



Agenda

AGENDA CHARTER REVIEW COMMISSION

April 23, 2013
5:00 pm to 7:00 pm
Santa Fe Public Library
145 Washington Avenue
Main Community Room

1. Roll Call
2. Approval of Agenda
3. Approval of April 9, 2013 Minutes
4. Public Comment
5. Continued Discussion of Topics For Review to include Public Comment

POLICY ISSUE

- a. Create an Auditor/Inspector General Position/Report regarding City Audit Committee and its functions and activity

GOVERNANCE ISSUES – Santa Fe Public Library

- a. Create Full Time Mayor
- b. Mayor to Hire/Fire City Attorney, City Clerk and City Manager
- c. Mayor to Act as Chief Executive Officer
- d. Independent Commission for Redistricting
- e. Other Governance Issues to be Discussed and/or raised

May 9, 2013 – City Council Chambers

POLICY ISSUES

- a. Limit Contributions to Candidates That Do Not Accept Public Financing
 - b. Salaries to be Set by an Independent Commission
 - c. Full and Complete Disclosure of Uses for Tax Bonds Prior to Election
 - d. Broaden Referendum and Initiative Rights of Voters
 - e. Signatures to be Required for Petitions/Recalls
 - f. Proposal from City of Santa Fe Immigration Committee
6. Discussion/Possible Action Agenda Items for Future Meetings, including setting deadline for submission of proposed amendments to Charter
 7. Communication from Charter Commission Members
 8. Public Comment
 9. 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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**MINUTES OF THE
CHARTER REVIEW COMMISSION
Community Room
Santa Fe Public Library
145 Washington Avenue
Tuesday, April 23, 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 Tuesday, April 23, 2013, in the Community Room at the Santa Fe Public Library, 145 Washington Avenue, 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
Roman Abeyta
Steven G. Farber
Brian Patrick Gutierrez
John B. Hiatt
Houston Johansen
Carol Romero-Wirth
Daniel Werwath

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 unanimously on a voice vote.

3. APPROVAL OF APRIL 9, 2013 MINUTES

Commissioner Farber provided a list of ministerial corrections to the stenographer, the corrections were entered, and the corrected minutes were provided to the members by Ms. Romero via email.

MOTION: Commissioner Hiatt moved, seconded by Commissioner Werwath, to approve the minutes of the meeting of April 9, 2013, with the ministerial corrections.

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

4. PUBLIC COMMENT

A copy of a proposed amendment to the Charter, provided by the Neighborhood Network, entered for the record by Rick Martinez, is incorporated herewith to these minutes as Exhibit "1."

A copy of a proposed amendment to the Charter, a policy statement, provided by United Way of Santa Fe, entered for the record by Stacy Quinn, is incorporated herewith to these minutes as Exhibit "2."

A copy of an email dated April 22, 2013, to Irene K. Romero from John Otter, regarding a proposed punctuation amendment to the Charter, entered for the record by staff, is incorporated herewith to these minutes as Exhibit "3."

Rick Martinez, President, Neighborhood Network, said two weeks ago he appeared and asked to have something on neighborhoods included in the City Charter. He said Cheri Johansen, Vice-President, is handing out some proposed language to the Commissioners [Exhibit "1"]. He said the main concern of the Network is to ensure that they get some language in the Charter. He said he hopes the proposed language is acceptable, and will work with them if they could like to change the language.

Chair Serna noted there are several neighborhood associations, and said Mr. Martinez calls this the Neighborhood Network, and asked if all the associations got together and this language represents all the neighborhood associations.

Mr. Martinez said the associations didn't get together on this language, reiterating that the Commission asked them for language at the last meeting. He said they try to get the neighborhoods together, and they try to represent the entire City. He said the Neighborhood Network is very important to Santa Fe.

Chair Serna asked Mr. Martinez if he is the President of the Neighborhood Network, and Mr. Martinez said yes.

Commissioner Hiatt asked how many neighborhood associations are part of the Network.

Mr. Martinez said there were 28 members at the last count, but they try to work with them all. He said it isn't only neighborhood associations, they also have homeowners associations as members.

