



Agenda 0/15/18 TIME 3:15p  
Zachary Shandler  
8888

ETHICS & CAMPAIGN REVIEW BOARD

Thursday, May 24, 2018

3:00 p.m.

City Council Chambers

1<sup>st</sup> Floor, City Hall

200 Lincoln Avenue

1. PROCEDURES

- a. Roll Call
- b. Approval of Agenda
- c. Approval of Minutes – October 12, 2017

2. DISCUSSION AND POSSIBLE ACTION

- a. Case #2018-2 and Case #2018-3. Complaints filed by Stephanie Beninato Alleging Violation of SFCC 1987, Section 9-2.15(B); "Posting of Campaign Signs" against Ron Trujillo - Trujillo for Mayor Campaign and Greg Scargall – Greg 4 SF. --In Accordance with Section 6-16.4 SFCC 1987 "Determination of Legal Sufficiency; Setting a Hearing." Consideration of Whether the Complaint Sets Forth Legally Sufficient Facts Which, if True, Show Probable Cause to Believe There Was a Violation. (The Board May Go Into Executive Session Under NMSA 1978, Section 10-15-1(H)(3) to Deliberate in Connection With an Administrative Adjudicatory Proceeding.)
  - 1) Discussion of Actions Taken to Remove the Sign
  - 2) Action Regarding Whether the Complaint Sets Forth Legally Sufficient Facts Which, if True, Show Probable Cause to Believe There Was a Violation.
  - 3) Action on Any Next Steps as Permitted Under Section 6-16
- b. Executive Session—Litigation Update—NMSA 1978, Section 10-15-1(H)(7) Rio Grande Foundation V. City Of Santa Fe, 1:17-CV-00768-JCH-CG

3. DISCUSSION ITEMS

- a) House Bill 98 and Impact on City Ordinances
- b) Board Member Questions Regarding 2018 Municipal Election
- c) Board Matters

4. PUBLIC COMMENT

5. SCHEDULE NEXT MEETING (IF NEEDED)

6. ADJOURNMENT

**PERSONS WITH DISABILITIES IN NEED OF ACCOMMODATIONS, CONTACT THE CITY CLERK'S OFFICE AT 955-6520, FIVE (5) WORKING DAYS PRIOR TO MEETING DATE.**

**INDEX OF  
CITY OF SANTA FÉ  
ETHICS AND CAMPAIGN REVIEW BOARD**

May 24, 2018

<b>ITEM</b>	<b>ACTION TAKEN</b>	<b>PAGE(S)</b>
<b>1. PROCEDURES</b>		
<b>A. Roll Call</b>	Quorum achieved later	1
<b>B. Approval of Agenda</b>	Approved	6
<b>C. Approval of Minutes:</b>		
1. October 12, 2017	Approved as presented	6
<b>2. DISCUSSION AND POSSIBLE ACTION</b>		
<b>a. Case #2018-2 &amp; Case #2018-3. Complaints         filed by Stephanie Beninato Alleging Violation         of SFCC 1987, § 9-2.15(B)</b>		
1) Complaint Status	Both complaints found legal sufficient	7-9
3) Actions Taken	Case closed without further sanction	9-11
<b>b. Executive Session—Litigation Update</b>	Executive Session held	11
<b>3. DISCUSSION ITEMS</b>		
<b>a. HB 98 and Impact on City Ordinances</b>	Discussion	1-5
<b>b. Questions on 2018 Municipal Election</b>	Discussion	6
<b>c. Board Matters</b>	Discussion	6
<b>4. PUBLIC COMMENT</b>	Comments made	11-13
<b>5. SCHEDULE NEXT MEETING</b>	TBD	13
<b>6. ADJOURNMENT</b>	Adjourned at 4:41 p.m.	13

**MINUTES OF THE  
CITY OF SANTA FE  
ETHICS AND CAMPAIGN REVIEW BOARD**

**Thursday, May 24, 2018**

**I. PROCEDURES**

**A. ROLL CALL**

A special meeting of the City of Santa Fe Ethics and Campaign Review Board was called to order on the above date by Justin Miller, Chair, on this date at approximately 3:00 p.m. in the City Council Chambers, 1<sup>st</sup> floor, City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

