



Agenda

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SPECIAL CITY COUNCIL MEETING

February 1, 2011

5:15 P.M.

CITY COUNCIL CHAMBERS

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. SALUTE TO THE NEW MEXICO FLAG
4. INVOCATION
5. ROLL CALL
6. APPROVAL OF AGENDA
7. PUBLIC HEARING:
 - a) An Ordinance Amending Sections 1-7.3, 1-7.5, 1-7.6, 1-7.7, 6-16.1, 6-16.2, 6-16.4 and 6-16.7 SFCC 1987 Relating to the Code of Ethics and its Enforcement; and Repealing Section 1-7.8 SFCC 1987.
 - 1) Request for Approval to Publish Notice of Public Hearing on March 30, 2011.
8. COMMUNICATIONS FROM GOVERNING BODY
9. ADJOURN

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6520, five (5) days prior to meeting date.

SUMMARY INDEX
SPECIAL MEETING OF THE
GOVERNING BODY
CITY OF SANTA FE
February 1, 2011

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE #</u>
CALL TO ORDER & ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	2
PUBLIC HEARING:		
AN ORDINANCE AMENDING SECTIONS 1-7.3, 1-7.5, 1-7.6, 1-7.7, 6-16.1, 6-16.2, 6-16.4 AND 6-16.7 SFCC 1987 RELATING TO THE CODE OF ETHICS AND ITS ENFORCEMENT; AND REPEALING SECTION 1-7.8 SFCC 1987	Approved [amended]	2-14
REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON MARCH 30, 2011	Approved	2-14
COMMUNICATIONS FROM THE GOVERNING BODY	None	14
ADJOURN		14

**MINUTES OF THE
SPECIAL MEETING OF THE
GOVERNING BODY
Santa Fe, New Mexico
February 1, 2011**

1. CALL TO ORDER AND ROLL CALL

A special meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor David Coss, on February 1, 2011, at approximately 5:15 p.m., in the City Hall Council Chambers. Following the Pledge of Allegiance, Salute to the New Mexico Flag and Invocation, roll call indicated the presence of a quorum, as follows:

Members Present

Mayor David Coss
Councilor Rebecca Wurzbarger, Mayor Pro-Tem
Councilor Patti J. Bushee
Councilor Christopher Calvert
Councilor Miguel Chavez,
Councilor Matthew E. Ortiz
Councilor Rosemary Romero
Councilor Ronald S. Trujillo

Members Excused

Councilor Carmichael A. Dominguez

Others Attending

Robert Romero, City Manager
Geno Zamora, City Attorney
Yolanda Y. Vigil, City Clerk
Melessia Helberg, Council Stenographer

Mayor Coss welcomed the visitors from Pakistan who are in attendance this evening.

NOTE: All items in the Council packet for all agenda items are incorporated herewith by reference. The original Council packet is on file in the Office of the City Clerk.

6. APPROVAL OF AGENDA

MOTION: Councilor Wurzburger moved, seconded by Councilor Romero, to approve the Agenda as published.

VOTE: The motion was approved on a voice vote with Councilors Bushee, Calvert, Ortiz, Romero, Trujillo and Wurzburger voting for the motion, none against and Councilor Chavez absent for the vote.

7. PUBLIC HEARING:

a) AN ORDINANCE AMENDING SECTIONS 1-7.3, 1-7.5, 1-7.6, 1-7.7, 6-16.1, 6-16.2, 6-16.4 AND 6-16.7 SFCC 1987 RELATING TO THE CODE OF ETHICS AND ITS ENFORCEMENT; AND REPEALING SECTION 1-7.8 SFCC 1987.

1) REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON MARCH 30, 2011.

A copy of a proposed Amendment to the Ordinance, submitted by staff, is incorporated herewith to these minutes Exhibit "1."

Ms. Price gave a brief overview and history of the Ordinance to this point in time, noting a Study Session was held on November 9, 2010, where a proposed Code of Ethics Ordinance was presented by members of the public. Staff was directed to prepare a matrix comparing the Ordinance with current Code and the earlier proposal by Councilor Romero. On December 6, 2010, an updated draft was submitted to the Governing Body which included explanations of the draft bill. The staff continued to receive comments from the Governing Body and the public. Staff then organized the December proposal and the new comments, along with an explanation, into the bill which is this evening's Council packet. She said the proposal "looks like a bill but has the balloons on the right hand side."

