said as things change, flexibility is needed, but we need to be transparent, but with the option of flexibility as well – if this doesn’t happen, what will we do. We need to spell it out, but not so specifically that you can’t do anything with the money. He said, “I think you guys are on the right track.”

- Commissioner Romero-Wirth said, “You stated it better than I did. That’s my only concern.”
- Commissioner Werwath said what we are trying to get at here is that there needs to be a standard way of presenting these things ahead of time. He said his experience is that bonds are political tools and they will be marketed in the same way as a candidate might market themselves in an election. He said it makes sense to have some kind of standardized explanation accompanying the additional marketing materials which are produced by various departments and/or elected officials. He thinks we need to drill down for a little more clarity for the statement provided, because it leaves a lot of confusion.

Commissioner Hiatt said, “There are 4 attorneys on this Commission, and when you say the language has to be clear and concise, but you don’t want weasel language, I can weasel out of clear and concise. And this is creating a whole other area for lawyers, and having been through several bond cycles when I was in the County, I know how much goes into trying to pin down the issues and being clear. That’s why governments pay lawyers who specialize in bonds so much money, is to try and be clear and concise and get it right. This is obviously a topic that is going to continue on, because I do think we need to take it up more.”

Councilor Dominguez said as Karen [Heldmeyer] said, times are tough and we are going to need more money from taxpayers. And we need to maintain the trust of the public with this or some other language. He reiterated that it comes down to, “Promises made and promises kept” and assuring the taxpayers that the money is spent as it was intended to be spent.”

Chair Serna welcome Julie Ann Grimm from *The Santa Fe New Mexican*, and invited her to attend all meetings of the Commission.

Chair Serna said we are fortunate to have both Councilors from this District in attendance and participating. He said he is amazed at how this part of the City has expanded, and it’s so modern, commenting on all of the new schools, and saying Councilors Dominguez and Rivera represent a wonderful part of the City.

4) BROADEN REFERENDUM AND INITIATIVE RIGHTS OF VOTERS.

Commission Hiatt said he has lost touch with what we're trying to do with this provision, and would welcome remarks from former Councilor Heldmeyer.

Former Councilor Heldmeyer said this was proposed by the League of Women Voters, noting the League has a position supporting referendum and initiative, but has no position, pro or con, on recall which also is in the Charter. She said under the current Charter, neither referendum nor initiative have been used. She said the question for the Charter Review Commission is whether the numerical requirements for initiative and referendum, and presumably recall, are so stringent that they will never be used. The question is, "How much outrage do you have to have in order to get initiative or referendum on the ballot. Are the numbers too high. Does it require too many signatures."

Former Councilor Heldmeyer said the only example she can remember is a push for a recall of one of the former Councilors. She noted a Councilor can't be recalled in their first or last years in office. She said the recall wasn't done because it was the first year, and everything fizzled quickly, and by his 2nd year people had "run out of steam" to do anything about it.

Former Councilor Heldmeyer said the League is bringing up the issue because these democratic tools have not been used by the public.

Chair Serna said then Councilor Heldmeyer is saying referendum and initiative are the Charter and haven't been used, and feels they should be broadened.

Former Councilor Heldmeyer said they need to be made easier to use, by requiring fewer voters to initiate referendum and initiative.

- Chair Serna asked the requirements right now.
- Commissioner Werwath said it is 1/3 of the numbers of voters who voted in the most recent Mayoral election, commenting something like 1,200 signatures are needed.

Ms. Barkley said, in addition, the Charter also requires a certain percentage of those people signing the petition must reside within each District.

- Commissioner Werwath noted 5,000 signatures would be needed to effect a recall.

Former Councilor Heldmeyer said she thinks is a good topic for discussion.

- Commissioner Hiatt asked the difference between referendum and initiative.

Mr. Harrington said a referendum is to repeal an Ordinance adopted by the Council, and initiative is to enact an Ordinance.

Former Councilor Heldmeyer said this is correct, but there are topic limits on such ordinance in the Charter.

- Commissioner Long said it can't be fiscal matters, or in regard to human and civil rights, and such.