Roll call indicated the lack of a quorum (until Member Luján arrived) as follows:

**Members Present:**

Justin Miller, Chair  
Judith Amer  
Tara Luján [arriving later]  
Kristina Martínez

**Members Absent:**

Paul Biderman [excused]  
Ruth Kovnat [excused]  
Seth McMillan [excused]

**Staff Present:**

Yolanda Y Vigil, City Clerk  
Zachary Shandler, Assistant City Attorney

**Others Present:**

Stefanie Beninato, Complainant  
Karen Heldmeyer, former Councilor  
Carl Boaz, Stenographer

While expecting another member for quorum, Chair Miller addressed Discussion Item #3 a. on the agenda.

**3. DISCUSSION ITEMS: (Revised Agenda Order)**

**a. House Bill 98 and Impact on City Ordinances**

Mr. Shandler pointed out under tab 3 a in the Board packet was a summary of the bill created by the Municipal League from the full document.

Chair Miller asked Mr. Shandler what the HB98 does that would affect the City.

Mr. Shandler explained the Local Election Act replaces the Municipal Election Code and provides

and opt in / opt out process.

Mr. Shandler continued if the City opts in, the elections would be held in November rather than March. The State and National elections are held in even number years and the municipal elections in odd number years along with political subdivisions such as school districts, etc.

Another change if the City opts in, would be the election machines, tallying the ballots and canvassing would be done by the County and State, not the City. Twice each year the City would be required to make a payment determined by a formula to reimburse the State and County for that work and there is an annual assessment.

Mr. Shandler added to opt in the City must send a resolution to SOS (Secretary of State's Office) by January 2019 to participate in the election for 2019. City Council may request either the Board or Staff look at whether changes are needed to the ordinance to ensure there are no conflicts.

Chair Miller clarified there was no issue before the Board at this time and this was just to inform the Board. He asked if this would be addressed by the Legal office and the City Clerk.

Mr. Shandler explained they would do a presentation to get them thinking about whether to opt in or out and if the ordinance or charter should be reviewed for changes.

Ms. Vigil added that one change that would go into effect regardless of whether they opted in or not, was that special elections would be conducted by mail through the *County* Clerk. The municipality would pay for the expense of the election.

If the City chooses not to opt in elections would still be held in March of even-numbered years, but the elected officials would not take office until April 1 rather than the Monday after the election as now. If the City went with the November election and opts in, the officials would commence their terms on the first of January.

Member Amer asked if the City did not opt in they would they be opting out or is there a date by which they have to choose to opt in or out.

Mr. Shandler explained there is no date to make the choice by, the City can opt in at any time and opt out at any time.

Chair Miller opened the floor for comments from the public:

*Jim Harrington* said he had been involved in the legislative process and was corresponding with Member Biderman during the legislature.

He had a few things he wanted to add, the first, is that there is a deadline to opt in to the November date but if the City had not opted in they would continue with the March election. There are also things that would have to be done that would probably be initiated by the Board.

The Election Code, Chapter 9, article 1 has about 17 references to the Municipal Election Code that would need to be reworded.

A more important problem is that the bill reverses what was done a few years ago to move up the ballot qualification day so candidates could get their public financing in time to do some good. The code states if you choose not to opt in and hold elections in March - called Municipal Officer Election Day - then ballot qualification would occur 56 days before the election.

If they opt in to the November date of odd number years it would occur 70 days before, but either would be too late, especially for mayoral candidates.

Mr. Harrington noted an effort had been made through Common Cause to fix this and a sponsor introduced an amendment that stated, *"a city that requires in its charter ordinance that candidates be qualified for the ballot before they get public financing, such city ballot qualification dates shall be the dates specified in the city's charter"*.

He said that was a mistake and should have been "in the City's charter or ordinance". He noted that Councilor Romero-Wirth had suggested adding the words at the next session to fix the issue.

Mr. Harrington indicated he planned to introduce a cleanup bill in the next session that would address a number of problems. He noted that Albuquerque also was having issues and wanted to have elections in November to get rid of voter ID but that does not work, and they may be seeking changes.