Ms. Price said the matrix requested is in the packet this evening, as well as a "Clean Version," of the bill if it were to be adopted, and a "Summary of Significant Changes Proposed in the Draft of the Proposed Ethics Reform Bill, Dated January 26, 2011 [hereinafter the "Summary"]". Ms. Price noted the proposed amendment sheet from staff which is on the Councilor's desks [Exhibit "1"].

Councilor Chavez arrived at the meeting

Ms. Price reviewed the Summary. Please see the Summary in the Council packet for specifics of this presentation.

The Councilors asked questions, made suggestions and commented, and staff responded as follows:

- Councilor Calvert asked if the Gift Ban cover things like books and posters produced by the City which are given routinely to the Governing Body. He said he can't find anything in the proposed bill which addresses that, and is unsure if this prohibited.

Geno Zamora, City Attorney, said, "Looking at page 8, it's looking at outside entities which would be doing business with the City that would create the conflict, but this does not appear to encompass if the City produces something, a poster, a tile, and it does not prohibit the City giving benefits to City employees."

- Councilor Bushee asked Ms. Price what document has the page numbers she using in her presentation.

Ms. Price said she is using the annotated version of the bill, with "balloons."

- Ms. Price noted that Paragraph C on page 13 is the subject of the first amendment [Exhibit "1"] and Paragraph D on page 13, lines 20-24, is the subject of the second amendment [Exhibit "1"], and said staff proposes to delete Paragraph D in its entirety.

Mr. Zamora said, "Because the concept within Paragraph D has been consumed, generally, into Paragraph C with those amendments, and also it gets some coverage out of Paragraph B on page 12, so the existing D became repetitive at that point."

- Councilor Calvert asked, regarding the proposed list of appointees to be proposed from the 5 non-profits, if the Council gets to see the complete list or just those whom the Mayor Chooses to appoint with the consent of the Council.

Ms. Price said she doesn't have the detail on that.

- Councilor Calvert said Ms. Price noted there would be 4 from the Judicial which would be narrowed to two, for example. He asked how the Council will know we agree with the choice of the Mayor, if we don't know who the other two are, and they might be someone the Council would like better.

Ms. Price reiterated that isn't addressed in the bill.

- Ms. Price said in discussions regarding the person to receive confidential reports, suggestions have made regarding a staff member, an Ethics Officer elected by the ECRB from among its members, or perhaps a position such as an Inspector General.

- Councilor Chavez noted that the proposed bill is more investigative in terms of the existing Ordinance requiring a citizen complaint to start the process, commenting he believes the Council should move in this direction. He suggested perhaps that person should be a third party, commenting he is unsure staff would be appropriate, but it should be someone who is knowledgeable and not a member of the appointed ECRB.
- Councilor Bushee asked when this packet was available, saying "I went off the old ordinance submitted, and it is substantially different. I wrote my questions and I thought we would go in order of this."

Ms. Price said the differences in the ordinance are in italics.

- Councilor Bushee asked when the Mayor would like questions.

Mayor Coss said he would like Ms. Price to complete her presentation, hold the Public Hearing, and then the Governing Body can hold its discussion and ask questions.

- Ms. Price noted this version of the Ordinance contemplates the repeal of the Ethics & Rules Committee, and moving most of its duties to the ECRB and the Council will do the work on districting and redistricting.

Public Hearing

A copy of "Comments on draft changes to the Code of Ethics," dated February 1, 2011, submitted for the record by Former City Councilor Karen Heldmeyer, is incorporated herewith to these minutes as Exhibit "2."

Speaking to the Request

Karen Heldmeyer, former City Councilor, 325 E. Berger, said she assumed the group that worked on the Ordinance would do a presentation, but apparently they aren't. She noted the speech by the League of Women Voters at the November meeting, and said the League of Women Voters believe in open, honest government, noting the League doesn't take positions unless it has done a study, and that hasn't been done. She said individual members of the League have made comments. She said she isn't representing the League of Women Voters at this meeting. She said she would like to comment on the process.

