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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 THE CITY’S CHARTER TO ALLOW THE MAYOR TO VOTE ONLY WHEN THERE IS A TIE AMONG CITY COUNCILORS.

WHEREAS, pursuant to Section 10.01, 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, two of the nine topics the Governing Body asked the Commission to consider were “whether the City’s Mayor should have a more purely executive role, rather than both legislative and executive roles and, if so, what new rights and limitations should be adopted along with such a separation of powers”, as well as “whether the roles of the mayor, councilors and city manager should be better defined and, if so, how”; and

WHEREAS, the Governing Body appointed members to the Commission in October

1 2022; and

2 **WHEREAS**, the Commission met from November of 2022 through May of 2023, to
3 deliberate about and consider the details of more than fifteen proposals to amend the Charter; and

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

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

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

10 **WHEREAS**, the Commission recommended that Articles V, VI, VII and VIII of the City’s
11 Charter be condensed into a single Article V and amended to read as follows:

12 **ARTICLE V. – GOVERNANCE**

13 Balance and Separation of Powers: City government in Santa Fe shall be
14 defined by this Charter, and specifically by the separated and balanced powers of
15 its branches, legislative and executive.

16 **[Article VI] 5.01 The Legislative Branch**

17 **THE CITY COUNCIL**

18 **[6.01:] 5.01 The Legislative Branch, Composition**

19 There shall be a city council composed of elected councilors representing
20 districts as provided herein. The members of the [governing body, exclusive of
21 the mayor] city council shall be known and designated as councilors. The mayor
22 and the councilors when acting together [are] may be referred to as the governing
23 body of the city.

24 **[6.02:] The Legislative Branch, Powers, and Duties**

25 A. The [governing body] city council shall serve as the principal policy maker of the

1 city, and shall, as necessary, amend existing policies that are consistent with
2 other provisions of the [C] charter. The ~~[governing body]~~ council shall consider
3 the ~~[legislative]~~ agenda put forth by the mayor and propose amendments to
4 existing policies and propose new policies.

5 B. All legislative powers of the city shall be vested in the ~~[governing body,]~~ city
6 council except as otherwise required by law or this [C] charter. The ~~[governing~~
7 ~~body]~~ city council shall provide for the exercise of its powers and for the
8 performance of all duties and obligations imposed on the city by law.

9 C. ~~[The governing body shall by ordinance fix the annual salaries of the municipal~~
10 ~~judge and councilors and shall review those salaries not less than every four~~
11 ~~years.]~~ The city council shall select from among its members a presiding officer,
12 who may or may not also be the mayor *pro-tempore*.

13 D. ~~[The governing body shall by ordinance establish an independent salary review~~
14 ~~commission whose sole purpose shall be to review and set the mayor's salary.~~
15 ~~The independent salary review commission shall review the mayor's salary no~~
16 ~~less than every four years.]~~ The city council shall select from among its members
17 a finance committee and may select from among its members other committees
18 to facilitate its work.

19 E. ~~[The governing body shall by ordinance set a policy for reimbursement of the~~
20 ~~actual and necessary expenses incurred by the mayor, the municipal judge and~~
21 ~~city councilors]~~ The city council may override a mayoral veto by a super-
22 majority of the total possible members voting to do so.

23 ~~[5.04.]~~ F. Mayor *pro-tempore*.

24 At the first meeting of the council following a regular city election [5] the mayor
25 shall appoint, subject to the approval of the council, a councilor to serve as mayor

1 *pro tempore* until the next regular city election. The mayor pro tempore shall
2 perform the duties of the mayor in the absence or temporary incapacity of the
3 mayor and continue as a member of the council.

4 ~~[C.]~~ G. The city council shall by ordinance fix the annual salaries of the municipal
5 judge
6 and councilors and shall review those salaries not less than every four years.

7 ~~[D.]~~ H. The ~~[governing body]~~ city council shall by ordinance establish an
8 independent salary review commission whose sole purpose shall be to review and
9 set the mayor's salary. The independent salary review commission shall review
10 the mayor's salary no less than every four years.

11 ~~[E.]~~ I. The ~~[governing body]~~ city council shall by ordinance set a policy for
12 reimbursement of the actual and necessary expenses incurred by the mayor, the
13 municipal judge and city councilors.

14 ~~[F.]~~ J. The ~~[governing body]~~ city council shall consider and take action throughout
15 the year on the mayor's legislative agenda.