He reiterated there were two problems 1) to get rid of the references to the Municipal Election Code and 2) to ensure they either eliminate ballot qualifications to get public financing, or even easier, add the two words into the law.

Chair Miller asked if Mr. Harrington meant when he said "things would probably need to be initiated by the Board" that at least partly, the Board would need to address the ballot qualifications.

Mr. Harrington replied, "That was one. The other is the ministerial work to clean up the election code so it does not refer to a law that has been ~~appealed~~." *repealed JM*

Chair Miller said the Act is several hundred pages and needs to be cleaned up anyway and there is indication that the legislature might do that.

Mr. Harrington agreed. All of it could change and it may be premature to do anything until after the 2019 legislative session.

Chair Miller asked Mr. Shandler and Ms. Vigil if they agreed there was nothing urgent and any action might be premature.

Mr. Shandler replied that he had no personal knowledge of what the Council might do, and Councilor Romero-Wirth may raise the question. But what they do need to determine is if the City wants to move the next election up to November. The City must send a resolution by January 30, 2019 and that may not be

enough time for Senator Ivey-Soto to run his bill and get it signed in a long session with a new governor.

Mr. Harrington suggested that could be a question for City Council; to ask if there is a chance they would want to change the election to November, and if so things might be more urgent.

Chair Miller offered the Board's help and asked Mr. Harrington to let them know if the Board needs to do anything.

Ms. Karen Heldmeyer said she hopes they do not have to have an election next year because there are going to be changes. This was pushed through at the last minute and people objected to it and government objected to it. There were last minute amendments and a lot of confusion and unhappy governments and groups. They will try to have things taken out that they do not like, and it is not clear what this will end up being.

She suggested the City should look at the bill as it is now and determine what they want to change and lobby for and what they do not like in the bill because if they wait until fall it will be too late. They will not be able to lobby.

*Member Luján arrived at 3:23 and quorum was established.*

Ms. Heldmeyer continued that Mayor Webber has talked to Senator Ivey-Soto and indicated he would like the local elections moved to odd number years, because of confusion with the timing of the election and the turnover. That is another possibility they may face.

She said should has twice tried to get the charter changed and the election moved to the fall. The objection is always that someone's term would be lengthened or shortened. She noted that the Mayor thought lengthening by a year would not be a bad idea.

The City Staff and the Governing Body will have to decide what they want to lobby to change in the bill. The session will be huge with all it has in it and whether this will get to the last minute no one knows. But it is something that should be watched, and this Committee and Staff are the ones to do that because a lot people are not paying attention to the bill.

Ms. Heldmeyer stated she has analyzed the bill several times to her dismay. The bill was introduced the year before with fewer entities and it now has all kinds of entities under the new statute. Santa Fe as a home-rule, charter city will get to opt in or out, but is not be the case for non-home ruled cities.

She understands the problem with getting [public] financing but would support moving the elections to November because it is confusing, and there are school board elections. Then everything would be at one time in a better time of the year and more regular and there would be the State / National election, then the local election in November and everyone would know this would be in November.

She hoped ultimately that the City will adopt [the bill]. There are always problems like shorter or longer terms and her take is that is great for the person who gets the longer term. And for the one who gets the shorter, they could run again.

Ms. Beninato thanked Ms. Vigil and complimented her on being well informed about this long statute.

Member Amer asked if the City opts in and holds an election in November 2019, would the candidates running be those who would have run in March 2020.

Ms. Vigil said they would have a shorter term and the people whose terms would have expired in March 2020 would instead expire December 31, 2019. That would happen again in 2022 and those who just ran would have shorter terms.

Chair Miller noted a quorum was established with the presence of Member Luján. He indicated they would continue with Discussion Item 3 b. and then return to the action items on the agenda.

#### **b. Board Member Questions Regarding 2018 Municipal Election**

Chair Miller invited comments or questions from Board members or Staff since this was their first meeting after the municipal elections.

Member Martinez stated she was pleasantly surprised at how smoothly the election went.

Member Luján commented on a couple of complaints when the ballot was entered into the reader. People were prompted if they did not vote in the ranked choice voting and she thought that should not happen. Those voting should not be prompted in any way or made to feel they voted incorrectly.