Ms. Heldmeyer said, "Why are we doing this. Well hopefully, we're not doing it because the ECRB can't get a quorum, because if that was the problem, then there's lots easier ways to do this than rewriting the Ethics Code. And, although that was one of the impetuses to starting this, hopefully we're not doing it because a self-selected, hand-picked group decided that this was the be-all, end-all of ethics, because that's not a good idea either. Although I really appreciate the amount of time and effort they've put into it, I

think we've all been struck by the irony that something that is supposed to be... help open and transparent open government has been somewhat of a closed loop of the system... that it's been hard to get some of the documents. There was one document in particular that the League tried to get, without success, until it was pointed out by a staff person that two people from the public had already gotten that document and it should be available to the public. It was hard to find things on the web if you weren't knowledgeable about the City's website, but it was there, but it wasn't necessarily easy to find."

Ms. Heldmeyer continued, "The reasons you're doing this is because people are fed up. People want to believe in the ethics and integrity of all of government, from City Council on up, and we've seen in the last six months or so a lot of things that have led people to be not happy about the level of ethics. All of you want citizens to believe that government is open, transparent and honest. And, even if you think that some of the things in the Ethics Code aren't things that you have violated, if the public perception is that some or all of you are getting away with something, which is the term I hear most often, that the rest of you, at the very least, are enabling it, and so, therefore something needs to be done."

Ms. Heldmeyer continued, "The way to do that, [inaudible], is to make a law that is as simple and open and transparent as possible to avoid loopholes. And one of the things that's discouraging about this draft, is that loopholes in the current version are carried over into the new version. I modeled that from a legal perspective, even if they say it is *de minimis*. But, what is *de minimis* to an attorney, may not be *de minimis* to somebody looking outside from the public. A City Inspector in his uniform, sitting in a restaurant having lunch with developers. It may be under the legal amount that is *de minimis*, but if people in the public see that, they get very upset. A Councilor and a staff person having another lunch, having lunch together and walking away from the bill, and having the establishment picking up the bill – probably legal under the amount, but not thought of very highly by the public. By the way, if you're doing to do things like that in restaurants, be sure to tip well or the waiters will make sure everybody in town hears about it."

Ms. Heldmeyer continued, "It's not hard to write a law that's strict and simple and easy to follow and everybody understands it, and the closer you can get to that ideal, the better off you are. And I know there's been some talk about, well, the people who have worked on this bill have worked very hard and they don't want any changes. And boy, can I understand that. We've all been in that position. But, the reality is that there are places in this bill that I think still needs work. In some places simple changes, in others thinking about some of the issues. And that's not a negative reflection on some of the people that have done the work, it's just very complicated, and it needs a lot of public exposure. A lot of public exposure. Not the same 10 or 12 people who show up to these meetings, but a real discussion of what it is we want City government to do."

Ms. Heldmeyer continued, "The other thing that would help, is to get a better board. A board that is really serious about dealing with ethical problems. A board that doesn't see it as a failure to have to take action, which I think boards in the past have done. And I think that's something that you can't write into the law, but you can write the appointment process into the law. And I think that's one part of this bill that really needs a lot of thought about whether what's being proposed is really the right thing to do. You don't want again the same 10 or 12 people to be the ones who write the law and the ones that sit on the board and the ones that make the decisions. You want it really to reflect the community. So those are some thoughts."

Ms. Heldmeyer continued, "Some more specific thoughts are in what I handed out [Exhibit"2"], and if any of you want to discuss any of this, you've got my phone number. You know where I am. Thank you."

The Public Hearing was Closed

The Councilors asked questions, made suggestions and commented, and staff responded as follows:

- Councilor Chavez said he would like to make a few comments. He said it is not easy to be critical or call to task a fellow colleague. It is not easy for a citizen to be in the position of criticizing a public official. However, he believes we need to have a process which is open and transparent which serves the public without the fear of threat or intimidation if someone expresses a concern or raises an issue. He said it goes to the "Whistleblower" portion of the bill, as it relates to City employees. He said the fact is that if a citizen hadn't filed the complaint, we wouldn't be having a lot of this discussion in the open, to the extent that it's gotten to this point. He said if he had not withdrawn his formal complaint, he doesn't believe we would be at this juncture either. He said there might have been other actions which would have compelled the City to rewrite the Ethics Ordinance and the Campaign Ordinance. He said if you look across the country, campaign contributions have gone unchecked. He spoke about the struggles of the public to get information which he believes is very daunting.

