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**CITY OF SANTA FE, NEW MEXICO**

**RESOLUTION NO. 2023-\_\_**

**INTRODUCED BY:**

Councilor Michael Garcia

**A RESOLUTION**

**PROPOSING A BALLOT QUESTION TO BE SUBMITTED TO THE CITY’S VOTERS DURING THE NOVEMBER 7, 2023, REGULAR LOCAL ELECTION REGARDING AMENDING ARTICLE X OF THE CITY’S CHARTER TO SPECIFY THE SANTA FE MUNICIPAL CHARTER COMMISSION’S APPOINTMENT, TERMS, AND FUNCTIONS.**

**WHEREAS**, pursuant to Section 10.01 of the City of Santa Fe’s Charter (“Charter”) requires the appointment of a Charter Review Commission (“Commission”) at least every ten years; and

**WHEREAS**, the Governing Body adopted Resolution 2022-40 on July 27, 2022, identifying nine topics the Commission should consider; and

**WHEREAS**, one of the nine topics the Governing Body asked the Commission to consider was “ideas suggested by the commissioners and members of the community”; and

**WHEREAS**, the Governing Body appointed members to the Commission in October, 2022; and

**WHEREAS**, the Commission met from November of 2022 through May of 2023, to

1 deliberate about and consider the details of more than fifteen proposals to amend the Charter; and

2         **WHEREAS**, the Commission received public comment in person, by videoconferencing,  
3 in writing, and through the Commission’s webpage; and

4         **WHEREAS**, the Commission produced a final report detailing its recommendations and  
5 presented the report to the Governing Body on May 10, 2023 (“Final Report”); and

6         **WHEREAS**, according to the Charter Commission’s Final Report, “the Commission  
7 recommends six substantive amendments be placed on the ballot for the November 2023 election”;  
8 and

9         **WHEREAS**, one of the Commission’s recommendations is including more specific  
10 guidelines for the appointment and function of a Charter Review Commission; and

11         **WHEREAS**, specifically, the Commission’s Final Report recommends that Section 10.01  
12 of the City of Santa Fe Municipal Charter be amended to read as follows:

13         **Article X. – Charter Review and Amendment**

14                 **10.01. – Charter review.**

15                 A charter review commission shall be appointed as needed, but not less  
16 frequently than every ten years. [~~The governing body shall by resolution determine~~  
17 ~~the manner of appointment of the commission, provided that there shall be an odd~~  
18 ~~number of commissioners.] The charter review commission shall consist of nine  
19 members; each city councilor shall select one member of the commission and the  
20 mayor shall select the ninth member. The selected commissioners shall elect one  
21 of their members to be the chair and a second one of their members to be the vice-  
22 chair of the commission. The commission, once selected, shall serve for a one-year  
23 term. The commission shall be selected as set forth above no less than 15 months  
24 before the election at which any proposed amendments are to be presented to the  
25 voters. The city shall create and fund a budget adequate for the commission to~~

1           perform its functions. The city shall staff the commission with a designated city  
2           attorney and no fewer than two staffers to perform research and drafting functions  
3           for the commission. The city shall advertise the creation of the commission and its  
4           function, setting up a separate page on the city's web page for the submission of  
5           proposed amendments from the public. The city shall hold no less than two  
6           meetings in each of the four city council districts after the commission is selected  
7           for the purpose of taking input from the public. The commission shall report its  
8           recommended amendments to the Charter to the governing body on or before the  
9           first week of June prior to the election when any such amendments are to be  
10           considered. Any recommendation put forth by the commission, unless prohibited  
11           by law, shall be given to the voters at the next election, unless the governing body  
12           does not approve it by a vote of no less than six members of the governing body.

13 ; and

14           **WHEREAS**, the language “The commission shall be selected as set forth above no less  
15 than 15 months before the election at which any proposed amendments are to be presented to the  
16 voters” is unclear, because ballot questions can be presented during a number of elections, and the  
17 Governing Body would not know if proposed amendments will be “presented to the voters” as a  
18 result of input from the Charter Commission before the Charter Commission had been convened in  
19 the first place; and

20           **WHEREAS**, assuming that “the election at which any proposed amendments are to be  
21 presented to the voters” means a regular local election, the portions of the Commission’s  
22 recommendations that state

- 23           a. “The commission, once selected, shall serve for a one-year term”;
- 24           b. The commission shall be selected as set forth above no less than 15 months before the  
25           election at which any proposed amendments are to be presented to the voters”; and

1 c. “The commission shall report its recommended amendments to the Charter to the  
2 governing body on or before the first week of June prior to the election when any such  
3 amendments are to be considered”

4 are not consistent, because 15 months before the regular local election would be August 7, a year  
5 and three months prior to an election; a year later would be August 7, three months before the  
6 regular local election, and the first week of June would be only 10 months after the commission  
7 was named; and

8 **WHEREAS**, the idea of “a designated city attorney” should be restated as “the city  
9 attorney or the city attorney’s designee”, because there is only one city attorney; and

10 **WHEREAS**, the idea that “The city shall staff the commission with a designated city  
11 attorney and no fewer than two staffers to perform research and drafting functions for the  
12 commission” should be reframed to avoid assigning responsibility for staffing to “the city”, which  
13 is unclear; and