Ms. Vigil responded the intent was, because this was the City's first time for ranked choice voting, to prompt people, not because they voted incorrectly, but to give a choice. She thought many were helped because there were a number of spoiled ballots. Some people because of the prompt, realized that was not what they wanted. She thought people were making those corrections because of the number of ballots they got back.

She could not be sure the prompt would remain once everyone was well versed on ranked choice voting, but without the prompt people voting might not have been made aware.

Member Luján understood. She thought however, that a vote was interrupted and as an educated voter they should feel confident that their information is private and unprompted. She indicated for her it is an issue. It is where she stands and why she brought the issue up and thought it should be discussed, but she did appreciate Ms. Vigil's comments.

Ms. Vigil responded regarding the issue of privacy, the voting *was* private and for the voter's eyes only and they had a shield.

Member Amer indicated she had observed certain polling places were more crowded than others. She wondered if the City planned to put more voting booths in the popular places and less in those that were not as popular.

Ms. Vigil indicated they had considered a couple of things. The possibility of having more early voting sites so more voting could be done prior to election day; and for locations they knew would be busier, they staffed more workers and more ballot on demand systems and extra voting machines were ready. But it is difficult when you have voting machine centers because you do not know where people will show up.

### **c. Board Matters**

Mr. Shandler indicated he had a brief reporting item on a complaint that was not filed and was not listed on the agenda because of that. Councilor Carol Romero Wirth self-reported that as a publicly-funded candidate she spent slightly more than was allocated and that is included in the campaign report and is on the website.

Councilor Romero-Wirth said she corrected the error out of her personal funds. She provided information about why this was an inadvertent error and explained the information was not provided correctly to her by the *New Mexican*.

Chair Miller noted one other Board matter was that Mr. Biderman had conversations with City Councilors and the Mayor. He had indicated there may be some progress on moving the Board's recommendations forward on the Public Financing Code. They are waiting to hear more from the Councilors willing to carry the bill the Board recommended a couple of years ago.

Mr. Shandler replied he had no new information but if a councilor introduces a bill that differs from the Board they may see it again. And if identical he will confer with the chair whether he wants to put that on the agenda.

Chair Miller returned to the action items on the agenda.

## **B. APPROVAL OF THE AGENDA**

**MOTION:** Member Martínez moved, seconded by Member Luján, to approve the agenda as presented.

**VOTE:** The motion passed by unanimous voice vote with Members Amer, Luján, and Martínez voting in favor and none voting against.

## **C. APPROVAL OF MINUTES**

### **1. October 12, 2017**

**MOTION:** Member Amer moved, seconded by Member Luján to approve the minutes of October 12, 2017 as presented.

**VOTE:** The motion passed by unanimous voice vote with Members Amer, Luján, and Martínez voting in favor and none voting against.



## 2. DISCUSSION AND POSSIBLE ACTION

- a. **Case #2018-2 and Case #2018-3. Complaints filed by Stephanie Beninato Alleging Violation of SFCC 1987, Section 9-2.15(B); "Posting of Campaign Signs" against Ron Trujillo - Trujillo for Mayor Campaign and Greg Scargall – Greg 4 SF. --In Accordance with Section 6-16.4 SFCC 1987 "Determination of Legal Sufficiency; Setting a Hearing." Consideration of Whether the Complaint Sets Forth Legally Sufficient Facts Which, if True, Show Probable Cause to Believe There Was a Violation. (The Board May Go into Executive Session Under NMSA 1978, Section 10-15-1(H)(3) to Deliberate in Connection With an Administrative Adjudicatory Proceeding.)**

Chair Miller noted that the respondents had been informed of the complaints and neither respondent was present. He asked if either of the respondents had submitted a response.

Ms. Vigil indicated she had not received any responses. She added that when each candidate was contacted about the signs, the signs were removed.

### 1) Discussion of Actions taken to remove the sign.

Chair Miller noted that the signs were removed but no response was received to the complaint.

He suggested a two-step process to first determine if the complaint is properly before the Board and secondly if the Board wanted to schedule a hearing or take other action, assuming a hearing is needed.