Councilor Chavez said he hoped there would have been more public participation, more public interest possibly. He said there could be some way to highlight this issue on the City web page and asked Mr. Romero to look into this. He would like a way to take more comment and bring amendments forward. He would like to see a stronger link on the website between the old Ordinances and what is being proposed, noting that has been a moving target, but it needs to be updated as we move forward.

Councilor Chavez said he was able to pick up his packet on Sunday, and he reviewed it as much as possible. He said there should be time to discuss possible amendments and changes to what has been proposed, noting it has not gone through the committee process, except through the Council as a committee of the whole. He would like to make the website more user-friendly to see what kinds of comments we might get between now and the time it is adopted, commenting he is unsure of the next steps.

- Councilor Bushee said she presumes it is the responsibility of the City Clerk to provide the existing Code of Ethics and that the ethics form is returned, and asked Ms. Vigil how many people fill out and return the ethics form.

Ms. Vigil asked if she is speaking of just the elected officials.

Councilor Bushee said she would like to know how many fill out and return the ethics form.

Ms. Vigil said it is sent to all of the members of the Governing Body and all members of boards, commissions and committees. She said it is difficult to know the number, but they do receive quite a few back.

- Councilor Bushee asked if filing this form is a requirement for service. She said the Governing Body members have to fill out the form and return it. She asked if this is required of the City Attorney, the City Clerk, and if Ms. Vigil fills one out and returns it, and what other employees are required to do so as well.

Ms. Vigil said she does fill out a form and return it. She said public officials are required to submit the forms, as well as all committees, boards and commissions, and they do so.

- Councilor Bushee asked who collects the forms.

Ms. Vigil said that is done by her office.

- Councilor Bushee asked if we can have a section on the form which lists members of the household and require them to submit the same information. She thought the form included "other properties you might want to list." She would like to see this change to the form.
- Councilor Bushee would like to talk about the idea of an Inspector General. She said, "I'm not really in love with this idea of an ethics officer. I would like something with a little more separation. In any case, I like a lot of it. It's more clear. I do think there are some sections... I do agree with what Former Councilor Heldmeyer gave us in terms of that section where, if we need a quorum, we throw out the whole concept when you've got a conflict. I don't think that should be the case. I think that should just be stricken."
- Councilor Bushee is unclear whether this version is clear in terms of those who have worked in the City, and then go on to other work sort of using the City experience or information. She said, "I think it needs to be just a flat-out one year no... you just don't come back and represent yourself before the City. I mean I've already had problems getting a clear definition... I mean a clear interpretation of what we already have in the Code. I'm just talking out loud."
- Councilor Bushee said, "Just so it doesn't get murky, and it's a small point, but the financial dealings with subordinates.... we often are trying to raise funds here if someone has lost a family member or there's some crisis, and I didn't know if that sort of trapped people, in terms of you going around and saying, hey we're trying to get money for X, Y or Z crisis that happened. I just want to make sure somehow that's clear, I get the intent, but... and then, yes, I took out the section which was on the former page 19 of the thing that I read that said if compliance with Paragraph M(2) of this subsection by a public official or a public employee would deprive a governmental body of a quorum for taking necessary action, then essentially you get to participate. I don't think that should happen. And, most of my comments had to do with employment after serving, and again, most of my comments were things that sort of bubbled from the old Ordinance that just didn't make any sense to me."