Mr. Martinez introduced Cheri Johansen, Vice-President. He said other members of the Neighborhood Network are in attendance, which include, Marilyn Bane, Former Councilor Karen Heldmeyer, and noting that Fred Rowe and Jim Harrington are members as well.

Marilyn Bane, a member and past President of the Neighborhood Network, President, Historic Neighborhood Association, and Past President of the Old Santa Fe Association, said she is here as part of the Neighborhood Network, but she is here on a different topic, although she supports Mr. Martinez. She said they want to support the policy statement on environmental protection submitted by the League of Women Voters. She said the Neighborhood Network has voted to support each and every one of the Charter amendments which were presented to the Commission by the League of Women Voters. She said, "We would like to also specifically call out the Environmental Protection Policy Statement, 2.03, and heartily endorse water as a primary issue, and it will continue to be, and we feel it is of such importance that it should be specifically mentioned, along with any other environmental statement."

Commissioner Hiatt said he may have misunderstood, but he thought Ms. Bane was telling us that the Neighborhood Network supports all of the Charter Amendments before the Commission.

Ms. Bane said, "No. Those that were recommended by the League of Women Voters."

Stacy Quinn, Board Member of United Way, provided a proposed Policy Statement with attachments, to the Commissioners [Exhibit "2"]. Ms. Quinn read the proposed amendment into the record. Please see Exhibit "2" for the text of the proposed amendment.

Ms. Quinn said in doing their work, they have discovered that the graduation rate is directly correlated to our 4th grade reading rate. She said they have been working with the County and Public School Officials, and one piece which is missing is the City. She said they felt that the City Charter should reflect the values that Santa Fe holds for our future, and that our children are our most important aspect, and therefore should be highlighted.

Chair Serna thanked her for her presentation, commenting if organizations such as United Way don't speak up for our children, then who will, because the children can't speak for themselves.

Ms. Quinn invited the Commissioners to the event being sponsored by United Way with Rob Gruenwald, a member of the Federal Reserve of Minnesota. He will be speaking about the financial investment in our children. *[The balance of Ms. Quinn's statement is inaudible because of noise overlay]*

John Otter said, "After a thorough reading of the State Constitution and relating all the provisions in there with regard to elections, it appears that the State Constitution would not allow the hand counting of ballots for municipal elections. That is because ballots are required to go into a machine, of a City over 1,500 people, and 'she' puts the ballots as required in a ballot box, which is required to be sealed with the locked ballots, and the ballot box is not to be opened until the canvas of the election to certify the votes, so there is no opportunity to access to the ballots to sort or hand count them before the results of the election are canvassed."

Chair Serna would like Mr. Otter to provide the section of the Constitution to which he is referencing.

Mr. Otter said he didn't bring details on that with him this evening. He said, "The bottom line is that the proposal that I made to require the hand counting doesn't appear to be allowed by the State Constitution. I think that can be taken off the agenda. Again, I thank the Commissioners for the time and attention that they paid to this, and apologize for the late discovery of the State Constitution provisions."

Mr. Otter said he found a punctuation error in the City Charter, Section 4.06 Ranked Choice Voting. He said, "The intent of the sentence is pretty clear, so the change in the punctuation is pretty clear, and the detail was provided, I believe, to Irene, and I hope the Commission can make that change without having the voters vote on moving a comma from one place to another."

Mr. Otter said, "The contingency clause of machines being available that will recognize certain errors, and all those contingencies in the Charter don't limit the counting of ranked choice voting ballots, any more than the State Constitution does, except for this phrase 'at a reasonable price,' which is not a problem because the County provides the machine. The solution to the problems are the new precinct machines that will satisfy the Constitution provision which requires the Secretary of State to approve the voting machines and a number of other steps that are too long to be dealing with at this point. I thank you for your consideration of these election changes, and I'm sorry that didn't work out."

**5. CONTINUED DISCUSSION OF TOPICS FOR REVIEW TO INCLUDE PUBLIC COMMENT
POLICY ISSUE:**

**A) CREATE AN AUDITOR/INSPECTOR GENERAL POSITION/REPORT
REGARDING CITY AUDIT COMMITTEE AND ITS FUNCTIONS AND ACTIVITY.**

A copy of Ordinance No. 2012-32, creating the Santa Fe Internal Audit Department, with attachments, entered for the record by staff, is incorporated herewith to these minutes as Exhibit "4."