16 ~~[6.03.]~~ The Legislative Branch, City Council Districts

17 The city shall be divided into four dual-member districts numbered one through
18 four. District boundaries shall be reviewed and revised at least every ten years
19 following the decennial census by an independent citizens' redistricting
20 commission. The governing body shall, by ordinance, establish a procedure for
21 the appointment and deliberations of the commission which will, to the
22 maximum practicable extent, ensure that the commission's decisions will be
23 based exclusively on the following principles in the following order of priority:

24 A. Each district shall contain as nearly as possible substantially the same
25 population based upon the most recent federal census[;] .

- 1 B. Districting plans must avoid dilution of minority voting strength[;] .
2 C. Communities of interest, including those based upon ethnic and economic
3 factors, shall be preserved within a single district whenever reasonable[;] .
4 D. Each district shall be formed of compact, contiguous territories. The total
5 length of all district boundary lines shall be as short as possible[;].
6 E. Districting plans shall compensate for U.S. census undercount of minorities.

7 Legislative Branch, Conditions of Service

8 [~~6.04.~~] A. Eligibility.

9 Registered voters who reside in the district shall be eligible to run for the office
10 of councilor from that district.

11 [~~6.05.~~] B. Term of office.

12 Councilors shall be elected for a term of four years. The terms of office of the
13 two councilors from each district shall be staggered so that one councilor shall be
14 elected from each district at each regular municipal election.

15 [~~6.06.~~] C. Vacancies in office.

16 The office of a councilor shall become vacant upon the member's death,
17 resignation, termination of residency in the district from which elected, or
18 removal from office in any manner authorized by law or this charter. When such
19 a vacancy occurs, the mayor shall within thirty days appoint a qualified elector
20 from the district in which the vacancy has occurred to serve until the next regular
21 city election, at which time a qualified elector shall be elected to fill the
22 remaining unexpired term, if any. The governing body shall approve or
23 disapprove the mayor's appointment not later than its second regularly scheduled
24 meeting after the appointment.

25 [~~6.07.~~] D. Grounds for removal from office.

1 A councilor may be removed from office in accordance with applicable state law
2 or this Charter.

3 ~~[Article V]~~ **5.02 The Executive Branch**

4 THE MAYOR

5 ~~[5.01.]~~ Powers and Duties of the Mayor

6 The city shall have a mayor who shall:

- 7 A. Be elected at large by the voters of the city[;] .
- 8 B. ~~[Have a vote on all matters that come before the governing body;]~~ Provide
9 the city council, in person or by other means, with mayoral messages on
10 major matters under consideration by the council and be free to amend any of
11 the mayoral messages in light of the council's debate on the matters.
- 12 C. Be the chief executive officer of the city whose position shall be full-time[;].
13 The mayor shall function as the political leader, public convenor, and head of
14 city government for all purposes, including, but not be limited to:
- 15 • facilitating, as may be possible, cooperation among all stakeholders in
16 government and the private sector to solve the major challenges facing the
17 city, and
 - 18 • enlisting the support of the council to add legislative framework as may be
19 necessary.
- 20 D. Earn ~~[an initial salary of \$74,000.00 until such time that an independent salary~~
21 ~~commission is established by city ordinance and such commission sets the salary for~~
22 ~~mayor;]~~ a salary set by an independent commission as created by ordinance.
- 23 E. Appoint, with the consent of ~~[the governing body]~~ a majority of the total possible
24 membership of city council: [;] the city manager, city attorney, city clerk, and members
25 of advisory commissions[;] , except as otherwise provided in the charter.

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- F. ~~[Exercise supervisory authority over the]~~ Supervise the city manager, city attorney and city clerk[;] .
- G. Have the sole authority to remove the ~~[city manager, city attorney and city clerk without council approval;]~~ city clerk, the authority to remove the city manager with consent of a majority of the total possible membership of the city council at a regularly scheduled meeting and may remove the city attorney with the consent of six members of the city council.
- H. ~~[Cause the ordinances and regulations of the city to be faithfully and constantly obeyed;]~~ Shall join the city council as the governing body, with voice and vote, to break tie votes.
- I. ~~[Have, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;]~~ Shall sign, veto, or allow to become law without signature, each ordinance adopted by the council. Signature or veto shall be exercised within 30 days of the ordinance adoption.
- J. ~~[Propose programs and policies to the governing body;]~~ Cause the ordinances and regulations of the city to be faithfully and constantly obeyed. (Moved from 5.01, section H.)
- K. ~~[Represent the city in intergovernmental relationships;]~~ Have, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace. (Moved from 5.01, section I.)
- L. ~~[Present an annual state of the city message which shall identify, among other matters, the mayor's legislative agenda for the upcoming year;]~~ Propose programs and policies to ~~[the governing body;]~~ city council. (Moved from 5.01, section J.)