Mr. Harrington said the previous Commission considered this issue, and Karen Walker spoke about what happened in the Commission she chaired previous to that one, which was that some members did not want these things at all because of the way they had been used against various groups. She said they finally agreed to include them in the Charter, but with requirements which made it impossible for the time being. He said the requirements at that time were signatures of 20% of the registered voters, and in consideration that everyone doesn't vote in an election, that would have been 60% of those voting which seemed unreasonable. He said the recommendation from the Commission he chaired, was a requirement for signatures of thirty-three and one-third percent of the number of the voters that voted in the previous election, and the practical effect was to reduce it. He said it is no longer impossible, but it is still difficult, commenting "we did discuss this to death and this number and that number." He said the only other change the City Council made before putting the recommendations on the ballot was a change in one of the numbers which he believes was for recall.

- Chair Serna asked Mr. Harrington if he believes the current numbers are good, or should there be changes.

Mr. Harrington said he believes they are correct. He said, "The idea is that it should be difficult, and this is for sort of extreme cases when, for example, the Council, for some reason or other, is refusing to act on something that is extremely popular and in demand, and it should be very difficult. It's about 5,000 signatures now City-wide.

Stephen Farber arrived at the meeting

- Chair Serna said then, "So you're comfortable with what you did and it is appropriate even today."

Mr. Harrington said yes, but commenting that there is no such thing as perfection.

- Chair Serna agreed.

- Commissioner Werwath asked if anyone is aware of any referendum/initiative/recall petition attempts that have failed in Santa Fe.

Former Councilor Heldmeyer said one succeeded, which was an initiative to have a professionally trained City Manager and that failed at the ballot, which is the only one she can remember.

Ms. Grimm said, "There was an attempt to do petitions to recall Christopher Calvert, but word was folks got discouraged by the numbers, but I don't have those."

Former Councilor Heldmeyer said she had heard that, but the one she referenced was the only one which had ground swell to gather sufficient petitions to get it on the ballot. She suggested it would be a good idea to get the minutes from previous Charter Commissions, noting she hasn't been able to find any at the City's website. She said those minutes have discussions in great detail about the numbers, what people did and didn't want. She believes it would inform this Commission's discussions to look at those minutes if you want to pursue discussing this particular issue.

- Chair Serna said he would request a Memorandum from the City Attorney to the members of the Commission, explaining the present situation regarding referendum and initiative, and if possible to compare that to what other charter cities do. He said Mr. Harrington seems to be happy with the current number. However, there are concerns that perhaps the numbers are making it too hard. He would welcome input from the Councilors, the League of Women Voters to see where to go on this issue.
- Commissioner Gutierrez asked former Councilor Heldmeyer if she could say what would be a more realistic number.

Former Councilor Heldmeyer said, "No, because the League isn't taking a position on that." She said this is the reason she suggested looking at the minutes of the past Commissions to see various numbers which were suggested, and various arguments for and against. She said the League is bringing this forward, noting the League was happy to get the changes to the numbers in the first set of amendments to the Charter. She said the problem is you're trying to define a negative, noting there are those who would like to do an initiative or a referendum, but are discouraged by the numbers. She said she really doesn't know what the numbers should be.

- Chair Serna asked, for clarification, if the required 5,000 signatures are from a District or is it City-wide.
- Commissioner Long said it is City-wide, but it requires that 10% of the signatures must come from each District for Council and 15% for Mayor.

Former Councilor Heldmeyer said there was fear that certain Districts in the northern part of the City would get excited about something that the rest of the City didn't care about and rush through a referendum or an initiative on the basis of their votes alone. This is the reason the provision was included requiring a certain percentage from each District.

- Commissioner Romero-Wirth asked if the numbers are the same for referendum, recall and initiative.

Too many people speaking at the same time to transcribe

Former Councilor Heldmeyer said, "It is related to the number of people that voted for a particular candidate and the relationship between that and the number of people who have to vote in a recall

[Mayoral?] election, which created some issues. Because if you run in a Mayoral year and you get X number of votes, and the recall would be in an off-year election where fewer people are voting, and you have to get at least as many votes to recall as there were to vote you in, that may be impossible, just from the timing of the elections.”

- Chair Serna asked Ms. Barkley to include recall elections in the memo from the City Attorney, commenting it is confusing to him at this point.
- Commissioner Farber apologized for being late. He said as he heard Mr. Harrington's comments, and understands Mr. Harrington is advocating to keep the current numbers for recall, referendum and initiative.

Mr. Harrington said yes.