- Councilor Bushee said, "And I really think I would like to focus on the point on how this committee is to be appointed. I don't believe that any of them, and it said the Mayor will appoint if they're not already appointed by some kind of non-profit. And I don't see any that are recommended that are somehow recommended by another entity. So, really, I would like to keep that distance. I don't believe, you know... as much as we can, keep the politics separate. I really don't think we should have the Mayor renaming and appointing. I think they should go through... whether the Inspector General, or if there's a separate sort of way to do that. I mean, I read about the Institute of Public Law from the University of New Mexico School of Law, and folks that can.. a standing body that helps us supply names. And, I'm uncertain that the ethics officer achieves that, in terms of the separateness. And it's really hard too. The current ECRB I've found sometimes didn't keep the distance they needed to keep. You know, I got emails from people and I didn't find them to be appropriate, you know, asking some of us to file ethics complaints in situations. I just think it has to be really really clear."
- Councilor Bushee said, "And then, removal for just cause, again, is left up to the Governing Body and this is from the new board. And I don't know that that's the best scenario either. Again, I'm just looking for the [inaudible] part. And then the whole advisory opinion segment... they were quick to put advisory opinions on the City's website, but yet when there were just.... and then later on in the section, when they asked for... they had more confidentiality on possible ethics violations, there was a little period before it became a formal complaint where it was not a transparent process. And so, I don't know where you sort of find the compromise on that."
- Councilor Bushee said there are a lot of things which could be simplified, and make those outright prohibitions and it would be more clear.

MOTION: Councilor Ortiz moved, seconded by Councilor Romero, to approve the request to publish notice of a public hearing on the Ordinance we have in our packet, with the amendment sheet introduced by staff, on March 30, 2011.

DISCUSSION: Councilor Ortiz said he would like to comment on the proposed bill as he's seen it.

Councilor Ortiz said, "First, and again I understand when we have a public hearing, we'll have the ability to introduce amendments and act on them at the public hearing. I will tell you that I believe the definitions of household are still narrow and can be broadened. I think that household should be included in the definition of Nepotism. I think the term that is in the ordinance, 'substantial segment of the general public,' is vague. Does it mean the same amount of people that wrote this, the community group, the 10 or 12 people that were involved in this particular ordinance. I think that's vague and can be either changed or either eliminated outright."

Councilor Ortiz continued, "I will be proposing an amendment that makes this ordinance, when it does get amended, applicable to all non-profit organizations receiving City monies. I do want to say that the bill, as I've had a chance to read it, in part, continues with an approach that I find disturbing, having gone through the ECRB process, which is it invests power and authority in an organization, a group that does not have adequate rules of procedure itself. And so, if we're going to reorganize the ECRB, both as to its

membership, as to its scope, I'd certainly like to see what kind of rules of process they're going to follow so that they and us and members of the public who go through the process are exactly clear on what process can be followed."

Councilor Ortiz continued, "When I went through the process, I was subject to a process that was not codified in law. It was a process that was set about by the Chair of the ECRB that had no basis, really, in ordinance. And I think that myself, who was the subject of the complaint, as well as the complaining party on the complaint, were subjected to a process that neither of us knew going in we would have. It was just sort of at the whim of the Board, which I find, and found, irregular and suspect as a matter of due process."

Councilor Ortiz continued, "I do think some of what is being attempted here in this ordinance can be made clear. I think that Councilor Heldmeyer's comments have some merit with regard to making it clear on its face. However, making it clear on its face, in some ways, raises the issue, again, that if we're going to vest this organization outside of the Governing Body with the sole ability to decide what is or is not ethical or allowed under the Code, then we will find ourselves in situations that governing bodies have found itself in before – on the spot in the middle of a decision, with really no ability to act or to correct decisions that could be made. And that, I think needs to be addressed."

Councilor Ortiz continued, "It is one thing to say that perception is reality. It is another to say, on a particular vote, when an issue directly arises, are we to say as a Governing Body that we have no authority to take action and to decide that one of us, or more, have a conflict of interest. That, to me, seems contrary to the actual spirit of the ordinance, which is to remove conflicts of interest and remove those people who are voting who have an actual conflict of interest, either for themselves, or as a family member. That to me, seems like something we should still have a right to be able to act upon as a Governing Body. This bill takes that right away completely, and gives it to another group, a group of unelected individuals."

Councilor Ortiz continued, "And so, those are the amendments that I intend to have inserted into this bill on March 30, 2011, and those amendments, as well as some of the amendments that have been given to us for the first time today, I think will be able to be decided upon."