1 M. ~~[Work with city personnel and timely prepare an annual budget and proposed~~
2 ~~spending priority for review and approval by the finance committee and the~~
3 ~~governing body;]~~ Represent the city in intergovernmental relationships.

4 (Moved from 5.01, section K.)

5 N. ~~[Be recognized as head of the city government for all ceremonial purposes;~~
6 ~~and]~~ Present an annual state of the city message which shall identify among
7 other matters[-] the mayor's legislative agenda for the upcoming year.

8 (Moved from 5.01, section L.)

9 O. Be recognized by the governor for purposes of military law.

10 Conditions of Service by the Mayor

11 ~~[5.02.]~~ A. Eligibility.

12 Registered voters who reside in the city shall be eligible to run for the office of
13 mayor.

14 ~~[5.03.]~~ B. Term of office.

15 The mayor shall be elected for a term of four years.

16 ~~[5.04.]~~ (Moved to section 5.01 as sub-header F under section "The
17 Legislative Branch, Powers, and Duties)

18 ~~[5.05.]~~ C. Vacancy in office.

19 The office of mayor shall become vacant upon the mayor's death, resignation,
20 termination of residency in the city, or removal from office in any manner
21 authorized by law or this charter.

22 When such a vacancy occurs, the mayor pro tempore shall serve as mayor until
23 the next regular city election. If the offices of both the mayor and the mayor pro
24 tempore are vacant, then a councilor shall be elected by the remaining members
25 of the governing body to serve as mayor until a special election can be held.

1 ~~[5.06.]~~ D. Grounds for removal from office.

2 A mayor may be removed from office in accordance with applicable state law or
3 this Charter.

4 ~~[Article VIII.]~~ THE CITY MANAGER

5 ~~[8.01.]~~ Appointment.

6 The city manager shall be appointed by the mayor with the consent of the
7 governing body.

8 ~~[8.02.]~~ Qualifications.

9 The city manager should be professionally trained and have the necessary
10 ~~[administrative]~~ operational and managerial skills to ~~[manage the municipality]~~
11 carry out the duties and responsibilities of the city manager. The council shall
12 adopt minimum and preferred demonstrated experience that shall be required for
13 the position.

14 ~~[8.03.]~~ Powers and duties.

15 The city manager shall:

16 A. Be the chief ~~[administrative]~~ operations officer of the city[;] .

17 B. Have the power to hire and fire all city employees, except for the city
18 attorney and city clerk~~[, and;]~~.

19 C. ~~[Have such other powers as are provided for in city ordinances and state~~
20 ~~law.]~~ Work with city personnel and timely prepare an annual budget and
21 proposed spending priority for review and approval by the finance committee and
22 the city council.

23 D. Provide for a program of public communication on behalf of the city,
24 informing the public of the on-going work of departments, including city-owned
25 enterprises, their successes, and outstanding challenges as well as the public's

1 interaction with the departments.

2 [~~C.~~] E. Have such other powers as are provided for in city ordinances and state
3 law.

4 [~~8.04.~~] Removal.

5 The city manager may be suspended or removed:

6 A. By the mayor with consent of a majority of the total possible
7 membership of city council at a regularly scheduled meeting,[~~;~~] or

8 B. By a vote of six councilors at a regularly scheduled meeting.

9 **[~~Article VII~~] 5.03 The Municipal Court**

10 [~~7.01.~~] A. Establishment.

11 There shall be a municipal court for the city, which shall be presided over by a
12 full-time municipal judge. The governing body may by ordinance authorize the
13 election of additional municipal judges.

14 [~~7.02.~~] B. Jurisdiction.

15 The municipal court shall have all jurisdiction provided under state law and city
16 ordinances.

17 [~~7.03.~~] C. Eligibility.

18 Registered voters who reside in the city and are licensed members of the New
19 Mexico Bar shall be eligible to run for the office of municipal judge.

20 [~~7.04.~~] D. Term of office.

21 The municipal judge shall be elected for a four-year term.

22 [~~7.05.~~] E. Vacancy in office.