A copy of the Audit Committee Member List, with attachments, are on file in, and redacted copies can be obtained from, the City Attorney's Office.

Chair Serna noted this amendment was proposed by Commissioner Farber, and he understands there are individuals here to brief the Commission on what the Audit Committee does. He said he is extremely impressed with the backgrounds of the members of the Audit Committee and we are honored to have them in attendance today.

Lisa Kerr, Internal Auditor, City of Santa Fe, asked what questions she can answer for Commissioner Farber.

Commissioner Farber said he is glad she is here and apologizes for the inconvenience when we were just provided the materials at the last meeting. He said he wasn't expecting a full report, noting the Chair of the Audit Committee, Maurice Lierz, is in attendance today. He thanked Ms. Kerr and Mr. Lierz for being present, and the Audit Committee for the report that was attached to the materials we were given at the last meeting, which was a report the Audit Committee had presented to the Governing Body. He said it was very helpful to him in understanding the issues, and "I note that it is a very recent Ordinance. It's 2012-32, which just passed in October 2012, which was two months before we started our meetings. So when I mentioned this, I wasn't exactly clear about what the City was doing. But I do have a question and having reviewed the Ordinance which created your position, if I understand correctly, you report to the City Manager, correct."

Ms. Kerr said, "Yes. That is correct."

Commissioner Farber continued, "In the Ordinance it indicates, and maybe this is just a matter of language, but in looking at the Ordinance along with the Report, and I very much appreciated your report, I was wondering whether there had been developed a yearly Internal Audit Plan yet."

Ms. Kerr said, "Yes. I will say that the Audit Committee has a sub-committee that works with the Internal Auditor and myself, that consists of two members of that Audit Committee who helped to review the Risk Assessment that I sent out to the various different departments. And using that Risk Assessment plus the results of wonderful interviews with various people around the City, we came up with an Audit Plan."

Commissioner Farber said, "And so that's a formal document now."

Ms. Kerr said, "Absolutely."

Commissioner Farber asked, "And has that Plan been approved by the Audit Committee."

Ms. Kerr said, "Yes it has."

Commissioner Farber said, "I wanted very much to express my appreciation for the fact that the Report states, 'The Audit Committee has met 10 times in its last year.' I know when I say thankless, it's not thankless, because we need to be thankful that there are people who take this so seriously. It's thankless in the sense that there is no compensation for the members of the Audit Committee, but it's hard work. And I've become sensitive to this."

Commissioner Farber continued, "And I wanted to express to the Chair why I raised this, because I have some professional dealings with the New Mexico Finance Authority, and the recent episode of a fraudulent audit that had been created by an employee. So I have become quite aware of issues that are involved with that."

Commissioner Farber continued, "I was concerned, in reviewing the report of the Audit Committee that the City's audit, for perhaps the last four years, has been late. And I'm wondering if remedial steps are in place now so that the next.... If I understand correctly, the statutory deadline was December first for the City, not just for the CAFR, but for the City's audit to be submitted."

Ms. Kerr said, "And I think you raise a really good point and it's been a concern of the Audit Committee and myself as well. And to answer that question, I would say that there have been meetings already with myself, Marty Mathieson from Atkinson & Co., and Teresita Garcia from the Finance Department, to try to come up with a benchmark to help get the audit report done sooner, or at to at least meet our deadline, that is our goal. And I believe, using the milestones that we've laid out, they will be able to meet that goal."

Commissioner Farber said, "Well. And I very much appreciate that, and I don't know whether this is addressed to the Chair of the Audit Committee or to you, but are there minutes kept of the Audit Committee meetings."

Ms. Kerr said, "Yes, there are."

Commissioner Farber said, "Well, that's a very important thing, because one of the issues that happened with the Finance Authority is that the Audit Committee met only sporadically, even though they were cabinet secretaries, and they didn't keep minutes of those minutes when various things happened. Can you think of any reason why the Audit Committee should not be a matter of ordinance as opposed to a Resolution of the City Council."