Chair Miller explained the criteria for legal sufficiency is based on whether the Board finds the complaint alleges facts showing probable cause of a violation, was filed within one year of the violation, if the complaint was frivolous, or if the Board lacked jurisdiction.

Chair Miller said Ms. Beninato could if she chose, address both complaints at once.

Ms. Stefanie Beninato, P. O. Box 1601, Santa Fe, was sworn.

Ms. Beninato indicated she did file the complaints against the two candidates and believes it to be legally sufficient and timely. She has given the Board the ordinance that was violated and stated enough facts to show a violation in those cases and the complaints are not frivolous or done to intimidate nor meant to harass.

She said Ron Trujillo or his campaign, posted a sign on West Buena Vista in a public ROW (right of way) of what is a commercial entity. And he or his campaign posted a sign between Tiny's and McDonald's on Early Street that again, is commercial and in the right of way. In addition a very large sign was posted on the bridge Arroyo Tenorio runs through and was attached to the bridge. City Staff removed the sign immediately according to her discussion with Georgia Urioste.

Ms. Beninato continued, Greg Scargall posted a sign on Zafarano in a vacant commercial lot in the right of way.

She thought in addition to these two, Mayor Webber, Nate Downey, Carol Romero-Wirth and Peter Ives should also be in the room because they all posted signs in the commercial right away on Don Diego. Those signs were also quickly removed by City Staff.

Ms. Beninato indicated she filed the complaint because there was such a proliferation of signs this year and it was overwhelming. She thought Mr. Trujillo, who has run for office four times should understand what the ordinance requires because it is not difficult to understand. She had been told by Ms. Vigil that candidates are educated on the rules so would think candidates should know.

She said they need a level playing field because those playing by the rules are at a disadvantage when others put signs on commercial property because perhaps it is much more visible than some residential property.

Ms. Beninato also wanted to take the opportunity to bring up another item about the signs and the campaign and an issue about public funding.

There is language about allowing signs posted in the curb strip on residential property/areas. That is really the City ROW and it should be called that and should not be ambiguous. Right of way is referred to when the ordinance talks about commercial and curb strip when talking about residential property.

She asked that the City consider having no signs posted in the ROW regardless of whether residential or commercial because it becomes very distracting.

Ms. Beninato also would like the Board to have a full discussion about perennial candidates. She asked if someone runs four, five or six times as a candidate possibly for the same office in the same district, how many times can that person get financing. None of the Districts require that many signatures that it would be difficult to get what they need to become a publicly financed candidate.

She asked that the Board have a conversation about that issue. The City has limited resources and with 5-6 people running for mayor and three or four people running in a district, it can be expensive for the City.

Chair Miller asked for comments or questions from the Board.

Member Martinez said she believed the four elements were met; the Board does have jurisdiction, the complaints were filed in a timely manner, there is no evidence of filing for a frivolous purpose or harassment or intimidation, and the facts, if true, do show probable cause.

**MOTION: Member Martinez moved that the Board finds that both complaints are legally sufficient. Member Amer seconded the motion.**

**VOTE: The motion finding Complaints #2018-2 and #2018-3 legally sufficient passed by unanimous (3-0) vote.**

**2) Action Regarding Whether the Complaint Sets Forth Legally Sufficient Facts Which, if True, Show Probable Cause to Believe There Was a Violation.**

**Actions taken to remove the signs.**

Chair Miller noted the agenda item on the actions taken to remove the signs and asked Mr. Shandler to comment on what was done.

Mr. Shandler explained under 92.6 E the City Manager is empowered to contact the candidates' liaison to remove the signs within 24 hours. Failure to remove them authorizes the City Manager to impose a fine of \$50 per sign per day or to direct City Staff to remove the signs that are in violation.

He understood from his conversation with the Land Use Department that the signs were removed and the City Manager did not assess any penalties to the two campaigns.

Member Martínez asked who removed the signs, the campaign staff or city staff.

Mr. Shandler understood it was a mix of both with some removed by the City and some by the candidates.

He explained that calls about signs come in during the last days of the campaign and are entered into the Constituent Services Database (CRM) and are then sent to the Land Use Staff. They are required to immediately follow up on signs in illegal locations.