23 The office of a municipal judge shall become vacant upon the judge's death,
24 resignation, termination of residency in the city or membership in the New
25 Mexico Bar, or removal from office in any manner authorized by law. In case of

1 such vacancy, the mayor with the consent of the governing body shall within
2 thirty days appoint a person who meets the eligibility requirements for the office
3 of municipal judge to serve until the end of the ~~unexpired~~ term of that municipal
4 judge.

5 [7.06.] F. Grounds for removal from office.

6 The municipal judge may be removed from office in accordance with applicable
7 state law.

8 [7.07.] G. Salary.

9 The governing body shall review and set salary for the municipal judge at least
10 every four years.

11 **WHEREAS**, the Commission’s recommendation does not align with the formatting of
12 existing code and therefore is not citable; for example, the legislative branch and the executive
13 branch and the municipal judge (judicial branch), under the proposal, would no longer be
14 described in distinct articles and each subsection would no longer be numbered 5.01, 5.02, etc.;
15 and

16 **WHEREAS**, the recommendation removes the concept of a governing body and replaces
17 it with the separate mayor and city council, but in several instances the recommendation also
18 maintains the phrase “governing body”; and

19 **WHEREAS**, the Final Report appears to leave in the use of governing body in at least
20 some places that it would be more internally consistent to use “city council”; and

21 **WHEREAS**, many other sections of the Charter, including 2.01, 2.02, 2.03, 2.05, and
22 many others, make reference to the Governing Body, and the Final Report does not address what
23 the intent is in relation to those sections; and

24 **WHEREAS**, Final Report recommendation on this topic includes significant changes to
25 powers, authorities, roles, and responsibilities of the mayor and city councilors; and

1 **WHEREAS**, the recommendation presents changes that require additional time for
2 review and consideration; and

3 **WHEREAS**, the Governing Body has identified the Mayor’s voting rights portion of the
4 commission’s recommendation as a first step to considering the remainder of the
5 recommendation; and

6 **WHEREAS**, due to the foregoing reasons, the Governing Body wishes to pursue a
7 limited version of the recommendation regarding separation of powers, in particular, by limiting
8 the Mayor’s ability to vote only when there is a tie.

9 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY**
10 **OF THE CITY OF SANTA FE**, that that the Governing Body hereby proposes to submit the
11 following question on the ballot of the regular local election on November 7, 2023:

12 **MAYOR VOTING RIGHTS**

13 Should the Santa Fe Municipal Charter Article, V, Section 5.01
14 be amended to allow the Mayor to vote only when there is a tie
15 among city councilors during Governing Body meetings?

16 For Against

17 **BE IT FURTHER RESOLVED** that should the electorate vote in favor of the above
18 ballot questions, that the Charter shall be amended as follows:

19 V. **THE MAYOR**

20 5.01 Powers and Duties of the Mayor

21 The city shall have a mayor who shall:

22 A. Be elected at large by the voters of the city[;] .

23 B. Have a vote on matters on which there is a tie vote among city councilors; ~~all~~
24 ~~matters that come before the governing body;~~

25 C. Be the chief executive officer of the city whose position shall be full-time;

1 D. Earn an initial salary of \$74,000.00 until such time that an independent salary
2 commission is established by city ordinance and such commission sets the salary for
3 mayor;

4 E. Appoint with the consent of the governing body, the city manager, city attorney,
5 city clerk, and members of advisory commissions;

6 F. Exercise supervisory authority over the city manager, city attorney and city
7 clerk;

8 G. Have the authority to remove the city manager, city attorney and city clerk
9 without council approval;

10 H. Cause the ordinances and regulations of the city to be faithfully and constantly
11 obeyed;

12 I. Have, within the city limits, the power conferred on the sheriffs of counties to
13 suppress disorders and keep the peace;

14 J. Propose programs and policies to the governing body;

15 K. Represent the city in intergovernmental relationships;

16 L. Present an annual state of the city message which shall identify, among other
17 matters, the mayor's legislative agenda for the upcoming year;

18 M. Work with city personnel and timely prepare an annual budget and proposed
19 spending priority for review and approval by the finance committee and the governing
20 body;

21 N. Be recognized as head of the city government for all ceremonial purposes; and

22 O. Be recognized by the governor for purposes of military law.
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PASSED, APPROVED, and ADOPTED this _____ day of _____, 2023.

ALAN WEBBER, MAYOR

ATTEST:

KRISTINE MIHELICIC, CITY CLERK

APPROVED AS TO FORM:

Erin McSherry
Erin McSherry (Aug 4, 2023 14:28 MDT)

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2023/Resolutions/mayor voting rights