Councilor Ortiz continued, "With respect to whether the public at large has decided, or been invested in this decision, I will say that I have received 15 times more contacts, and I have been at the heart of this storm, I have received 15 times more contacts about naked bike riders on the Plaza than I have about my personal situation and the situation my client finds himself in. That to me... and I will say that the two contacts I have received have been positive feedback. And so, if the public hasn't seen this now, the public hasn't been following the very open and notorious media and editorial content that has been placed on this Governing Body, as a result of me, then I would pose that the public is watching in fact, and that the public has been arriving. And, I look out in the crowd and I see the same 10 to 12 people that have been here since 2004. And so, if there is another public process that needs to happen, we should have taken it through committee. We should have gone through the regular process."

Councilor Ortiz continued, "This attempt by a small group of the community to raise this issue, has had six months to foment public discussion. This bill has been around since November. We're not going to have a public hearing until the end of March. It's my hope that anyone and everyone who has an interest in this

bill will please come to the public hearing. If you're got more amendments, please submit them before Jeanne leaves, because once she leaves, these kinds of ideas aren't going to come to us in the same format from the same group of Councilors who have been using Jeanne in the time that I've been serving. So, I do appreciate, after finally having a chance to read the Ordinance, I do appreciate the hard work that has been put in by those members. I was less than appreciative when some members of the community reached out to me in December, and I can tell you that a lot of hard work and effort went into this. I don't think it's anywhere close to being ready, but I do think it's a good start. And, coupled with the amendments that Councilor Heldmeyer has given, I think that in the end we're going to be able to reach an ordinance that's clear on its face, that's easy to apply and that has some of the powers that I think we need up here in order to actually eradicate some of the votes that have taken place."

Councilor Bushee asked, "I just wanted to know, with the public hearing, what that meant for what goes on in between. Do we have no Committee to send it to."

Mayor Coss said that is the last Meeting in March, and we could hold another meeting like this, noting the Council meetings aren't that busy these days. He said we could have a Study Session or hearing at the last meeting in February or the first meeting in March, before the final meeting in March.

Councilor Calvert said he understood Ms. Vigil to say we received most of the forms back from the public officials and boards and commissions. He asked if this is optional. He said he will leave that as a rhetorical question. He said perhaps we should require people to fill out and return the form before they are appointed, and make it a part of the appointment packet to disclose any conflicts.

Councilor Calvert, referring to page 30 of the annotated version of the bill, said he wants to be clear on the section on sanctions. He said it talks about the City Clerk being able to do things with regard to the Campaign Code, but then says the Board can do things with regard to the Code of Ethics, the Campaign Code and the Public Campaign Finance Code. He asked, where these overlap, is there a primacy – does the City Clerk have to act first, or is it the first to act. He would like clarification on this seeming overlap.

Councilor Calvert, referring to page 3 of the matrix regarding "Subordinate of a public official of public employee," said he thinks he understands what is meant that every employee of the City is a subordinate of a member of Governing Body. However this seems in conflict with another part of the Code which provides that the Governing Body isn't to give direction to employees, and must do that through the City Manager. He doesn't know if this is a conflict, but it seemingly is a conflict, and he would like further research to be done before moving forward.

Councilor Calvert, referring to page 14 of the Matrix, said this speaks about redistricting, but leaves it "up in the air," and asked what we are to infer. He said if we do away with Ethics and Rules, which had purview in this area, are we then saying this is strictly between the City Clerk and the Governing Body.

Councilor Ortiz said he will be introducing a Resolution at the next Council meeting calling for the census to be reported, and a contractor to be hired to do redistricting by July 1, 2011. He said that would go through the various committee processes, as well as the Ethics and Rules Committee, because it is not yet disbanded. He believes this is the only redistricting that we will have to do and has to be done before the next election cycle.

Councilor Calvert believes that would still "be the City Clerk and the Governing Body, because the City Clerk would be the one to put out the contract. Right. So, in essence, it's still the Clerk and us, and probably Ethics and Rules, and I'll get to that in a minute, because that's another question I had. Which is stated in here somewhere, which is if we want to follow what's in here and do away with the Ethics and Rules Committee, then we need a separate Resolution on that. And so, I am in agreement with that, because I think that's a direction I wanted to go in. I think we would want... if that's something that is going to be introduced, a Resolution, I think it should go along with this process, because I think it's a factor in this whole thing."

Councilor Ortiz said Councilor Calvert can drop the Resolution as a procedural matter at the next meeting or the last meeting in February.