Ms. Kerr said, "And I would like to make one point of clarification before I answer that question. The Resolution for the Audit Committee was actually created in 2010. You know, the Audit Committee created the Internal Audit Charter which was 2012. So, again, I'm sorry, could you repeat your question."

Commissioner Farber said, "And I appreciate the fact, the way I see it, and I'll go quickly, is that you answer... you're an independent person within City government, you answer to the City Manager, but in some ways you also report to the Audit Committee. And that seems to me to be the check and balance, because the members of the Audit Committee are independent citizens who are not employees. In fact, several of the members, two are CPA's if I recall correctly, one is a lawyer, two are business people, so there is a protection in the checks and balances. And there is a difference between a Resolution which is just an expression of the will of the Governing Body versus an ordinance which is actually a law. So, I'm wondering whether there shouldn't be an ordinance, or the City shouldn't be required, and if I put you on the spot, you can just say that's out of my province."

Ms. Kerr said, "That's out of my province."

Commissioner Farber continued, "But why you would not, as a community, want to have, by ordinance, an audit committee, so that it will be there, maybe not the same members all the time, but it's not something that could just be changed by a simple vote of the Governing Body, actually it's not even a public hearing. Does that put you on the spot, but it's a rhetorical question."

Ms. Kerr said, "That's out of my province."

Commissioner Farber continued, "Right. So, Chair do you have a thought about that."

Maurice Lierz, Chair, Audit Committee, said, "First of all if you look at the City of Santa Fe, I think we're into a transitional mode. If I understood also what was behind forming the City's Audit Committee, we are advisory by nature of the Resolution. But I would express it in these terms, we have to learn to walk before we run, so evolution has yet to occur I think in our process. Also, what the duties of the Audit Committee..... we have them, but they may be changed in the future. I think this is a dynamic document, and if I understood it correctly, part of this started because of a suggestion by the State Auditor, one of our statutory State officers, recommending to the City that an Audit Committee be formed. So that was also behind this activity. So, I don't know if there is any objection to thinking of us in transition. We've been working for about two years. We're learning our jobs as we go. But in the State of New Mexico, we were aware of the Albuquerque audit situation. We were particularly impressed with the City of Las Cruces and their activity. And also, in the last year, we spent a great deal of time on the Internal Audit position and planning and stuff of that nature. I hope that's given you background."

Commissioner Farber said, "I understand that it would be difficult to set out duties, goals and functions of an Audit Committee. But if there were a simple expression that the City of Santa Fe shall have an Audit Committee, period, it would seem to me that that might be an appropriate thing, because that then would become a part of the fabric of government. And we leave to the Council and to the Committee how you go about your functions, but at least there will be a Committee, particularly if there was a finding, I guess, that was made by the State Auditor, and if that's one of his suggestions."

Mr. Lierz said, "I think it was informal. And it was debated by the Council. We did discuss it, and if I'm correct, our City Charter says that all employees presently are hired and fired by the City Manager. But I think there was dialogue in the City structure that, in our current situation, I think the City Manager would seek the advice of the Council, of the Finance Committee and the Audit Committee, before terminating our Internal Auditor. So these are informal things at this point."

Commissioner Farber said, "Chair, thank you. I don't have any more questions. I appreciate your attendance."

Chair Serna thanked Ms. Kerr and Mr. Lierz, noting it is a very impressive Committee.

Commissioner Abeyta said, "Mr. Chairman, I have a question. So is the intent then, Commissioner Farber, that we have language in the Charter that it is a requirement by Ordinance. Is that all we're being asked to consider here."

Commissioner Farber said yes.

Chair Serna said the City Charter is the Constitution for the City, so that would be your authority, plus an ordinance is a law of the City, but would you prefer it to be constitutional or an ordinance.

Ms. Kerr said, "I do believe the Ordinance that established the Internal Audit Department, I mean it is an Ordinance. It is 2012-32, I believe. It's the Audit Committee that was established by Resolution, and I think that is the question on the table and whether that becomes an ordinance or a resolution, I think the intent is the same, but again that's out of my province. But as long as the intent is there to have that committee on a going forward basis, I think that that would be fine with myself and the Audit Committee."