Member Luján asked if the City Clerk's office had ever imposed fines on the violations.

Ms. Vigil said there had never been fines assessed through the City Manager.

Member Amer asked if they know how frequent there are sign violations.

Mr. Shandler said that could now be tracked with the computerized CRM system and he could provide that information by running a query. He personally knew that City Staff had picked up signs because you could see some of them in the second underground parking lot during election season.

Member Martínez asked if it is known whether any of the candidates were resistant, or obstructive regarding their sign removal.

Ms. Vigil replied no, and when contacted the signs were removed immediately. One sign of Ron Trujillo's was on City property and was removed by City Staff, but the others according to Ms. Urioste were all removed.

Ms. Beninato stated she had called Mr. Trujillo on his sign on the ROW for Sage Inn because she

almost tripped and it remained in place for more than 24 hours before it was removed. And before she filed the complaint for the sign on Old Santa Fe Trail on the bridge, the two signs were removed.

Chair Miller noted again the respondents were not present and did not respond and the representation presented was not controverted. The complaints resulted in the fairly prompt removal of the signs by the campaign or the City, and the Board has found legal sufficiency of the complaints.

### **3) Action on Any Next Steps as Permitted Under Section 6-16**

Member Martínez felt the option to hold a hearing was unnecessary and the Board had received the facts which seem to be undisputed. Based on the testimonies from Mr. Shandler and the City Clerk and Ms. Beninato's statement that several candidates also had signs that did not comply, and the fact that no fines have been issued in the past and the issue was remedied fairly quickly, there is not much more for the Board to do.

Ms. Beninato asked to speak to a new point. She also thought there was no need for a hearing. She did not even think her complaint would be filed, but it did go forward, and she appreciated that. However, if someone does not take action, no one understands that the signs should not be there, and it will just keep happening.

Again, it is unsightly and unattractive and there are other reasons. She had hoped the Board would care. This is a question of going forward and she not only had to call Constituent Services, she also had to take photos and bring those in and the complaint had to be filed and if there are no negative consequences the issue will just continue.

Member Amer agreed that those who are following the rule are at a disadvantage and a message should be sent to the candidates and other elected officials that the practice is not fair. This could result in complacency on the candidates' part.

Member Luján thought having the discussion opened the conversation to a level she had never seen before. She said there is a saying that "*signs do not win races*" and it is often perceived that way, but she wanted to bring reality to what happens in campaigns.

She was comfortable saying when campaigns put signs out there are a lot of volunteers that often do not know what is in violation. She did not think the violations were intentional and that was the reason for the way it was handled in the past.

The quick response from the City shows they are on top of things, but the conversation is worthwhile because the issue can be annoying. She just wanted to add another perspective.

Chair Miller asked for consensus of the Board as they have enough facts before them to resolve the matter.

**MOTION: Member Martínez moved, seconded by Member Amer, that the Board finds violations did occur as alleged in Complaints #2018-2 and #2018-3 and the complaints will be closed without further sanction, and to direct Staff to highlight sign related issues before the next election.**

**VOTE: The motion passed by unanimous voice vote (3) with Members Amer, Luján, and Martínez voting in favor and none voting against.**

**b. Executive Session - Litigation Update - NMSA 1978, Section 10-15-1(H)(7) Rio Grande Foundation V. City Of Santa Fe, 1:17-cv-00768-JCH-CG**

**MOTION: Member Martínez moved, seconded by Member Luján, to go into Executive Session pursuant to NSA 1978 Section 10-15-1 (H)(7) to discuss litigation in the case Rio Grande Foundation v. City of Santa Fe, 1:17-cv-00768-JCH-CG.**

**VOTE: The motion passed on a roll call vote with Member Amer, Member Luján and Member Martínez voting in the affirmative and none voting against.**

The Board went into closed executive session at approximately 4:01 p.m. The Board ended the executive session at 4:27 p.m.

Chair Miller announced to the public that during the executive session, the only matters discussed pertained to the litigation identified in the agenda and no action was taken.