Councilor Calvert said he understands, but he's saying that the final decision in that regard should go along with this bill so they mesh.

Councilor Chavez asked Ms. Price if she has the comment sheet handed out by Councilor Heldmeyer. He said his question has to do with travel. He said Subsection C at the bottom of her commentary [Exhibit "2"] speaks to travel, noting Ms. Price commented on that which is in Section 8, "Improper Gifts to Public Employees."

Ms. Price said the gift ban was to include, but not be limited to travel and accommodations, which is on page 8, Paragraph A, of the annotated bill, which provides, "Improper Gifts. A public official or public employee shall not request or receive directly or indirectly a gift or other financial benefit, including but not limited to travel and accommodations, from any person or entity which to the knowledge of the public official or public employee has any prospect of direct or indirect pecuniary gain or loss from any official act to be performed." She said the two provisions which talked about various gifts were collapsed into one gift ban provision.

Councilor Chavez said the amendment sheet references page 13, lines 5-7, and Ms. Price said that is page 13 of the bill itself, Paragraph C, Representation of Private Interests.

Responding to Councilor Chavez, Mr. Zamora said, "If you refer to the upper part of the language, above line 5, it is important to clarify that 'public official or public official shall not, during his or her term of office or employment within one year after the termination thereof, accept monetary compensation from a third party for consulting with, representing or advising that party, regarding any transaction with the City or matter before the City.' In essence, you can't do business before the City during your term or for one year thereafter. So, it includes just about every instance you can imagine, during your term and for one year after your term, compensation from another source to do business with the City."

Councilor Bushee asked the genesis for that amendment.

Mr. Zamora said, "The first genesis of that was just a clarification of the intent of the drafting. It read 'any City transaction,' which became incredibly vague. Is a City transaction the City going out and buying pencils somewhere else. Is a City transaction.... just image the breadth of that. And, I don't think it was clear enough, and needed to be..."

Councilor Bushee said it needed to be defined more specifically in 6 and 7, which provides, "Any City transaction which a public employee has had or reasonably should expect to have any influence or personal involvement in his or her capacity."

Mr. Zamora said, "As for the second piece of that amendment, by ending it with a period, any matter before the City, it actually broadens the restriction. Here, the language that's been struck sort of narrows it. It still allows for a public official to do business before the City and eliminates some vagueness. It's just, you can't handle a matter before the City, period, regardless of whether you participated or not. Again, limited to a one-year period.

Councilor Chavez said, "Then the amendment captures or eliminates Section D, right, and that's the second [amendment]."

Mr. Zamora said, "Correct."

Councilor Bushee said, "I think most of my.... I do want to see simplification and clarification wherever possible. But, I'm still unsure we really nailed, and I do appreciate all the work that went into this, and you know, I think there's been ample opportunity to weigh-in, and I hope there are more opportunities, but I do not... I am not sure if the vehicle of the ethics officer and just the clarification of those that are going to serve on the Board and what their duties and requirements will be, are specific enough. I think that entity is going to have to be as clean, clear, neutral and stand alone as possible. And I'm not sure we are there. I am also unsure if we can work in the whole Inspector General idea. I had Jeanne look into what Albuquerque has done, and they continue to evolve what they are doing down there. And, of course we really don't want to add any additional costs to the whole picture. But, I do believe we have some work still to be done on that."

Councilor Bushee continued, "And then, I guess there are some specific things that I guess we'll just work with Jeanne to make amendments to. And I do also agree with Councilor Calvert that we will probably want, I for one want to see the Ethics & Rules Committee to disband. But I will ask what entity you expect, or governmental body already in the City, to review things like the Governing Body Rules, or is that just going to come to the Council... things like redistricting, I mean would they go... I mean ECRB is not necessarily the right group. So, I guess I'm asking what the thoughts were before we go about disbanding. You know, the Open Meetings Act, things we do on an annual basis."

Ms. Price said, "On page 28 of the bill, Paragraph H, line 8, provides, 'The Board will review and make recommendations to the Governing Body, regarding the Governing Body's procedural rules and other procedural matters, including, but not limited to, the Open Meetings Act compliance resolution'.. that sort of

thing. So that is duties the Ethics & Rules did that will go over to ECRB. Really, the only thing that was left was the redistricting. And, as I said, redistricting would go straight to you. It wouldn't go somewhere else."