Chair Serna said, "I'm going to ask counsel to draft [an opinion] for the next meeting or so, and let us know whether it's by ordinance or resolution."

Commissioner Farber said, "Well it is by Resolution."

Chair Serna said, "Well, that's what you said, but she said it's by..."

[Too many people talking here at the same time to transcribe]

Ms. Kerr said, "There's two different documents. One is the Audit Committee Resolution, which was established in 2010, that established the Audit Committee. And then the Audit Committee created the City Ordinance that established the Internal Audit Department, and I'm the Internal Audit Department, me, myself and I."

Chair Serna said, "Okay, I understand now. Any further questions from the Commission."

Commissioner Abeyta said, "Again, Mr. Chairman, so I understand, so what we're asking is that this be put in the Charter itself, that there be an Audit Committee that is established by ordinance."

Commissioner Farber said, "If I may. That it would be stated in the Charter, which is our governing document, that there shall be an Audit Committee established, and the Governing Body has X number of months to do that. That's what we did when we did the initial Charter for procurement. You have to have procurement laws, which shall be done, leaving to the Governing Body the details."

Chair Serna said, "As the proponent of this, I'm going to have to put him in charge [Commissioner Farber] to make sure what you all wanted is conveyed. In other words, for you to be the lead in that effort."

Commissioner Farber said okay.

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

A) CREATE A FULL TIME MAYOR

A matrix of all of the issues raised before the Charter Commission prepared by Daniel Werwath and distributed to the Commission, is incorporated herewith to these minutes as Exhibit "5."

Chair Serna asked who is the proponent of this amendment, and if we ever established that.

Commissioner Long said, "I think this is an issue she [Long] raised, but there may have been some others as well. This is a long time ago now, this was at our first meetings. I know it's on our comparison chart [Exhibit "5"] that we have. It's a topic under Full Time Mayor. The summary of that is that 'The Mayor position of the City of Santa Fe, is a half time paid position. This initiative would increase the Mayor's position to a full time job.' And certainly there are those, including the Mayor, and some that will join us later, that would know far more about this than I do. But it seems to me that our Mayor typically has and certainly our current Mayor, you could say, it is at least a full time job and more. It's not a part time position."

Commissioner Long continued, "And our City certainly has grown enough and we have every complex issue out there that I think justifies us treating this position as full time, although we could not compensate someone for all of the work that goes into this job adequately, it should be a full time salary, I believe. And I think it has the added benefit of maybe being able to attract some candidates that would not otherwise be able to run for Mayor because they have got to keep their job, so they can look at this as a part time job. But I think it does open that field of people that may be considering it and see some full time pay for the job. And those that have worked hard enough and certainly are fortunate to have a retirement or a family business, as we have seen, or have other resources, are able to fill that position more readily than those who would not have those same resources. So it seems to me, we're just catching up with reality by doing this, because our Mayor works more than full time, and nothing about that is going to change as I see it."

Chair Serna said he can't vote, but he can express his opinion and he totally agrees with Commissioner Long in this regard.

Commissioner Romero-Wirth asked, "So I'm just looking at the powers and duties of the Mayor, and does it say in here somewhere, I don't see it under the section on the Mayor, that it is a part time position. I completely agree that it's probably full time and then some, but I'm confused... we wouldn't be adding a salary into the constitution, we'd be adding a statement that it is a full time position. And then hopefully, it will be compensated as such. I'm not sure why we think it is a part time position. Obviously, from watching the Mayor, I don't think he's part time. I'm just wondering if it says that somewhere in our constitution. If anybody knows."

Commissioner Romero-Wirth continued, "And I looked on page 12 of the Charter, under 5.01, where it outlines the powers and duties. And I don't see anything here saying part time, so the salary does reflect that. And certainly the salary as I understand reflects that it's part time or less. But it also may be what... I don't know what the basis for that is, for determining the salaries. So anyway, I just point that out,

that we would need, I guess, to add a statement in here saying that it's a full time position. I guess I'm curious whether.... how other charters handle that, because we wouldn't be putting in here a salary requirement, so we're going to have to flush that out."