**MOTION: Member Amer moved, seconded by Member Martínez, to return to open session.**

**VOTE: The motion passed on a roll call vote with Member Amer, Member Luján and Member Martínez voting in the affirmative and none voting against.**

#### **4. PUBLIC COMMENT**

Ms. Heldmeyer provided background on the curb strip amendment regarding signs. The amendment was added because people were filing complaints against candidates in the 2004 campaign because there were signs in front of people's homes. They stated that was City right of way, but the City found there is no map in older neighborhoods for the City ROWs and they did not know what was or was not a City ROW.

The wording was determined once candidates were in office because they wanted people to be able to put a sign in front of their house.

Secondly, when ranked choice voting was passed there were very few places with that. There was concern that people would get confused and double-vote. Their ballot would then be thrown out because they ranked two people as #1 and the vote would not count.

In this election things were done at the last moment and the ordinance required the City to choose what would prompt an error message and what would not. Some people are intimidated by that and both Councilors from District 3 in this election were upset at the number of error messages generated in their District, but it was because they ran unopposed. People had received the error message even though it was not needed.

Ms. Heldmeyer stated that two members of the Governing Body dictated what would prompt an error message and people just went along. That was why there was an error message when voting in an unopposed election.

She suggested ECRB look at the ordinance to see if things could be improved before the next election and what they would want an error message prompt for, etc. People should be able to choose to rank fewer than all of the candidates, but others do not agree, and the Board could make recommendations on how to amend the ordinance and make it better and that is one of their duties.

Member Luján thanked Ms. Heldmeyer for speaking to that point of concern because it is what she also believes, and it should be a larger discussion.

Chair Miller agreed. He noted the concern to ensure the Board looks in future meetings at whether there should be changes to the ordinance.

Mr. Harrington added on HB 98, if there is support on the Council for having elections in November, it would require a charter amendment. Only two things would be affected in the City charter that would have to be changed: 1) the charter says their elections are *even-numbered years on the first Tuesday in March*. 2) Article 404 says they follow the Municipal Election Code except as amended by their charter code and ordinance. That could probably be treated as preemptive, but they would have to have a charter election.

He thought unless the City decided to opt in for 2019, they could stay with March elections and opt in by January 30 in 2023 or 2025. But they have to hold a special election to amend the charter to opt in for 2019.

Member Amer confirmed Mr. Harrington thought that the City should amend the charter before they opted in.

Mr. Shandler explained that part of the decision for the Council is the new law provision that says they can change things by ordinance. They need to determine if there needs to be a charter amendment or if that could be done by ordinance and what the language in the bill actually means. He said City Council could provide that language at that time.

Ms. Maria Perez wanted to make two points about comments made by Ms. Heldmeyer and Mr. Harrington. She agreed regarding the ranked choice voting ordinance that Council was overly cautious about ensuring voters were aware when the ballot was not fully filled out or correctly filled out. She was concerned the night the error message decisions were being made.

An exit poll conducted found the voters were not particularly bothered by the error messages, but she encouraged the Board and the City Council to review the ordinance and narrow the prompts down significantly. Most places with ranked choice voting have only one error message that is prompted by an overvote. They assume voters are intelligent and prompt only when a vote would not count.

Ms. Perez offered to share the rules of other cities that have set up ranked choice voter rules. She said regarding the Local Election Act, they can opt out, but she has reasons why opting in would be good for the community, but it would be a big change. She advised the City to take their time and involve the community in the discussion around the benefits. The point is to increase the turnout for election participation. In the meantime, they could stay as they are with the March elections.

#### **5. SCHEDULE NEXT MEETING (IF NEEDED)**

Chair Miller said there was no need to schedule a meeting at this time.

#### **6. ADJOURNMENT**

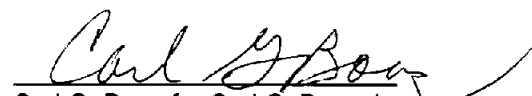
Member Luján moved, seconded by Member Amer to adjourn the meeting.

The meeting was adjourned at 4:41 pm.

Approved by:

  
Justin Miller, Chair

Submitted by:

  
Carl G. Boaz for Carl G. Boaz, Inc.