Councilor Bushee asked what will be done about things such as parliamentary procedure, governing body rules and such.

Councilor Ortiz said the parliamentary procedures went to the Mayor.

Councilor Bushee said she is speaking of the Council Rules which need to be tweaked.

Ms. Price said those would go the ECRB for its recommendation.

Councilor Trujillo thanked everyone for their hard work.

Councilor Trujillo quoted from the bill, beginning on page 22, line 23, "(3) Each member of the board shall be a resident of the City. (4) No member of the board shall be a member of the governing body, the city manager, the city attorney, the city clerk or a public employee or a member of the family of any of these persons. No member of the board shall make a contribution to or participate in the campaign of any candidate for an elected municipal office." He asked if we are saying the members of the Board can't work on an election in the future, or are we saying that they could not serve on the Board if they previously worked on a campaign. He said it specifically says, "...any candidate for an elected municipal office." He asked if that refers to Santa Fe, or Espanola or in the entire United State.

Ms. Price said it would be for the City.

Councilor Trujillo said he is ready for the bill to go through the process.

Mayor Coss said, "I want to thank everyone who worked on this so diligently, Geno, your staff, Jeanne, thank you so much, we're going to really miss you. And Melissa. We had a meeting just yesterday with Jeanne and Melissa looking at this. I want to thank everyone. I want to thank Councilor Heldmeyer for coming in and giving us such detailed comment, because this is just what we're looking for, because we all do believe in honest and open government. I want to say strict, easy to follow, are good guidelines, but I don't think it is as easy and simple as you think. I would just caution us on strictness, you could push it to the point where only retired State workers could run for office. And, I'd be careful of that."

Mayor Coss continued, "I do think we need more work on the detail. I am particularly concerned about what members... what non-profits are we thinking of to make these appointments. I think we're starting to get a pretty good track record with the Internal Audit Committee and the process Councilor Bushee put in that. The appointments Judge Yalman made were great. So now we have an Internal Audit Committee. We've started the work on a sunshine portal. We're revising our Ethics Ordinance. I think they're all positive steps."

Mayor Coss continued, "I also wanted to comment on... you know, I think this Committee of the whole Governing Body hearing this has really been good. And the public can even watch it on TV tonight. And, I would encourage people to continue participation. I think I heard tonight that the Council would be okay if we scheduled another public comment period like this at the last meeting in February or the first meeting in March, so people will have another time to bring forth comments and suggestions before the public hearing at the end of March. So again, I appreciate the work that everyone's done, that the Council has done, and coming out on this very cold evening to help us."

Councilor Calver said, regarding Councilor Ortiz's comment about making amendments at the public hearing at the end of March, the problem is if we don't do those kinds of things in advance, the public doesn't know what they will be referring to or addressing. He said if we have an interim meeting, perhaps everyone could submit their amendments by that time so people will have time to consider and comment on those.

Mayor Coss said it is always helpful, but not required.

VOTE: The motion was approved on the following Roll Call vote:

For: Councilor Bushee, Councilor Calvert, Councilor Chavez, Councilor Ortiz, Councilor Romero, Councilor Trujillo and Councilor Wurzbarger.

Against: None.

Explaining her vote: Councilor Bushee voted yes and thanked everyone for their hard work, and Jeanne Price for coordinating everything.

Explaining her vote: Councilor Bushee voted yes and thanked everyone who worked on this.

8. COMMUNICATIONS FROM THE GOVERNING BODY

There were no Communications from the Governing Body.

10. ADJOURN

The was no further business to come before the Governing Body, and the meeting was adjourned at approximately 6:40 p.m.

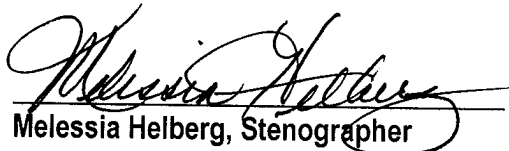
Approved by:

Mayor David Coss

ATTESTED TO:

Yolanda Y. Vigil, City Clerk

Respectfully submitted:



Melessia Helberg, Stenographer