Ms. Barkley said, "The Charter does not include the salary information, and also, as you pointed out Commissioner Romero-Wirth, it doesn't include a statement as to whether the position is part time or full time. The salaries for Mayor and City Councilors are set in a provision of City Code. And if you flip to your chart on the second to last page [Exhibit "5"], under *Salaries Set By Independent Commission*, it says SFCC 2-1.2 incorporates a State Statute §4-44-4 NMSA 1978, that sets the salaries for county commissioners of Class A Counties, and the salaries of the Mayor and the Councilors are set to mirror those of the county commissioners in Class A Counties. We all operate on the knowledge that it's a part time position [inaudible]."

Commissioner Farber said, "I think, by tradition. Certainly when I served on the City Council, it was perceived to be a part time position. Now someone who has a lot of time can put as much time and effort into the position as they want, but there was never any document that I saw that said it was full time, 40 hours, 60 hours. I mean the reality is, when you're on the Council if you're doing your work, you're spending 20-30 hours a week anyway, a minimum of 20 hours, sometimes 40 hours, a week. It was hard for me to juggle a law practice and be on the Council. I think that this raises some fundamental issues that we need to be thinking about, because it goes to a potential restructuring, more than just sort of tweaking, and having some of the policy statements that I've initiated and some others, as we go forward with the structure of municipal government."

Commissioner Farber continued, "I guess I want to ask the City Attorney this, because if I'm understanding correctly, and I may be wrong about this, I know that we [the Commission] can do anything with regard to making decisions and recommendations to the Council. The Council can accept or not accept it, and put it to the vote of the citizenry, so long as it is not contrary to State law. But are the salaries for the Mayor and the Governing Body set by State law. I know Albuquerque is different, but they're a different class county. So we could be, perhaps, making it a full time job, but limiting the salary, because we can't do anything about the salary, to then compensate the Mayor who is undertaking this as a full time position – I think I heard this, I'm not sure."

Ms. Barkley said, "The salary of the Mayor and Councilors are not set. The salaries for County Commissioners, the Ordinance of the City, Ordinance 2-1.2, the City has decided they would track with the salaries of Class A County Commissioners, and that can be changed."

Commissioner Farber said, "When I was on the Council, we got \$14,000 a year. What are the current salaries for the Councilors and the Mayor."

Ms. Barkley said, "I believe, although I will stand for correction, I believe it might be \$23,000."

Mayor Coss said, "It is "\$26,000 for Councilors and the Mayor."

Commissioner Farber said, "I guess my comment, and I just throw this open, I've not heard a

groundswell, not even a groundswell, an opinion from a lot of her stuff, but input from the community about wanting the Mayor to be a full time position, or not."

Commissioner Romero-Wirth pointed out that we haven't heard public comment on this.

Commissioner Farber said, "I understand that, but it was raised by Mayor Maestas at our first meeting. He's the one that came up with the idea. He said that in his presentation."

Commissioner Hiatt said, "I didn't have any authority to do so, but I invited the Mayor to come tonight, because these are issues that I thought we would group together, and it was convenient to hear from him at one time. And I certainly would like to hear from the Mayor on each of these 3 issues, and I don't know if we need to have each of them taken separately, but I hope you will invite the Mayor to speak at the appropriate time, which I think is soon."

Chair Serna said, "I just wanted to point out that Item C under Governance Issues, is *Mayor to act as Chief Executive Officer*. Well it's already in the Charter, Item C says, 'be the chief executive officer of the City,' so that's already in there.

Commissioner Werwath said, "I believe that is a clarification of language which, if you refer to the 3rd page of the matrix [Exhibit "5"], was to clarify the language. It says, and I believe and correct me if I'm wrong, but it defines the Mayor as the Chief Executive Officer, but does not provide a definition of that term, and that is the ambiguity that the League of Women Voters was proposing to be cleared up. I believe that the title in the agenda has been modified through a sort of [inaudible] game, if that makes sense."