- Commissioner Farber, “I just want to give some historical perspective of what happened in the first Charter Review Commission. The dynamic that went on is that there was a considerable concern to have initiative, referendum and recall. And there was a balance that was struck. [Former] Governor Anaya, who was on the first Charter Commission, felt very very strongly, and I tended to agree with him, that the experience in California had not been a good one, where government was being drawn by initiative and it could lead to adverse impacts on minority communities particularly. And so that is why the balance that was struck initially was, we will have, in terms of politics, not politics as in a bailiwick, but just the agreement that, all right we should have referendum and initiative, which is separate from recall, but make it something that was so significant that you knew you weren't being driven by special interest groups. And we knew it was high at the time, and we felt that with experience, the number would go lower. So it was an incremental step. We had a full understanding that we were making a very high barrier, but that in time it probably would get changed.”

Commissioner Farber continued, “But there was also a big concern that we not get into a California situation where there was money that was being thrown into various issues, and that really the Governing Body should have the call on ordinances and change of ordinances, etc. But at the same time, the community should have the right, if there is something that is so significant that you can gather a particular number [of signatures].”

Commissioner Farber continued, “So that was the history of the first Commission. Recall was different. The idea was that if someone was elected, and unless they really did something that was really off the wall, it should be very difficult to remove someone from an elected position, that recall really was the next election. But if in fact if someone did act in an atrocious manner, so it wasn't just... I can see an atrocious thing being a one time thing, but that it should be a hard process to get someone out of office, unless there is a track record of importance. So that is what happened.”

D. APRIL 9, 2013 – SANTA FE PUBLIC SCHOOLS BOARD ROOM

- 1) SIGNATURES TO BE REQUIRED FOR PETITIONS/RECALLS.
- 2) MARIJUANA AS A LOW PRIORITY FOR LAW ENFORCEMENT
- 3) WATER CONSERVATION.
- 4) BAN ON AUTOMATIC WEAPONS AND EXCESSIVE AMMUNITION CLIPS.
- 5) TECHNOLOGICAL IMPROVEMENTS.

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

- 1) CREATE A 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

Chair Serna said we have covered the agenda for this evening, and Item D is for the April 9th meeting which will be held at the Santa Fe Public Schools Board Room, commenting the Commission will address recall at that time. He said we will address the other 4 items on the agenda as well. He noted Items 8(C)(1) and (2) on this evening's agenda were postponed to the next meeting of the Commission, to give Commissioner Farber the opportunity to provide input.

Chair Serna said Item E is for the April 23rd meeting which will be at the Santa Fe Public Library and we will consider Items #1 through #4 at that meeting.

9. DISCUSSION/POSSIBLE ACTION AGENDA ITEMS FOR FUTURE MEETINGS.

Commissioner Farber said, regarding Item 8(C)(1) Create an Auditor/Inspector General Position, an Audit Committee was formed prior to the Chart Commission being appointed. He asked if a report was presented today.

Chair Serna said no, noting this item is tabled to the next meeting.

Commissioner Farber said he had requested that the City staff provide information about the Audit Committee – membership, duties, responsibilities. He said there could be overlapping issues, and the idea of an independent auditor/inspector general is covered by the Audit Committee, if it is meeting. He said he is sensitive to this issue because of what happened at the New Mexico Finance Authority. He would like that information before the next meeting if possible.

Chair Serna said perhaps Ms. Barkley can brief the Commission on the Audit Committee.

Commissioner Hiatt asked Commissioner Farber if he was the proponent of *Salaries to be set by an Independent Commission*, and Commissioner Farber said no.

Former Councilor Heldmeyer thinks it was Joe Maestas.

Commissioner Hiatt agreed.

Commissioner Hiatt said the Chief of Police was here earlier in the meeting, and stayed a while before noticing that the marijuana issue was on the April 9th agenda, and he left, but he will be back on April 9th when that issue is discussed to be a part of that discussion.

Commissioner Hiatt asked what is meant by Technological Improvements.

Commissioner Werwath said he believes that was related to some things we were talking about originally, but doesn't think it is an item for consideration.

Commissioner Hiatt asked if anyone is advocating Technological Improvements as a discussion topic for the Charter.

Commissioner Romero-Wirth said perhaps it was Commissioner Johansen.

Commissioner Werwath said no, he believes this was just a miscommunication, when we were talking about input and local government and different ways to gather input through new technologies for public comment and policy making. He brought up this topic at the initial meeting of the Commission.