14 **WHEREAS**, the sentence “The city shall hold no less than two meetings in each of the  
15 four city council districts after the commission is selected for the purpose of taking input from the  
16 public” should be reframed as an obligation of the Charter Commission; and

17 **WHEREAS**, if the voters support the Charter amendment, then the paragraph should be  
18 re-ordered, to list obligations in the order in which they would arise; and

19 **WHEREAS**, the deadline of the Commission’s report by the first week of June, if the  
20 regular local election is the election during which the recommendations would be considered,  
21 would provide less time to consider the recommendations than was available in 2023, when the  
22 Commission’s report was due the first week of May; and

23 **WHEREAS**, given the City’s deadline to submit ballot questions to the County Clerk at  
24 least 70 days prior to a regular local election, a more reasonable timeline for the Governing Body  
25 to receive the Commission’s recommendations would be April prior to a regular local election; and

1           **WHEREAS**, the proposal that “Any recommendation put forth by the commission, unless  
2 prohibited by law, shall be given to the voters at the next election, unless the governing body does  
3 not approve it by a vote of no less than six members of the governing body” would give the charter  
4 commission authority in relation to ballot questions that exceeds the authority of the governing  
5 body, in that a simple majority of the Charter Commission would have greater weight than a simple  
6 majority of the Governing Body; and

7           **WHEREAS**, the recommended requirement to place recommendations on ballots  
8 could also result in an unwieldy number of ballot questions that would be expensive for  
9 the City; and

10           **WHEREAS**, a variation to requiring all Charter recommendations to be submitted as ballot  
11 questions is requiring the Governing Body to consider and review all Commission proposals; and

12           **WHEREAS**, the Governing Body wishes to submit the Commission’s above  
13 recommended amendment, with modifications to address the concerns identified herein, to the  
14 City’s voters for approval; and

15           **WHEREAS**, the Charter, Article X, Section 10.02, states that “[t]his Charter may be  
16 amended or repealed as provided by law”; and

17           **WHEREAS**, state law, NMSA 1978, Section 3-15-16, states that a home rule municipality  
18 may amend its Charter “by a proposal submitted by the governing body of the municipality to the  
19 qualified electors”; and

20           **WHEREAS**, a resolution is the formal expression of the will of the Governing Body, and  
21 is used by the City to describe a proposed ballot question and submit it to the electors; and

22           **WHEREAS**, NMSA 1978, Section 1-16-3, requires the City to “file a resolution proposing  
23 the ballot question” with the county clerk, not less than seventy (70) days before the election at  
24 which the ballot question is proposed to be submitted to the voters.

25           **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**

1 **CITY OF SANTA FE** that the Governing Body hereby proposes to submit the following question  
2 on the ballot of the regular local election on November 7, 2023:

3 **GUIDELINES FOR CHARTER REVIEW COMMISSION**

4 Should the Santa Fe Municipal Charter Article X, Section 10.01,  
5 be amended to require that the City’s Charter review commission  
6 ("commission"):

- 7 (1) Consist of nine members, each appointed by a member  
8 of the governing body;
- 9 (2) Elect its own leadership;
- 10 (3) Serve for one-year;
- 11 (4) Have a budget and staff adequate for its functions;
- 12 (5) Be advertised and receive public submissions on a  
13 dedicated web page;
- 14 (6) Hold at least two meetings in each city council district to  
15 receive public input; and
- 16 (7) Recommend proposals that the mayor and city  
17 councilors must consider as proposed ballot questions?

18 For  Against

19 **BE IT FURTHER RESOLVED** that the City Clerk shall present this ballot question to  
20 the Santa Fe County Clerk no later than August 29, 2023.

21 **BE IT FURTHER RESOLVED** that, if the voters approve the above ballot question, then  
22 the following amendments shall be made to the City’s Charter:

23 **Article X. – Charter Review and Amendment**

24 **10.01. – Charter review.**

25 A charter review commission shall be appointed as needed, but not less

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frequently than every ten years. [~~The governing body shall by resolution determine the manner of appointment of the commission, provided that there shall be an odd number of commissioners.~~] The charter review commission shall consist of nine members, one selected by each member of the governing body. The commissioners shall elect one member to be chair and one member to be vice-chair. The commission shall be appointed by the first week of the April the year before a regular local election at which the governing body would like the opportunity to present ballot questions to the voters. The governing body shall fund a budget adequate for the commission to perform its functions and the city attorney or the city attorney’s designee, and no fewer than two additional employees identified by the City Manager, shall assist the commission to perform research and drafting functions for the commission. The creation of the commission and its function shall be advertised on a separate page of the city's web site and the page shall allow for the public to submit proposed amendments. The commission shall hold no less than two meetings in each of the city’s council districts, for the purpose of taking input from the public. The commission shall recommend Charter amendments to the governing body on or before the first week of April, prior to the election when any such amendments are to be considered. The governing body shall consider and vote upon proposing the commission’s recommended ballot questions.

PASSED, APPROVED, and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
ALAN WEBBER, MAYOR

1 ATTEST:

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3

4 \_\_\_\_\_  
KRISTINE MIHELICIC, CITY CLERK

5 APPROVED AS TO FORM:

6

*Erin McSherry*  
7 Erin McSherry (Jul 28, 2023 11:10 MDT)

8

ERIN K. McSHERRY, CITY ATTORNEY

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*Legislation/2023/Resolutions/Amend Section 10.01 of the City Charter*