Commissioner Abeyta said, "I think that in order to make a decision, at least for me, as to whether or not this should be a full time position, is what are the duties of the Mayor going to be. Are we just saying the duties don't change, as they are now, but that alone takes full time, so that's what we are discussing. Or, the duties would change also. The Mayor, since it is full time, will have more of an administrative authority since it's a full time position. So I think that it is important to clarify what are we talking about. Are we talking about that the Mayor continues to do the existing duties that take full time, because it's now a full time position, or if there is going to be more, like I said, more of a role in the day to day operations of City government."

Brad Parkins, Camino Pequeno, said, "Part of the problems you're dealing with is the approach you're dealing with, which is a judgment call. There are professional consultants who make a living gathering data on all kinds of jobs, some so obscure you'd never believe it. And then looking at those jobs, comparing salaries, what should the job pay. You pay for the consulting, they look at the situation, and they give you answers that you can back up against and you can support and challenge. Your judgment is not on the line. You read about all those big CEO salaries in the newspapers. Most of the directors don't make those judgments without going out to a consultant and saying, 'Mr. Consultant, look at the job that

our CEO has to do, his responsibilities, the size of the company, everything about the dynamics, compare it to the data on other people with similar duties and conflicts with the jobs, and come back and tell us what we ought to pay this guy'."

Chair Serna said, "Well that's great, but this Commission has no resources to hire consultants."

Mr. Parkins said, "You must have some money to do something."

Chair Serna said we don't.

Mr. Parkins said, "You might plead with the City Council and they'll allocate some money. It won't be a lot of money, and let me just carry this step through. I can promise you there are specialists in salary compensation for small city governments. They'll look at the size of the government, the size of the community. I don't know this, I'm not in the business, but they'll look at the population of the town, they'll look at the Mayor's job, they'll go back and look at what jobs are paying, whether they're full time, part time or this weekend, and they'll come back with an authoritative answer that will give you some roots and confidence that we can do right by this Mayor. You know somebody could come in and pluck away your Mayor because he's under paid. It's simple. Go on line. The biggest thing I can think of, but I think they're so big, is Perris, and they do compensation all over the world. It makes it simple, and it's fair."

Chair Serna thanked him for his input.

Commissioner Romero-Wirth said, "I just want to be clear though. Our role is not to determine the salary level of the Mayor, that's not what we are here to do. What we're here to do is determine whether we need to say it's a part time position or a full time position. I think we know historically that our Mayors put full time into this. So at some point we need to state that in here, because maybe they might be compensated consummate with a full time position, but we can't determine what their salary level is. That's not our role. So I just want to be clear about that."

Commissioner Romero-Wirth continued, "And I guess, when the Mayor does have an opportunity to speak, I would like to know if he is aware of how or why we can think of it as a part time position. Because if you read the powers and duties it doesn't say it's a part time position and there's a lot to be done here, so I don't know where we've gotten that idea over time. Unless, we just look at his salary now and say, 'oh my gosh, that's not consummate with a full time position,' therefore we have somehow come away saying it's a part time position."

Commissioner Long suggested that we go through the other issues, and then ask the Mayor to address all of them at one time.

Commissioner Farber said, "I just wanted to respond to Commissioner Werwath's comment in terms of the descriptive nature of some of these agenda items. This has just sort of been as we've carried it forward. And I think as we're moving, we're refining some of the more general descriptors, in the next meeting, yes, and what we did. There were certain ideas that came up as policy issues, or that came up as a governance issue, and I would just note that on our agenda for May 9th there's discussion about

salaries to be set by an independent commission. I'm assuming the salaries they're talking about are the salaries of the Governing Body, I'm thinking. I don't know about whether... and I think it was the suggestion of the League of Women Voters, I'm not absolutely sure about that. I don't remember who came forward with the commission with the set salaries by an independent commission idea."

Chair Serna said, "It was the former Mayor of Espanola."

Commissioner Farber said, "He said that as well. So, those two sort of dovetail and maybe should have been discussed together. I think that I would be interested in hearing from Commissioner Abeyta, who served in an administrative position in municipal government. Because if we have a full-time Mayor, Chief Executive Officer, and we have a full time City Manager, do we create the potential for conflict. I don't know whether we do or we don't, if there aren't very specifically defined duties for the City Manager, as such. And I think that Former City Councilor Heldmeyer agrees with the lack of description for some of the high ranking officials of the City."