Commissioner Romero-Wirth asked the start time for the next two meetings, and Irene Romero said it is 5:00 p.m.

Chair Serna said he will get the word out through KSWV, and there is Face Book and Twitter activity going on as well.

Commissioner Hiatt suggested at the next meeting we put on the agenda possible action to remove Ranked Choice Voting from the topics.

Commissioner Romero-Wirth said there is no need for action on that.

Commissioner Werwath said we were looking to amend the provision because it can't be implemented, but Mr Otter reported to us today that there are two voting machines which are pending which will be available at some point to do this, and Mr. Otter said he now doesn't want us to change that provision of the Charter.

Commissioner Hiatt suggested, at the April 9th meeting, to put 4 topics for discussion and possible action at the end of the agenda: Public Financing, Tax Bond Issue, Referendum/Initiative and Technology. He said this isn't for removal, just for discussion/possible action. He said if we put those on the agenda, then we can begin to force the issue for language, noting there may be reasons for removing items before we have language.

Commissioner Werwath said, "I have a little bit of reservation about chopping things before we are through with our outreach to the four districts. We have 3 meetings at the end to give up or down votes on this stuff, and I think it is different in the case of things which were precluded by State law or items which have been withdrawn by the petitioners. However, on the others, we need to do the full due diligence of taking them to all the constituents."

Commissioner Long said we could leave Regulatory Issues on the agenda.

Commissioner Romero-Wirth said she thinks it would be helpful to develop language for these things, if we're serious about them, because that's really where the rub is.

10. COMMUNICATION FROM CHARTER COMMISSION MEMBERS

Commissioner Werwath said he is desperately hoping to get a survey on the City's website, and asked if Commissioners have input on the questions the three questions he has prepared as follows:

1. Are there any specific changes to the structure of City government to propose for consideration by the Commission.
2. What are your top three.
3. How could you be better informed and better connected to the processes of City policymaking.

He said this are his quick draft, and he would be open to suggestions from the Commission.

11. PUBLIC COMMENT

Jim Harrington asked, with regard to Public Campaign Financing, if there is a specific proposal from the League for a change to the Charter.

Commissioner Werwath said it is defensive language to protect the current ordinance from being removed. He said, "It would simply require the City to have a Public Campaign Financing Ordinance in place, but it wouldn't contain amounts, with the idea is that it is a backstop against having the ordinance repealed by later councils."

Mr. Harrington said he couldn't recommend something which cements those numbers in a particular ordinance or in the Charter.

Commissioner Long said it doesn't, it is just a policy statement.

Mr. Harrington said the present Charter requires the Council to “adopt a meaningful system of public financing of campaigns.” He said there is a separate article specifying how that is done, including appointing an advisory commission.

Too many people talking at the same time to transcribe

Chair Serna thanked the Councilors and Mr. Sheldon for attending the meeting, and said he would welcome ideas from them.

Commissioner Romero-Wirth thanked the people who always show up.

Chair Serna asked Ms. Romero and Ms. Barkley to see that the City Councilors are notified of future meetings and receive the agendas, and Ms. Romero said she already does that.

Commissioner Werwath said he is working to get an email sign-up on the website so people can get email notifications.

Chair Serna and Vice-Chair Long wished everyone a very Happy Easter.

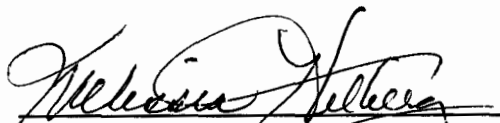
12. ADJOURNMENT

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 7:00 p.m.


The Honorable Patricio Serna, Chair


Melessia Helberg, Stenographer

Santa Fe Neighborhood Network
Neighborhood Preservation and Protection.

Neighborhoods are a key historical and cultural heritage defining the character of Santa Fe. In order to protect Santa Fe's neighborhoods and their quality of life, the governing Body shall promote and prioritize neighborhood protection in land use planning, development and building determinations. To enhance and ensure neighborhood protections in the City

(1) shall encourage and recognize Neighborhood Associations to represent and articulate the legitimate interests of neighborhoods.

2) shall codify a Neighborhood Bill of Rights to adopt essential neighborhood guarantees.

(3) shall provide for an independent staff Neighborhood Advocate to assert neighborhood interests in City policies, rules and regulations

Exhibit "1"