B) MAYOR TO HIRE/FIRE CITY ATTORNEY, CITY CLERK AND CITY MANAGER

Chair Serna asked who hires the City Attorney, the City Clerk and City Manager at present, and is it the City Council.

Commissioner Farber said, "It's the Mayor subject... under 5.01, I was just looking at this before. 5.01(D) says, 'The City shall have a Mayor who shall appoint and remove, subject to the approval of the Governing Body, the City Manager, City Attorney, City Clerk and members of advisory commissions.' That's in the Charter."

Commissioner Long said, "In terms of firing, at least as to the City Manager, the Council has the power to fire the City Manager, as well as the Mayor, subject to the Council's approval. So the issue here that I think that was brought up early on, is that of the Manager being subject to firing, not only by the person who appoints and hires the Manager, but also the Council. And it can, depending of course on the Councilor and the time, and even the issues, but it certainly could lend to a manager having, rather than a boss, to have 9 bosses. And there certainly could be some concern and fear where as to where to take direction, because at any time, there could be at least a majority of the Council that could fire the Manager, even though the Manager is hired by the Mayor. I think we elect our Mayor, and we have to put trust in our Mayor to be able to hire the top level executive team, and that's the team that serves the City and is appointed by the Mayor. I think it creates some problems for the City Manager in terms of where to take direction and having that sort of buffer that they can be fired by the City Council. And right now, under the Charter, the City Council can fire the Manager, even though they don't hire the Manager. I think there is some concern about the Manager being able to answer to a boss."

Jody Larson, League of Women Voters, said there is another conflict which is in Section 8.03, which provides, "The City Manager shall have the power to hire and fire all City employees," which she assumes would include the City Clerk and the City Attorney. She said the League was pointing out that that conflict was there as well. She said it is internally inconsistent.

Commissioner Farber said, "I believe that the City of Santa Fe has a Personnel Ordinance, so the Personnel Ordinance protects the vast majority of City employees. There are some employees who are called exempt employees, and I think that's what that goes to. But I know there has been, and I know that there continues to be, a City Personnel Ordinance."

Ms. Larson said that isn't stated in the statement, it just says, "... all City employees," period, so it doesn't distinguish between exempt and classified.

Commissioner Farber said, "I'm not defending any of this. The way it works, and I know because I do some employment law, is that provision 8.03 that you are talking about, if the manager wants to fire somebody, if they're an exempt person, meaning they don't have the protections of the classified service, then the Manager has that right, assuming it is done for legitimate purposes and there is not a, and I know Commissioner Long also does employment cases, but usually on the other side from me, but they would have the right to do that. If the person had a position within the classified service, then they would be protected through the personnel policies, and have a right to notice of the contemplated action."

Commissioner Long said, "Their issue is with the City Clerk and the City Attorney."

Commissioner Werwath said, "It is a clarification of language, right, basically to change the language in the Charter to reflect the practice that happens at the City. It refers to the City Manager hiring or firing the Attorney or Clerk which are hired by the entire City Council."

Commissioner Long said the Mayor hires the City Attorney and the City Clerk, as well as the City Manager, subject to approval of the City Council.

Former Councilor Heldmeyer said, "Yes, it is the case that the personnel policy comes into play, but ultimately when that policy is followed, it is ultimately the responsibility of the City Manager, if someone is let go."

Commissioner Farber said he understands this.

Jim Harrington, Common Cause, and a former Charter Review Commission Chair, said, "Just briefly, by way of background, I was going to describe what occurred in the previous Commission on these issues. And we had all kinds of proposals, including making this a strong Mayor type of government like Albuquerque's and this was the biggest controversy on our Commission. And this issue was pointed out under 8.03 of the Charter by Commissioner Long. I personally was against that change, but I didn't get to vote. And we finally came down to a very minor change. One was the Mayor's ability to vote even when there wasn't a tie, in situations in which the majority of all Councilors, not just those attending, were required to approve something by State law in order for it to happen. That was the only minor change we made."

Commissioner Long said, "So you're saying it was considered by the prior Commission, and that was removing the Council's ability to fire the City Manager."