



Agenda

CITY CLERK'S OFFICE

DATE 6/21/13 TIME 10:40 am

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**AMENDED
CHARTER REVIEW COMMISSION**

Thursday, June 27, 2013

City Council Chambers

4:00 pm to 6:00 pm

1. Roll Call
2. Approval of Agenda
3. Approval of June 13, 2013 and June 19, 2013 Minutes
4. Public Comment
5. Discussion and action of Topics carried over from prior meetings:
 - a. Proposal to ban and/or limit contributions from City Contractors doing business in excess of a specified amount
 - b. GOVERNANCE ISSUES:
 - (1) Full Time Mayor Proposal
 - (2) Mayor to Vote on all Issues before the Governing Body
 - (3) Remove Power from Governing Body to suspend or remove the City Manager and only Mayor to appoint and suspend or remove the City Manager and City Attorney, City Clerk and additional high level positions (i.e. Division Directors)
 - (4) Clarify Charter Power of City Manager to Hire and/or Fire City Employees (i.e., City Manager does not Hire or Fire City Attorney or City Clerk)
 - (5) Clarify and add Definitions of Chief Executive Officer (Mayor) and Chief Administrative Officer (City Manager)
6. Discussion and possible action on proposal to publish notice of budget and capital outlay and improvement projects
[Language for proposal was submitted at May 28, 2013 meeting]
7. Discussion and possible action on topics presented at prior meetings
POLICY ISSUES
 - a. Proposal for Gun violence prevention ordinances
 - b. Proposal re Children's Issues and Concerns
 - c. Proposal for Marijuana Adult Personal Possession and use to be Lowest Priority for Law Enforcement and prosecution
 - d. Proposal on Water Resource and Conservation Issues
 - e. Proposal regarding Immigration policies and enforcement
 - f. Proposal for preservation of Neighborhoods and neighborhood integrity
 - g. Proposal regarding prevention and protection from Cellphone tower adverse impacts
 - h. Technological improvements for City Business

[Specific Language for Proposals or Amendment are requested to be submitted to the Charter Review Commission, c/o Irene Romero at City Attorney's Office, at least 48 hours prior to the meeting.]

8. Discussion/Possible Action Agenda Items for Future Meetings
9. Discussion and possible action regarding report to Governing Body
10. Communication from Charter Commission Members
11. Public Comment
12. Adjournment

Persons with disabilities in need of accommodations, contact the City Attorney's Office at 955-6512, five (5) working days prior to meeting date.

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**MINUTES OF THE
CHARTER REVIEW COMMISSION
June 27, 2013
City Council Chambers
4:00 p.m. to 6:00 p.m.**

CALL TO ORDER.

A meeting of the Charter Review Commission was called to order by the Honorable Patricio Serna, Chair, at approximately 4:00 p.m., on Thursday, June 27, 2013, in the City Council Chambers, Santa Fe, New Mexico.

1. ROLL CALL

Roll call indicated the presence of a quorum as follows:

The Honorable Patricio Serna, Chair
Nancy R. Long, Vice-Chair
Steven G. Farber
Brian Patrick Gutierrez
John B. Hiatt
Houston Johansen
Carol Romero-Wirth
Daniel Werwath

MEMBERS EXCUSED

Roman Abeyta [Resigned]

OTHERS ATTENDING

Marcos Martinez, Assistant City Attorney
Irene Romero, City Attorney's Office
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance.

2. APPROVAL OF AGENDA

MOTION: Commissioner Werwath moved, seconded by Commissioner Johansen, to approve the agenda as published.

DISCUSSION: Commissioner Farber suggested we move the policy issues up and deal with the governance issues at the next meeting, so people don't have to wait through the discussion that will be relatively strong with regard to the Mayor and taking away powers from the Governing Body.

After discussion, it was the consensus among the Commission not to amend the agenda.

VOTE: The motion was approved on a voice vote, with Vice-Chair Long, Commissioner Farber, Commissioner Gutierrez, Commissioner Johansen, Commissioner Romero-Wirth and Commissioner Werwath voting in favor of the motion, no one voting against, and Commissioner Hiatt absent for the vote.

3. APPROVAL OF JUNE 13, 2013 MINUTES AND JUNE 19, 2013 MINUTES

MOTION: Commissioner Long moved, seconded by Commissioner Johansen, to approve the minutes of the meetings of June 13, 2013 and June 19, 2013, as presented.

VOTE: The motion was approved on a voice vote, with Vice-Chair Long, Commissioner Farber, Commissioner Gutierrez, Commissioner Johansen, Commissioner Romero-Wirth and Commissioner Werwath voting in favor of the motion, no one voting against, and Commissioner Hiatt absent for the vote,

4. PUBLIC COMMENT

A copy of a letter of response to Mr. Rowe's letter, entered for the record by the City Attorney's Office is incorporated herewith to these minutes as Exhibit "1."

A letter dated June 27, 2013, with attachments, from Dr. Felicia Trujillo to the members of the Charter Review Commission, entered for the record by Dr. Trujillo, is incorporated herewith to these minutes as Exhibit "2."

A proposed Policy Statement regarding Electromagnetic Radiation Issues, entered for the record by Dr. Felicia Trujillo, is incorporated herewith to these minutes as Exhibit "3."

An email to Irene Romero dated June 28, 2013, from Cheri Johansen, forwarding an email she received from Dr. Trujillo on June 27, 2013, regarding the *Precautionary Principle*, is incorporated herewith to these minutes as Exhibit "4."

A proposed Policy Statement regarding Neighborhood protection, submitted for the record by Cheri Johansen, is incorporated herewith to these minutes as Exhibit "5."

A copy of *Agenda for Candlelight Neighborhood Association meeting, Tuesday, June 25, 2013*, submitted for the record by Barbara Levin, is incorporated herewith to these minutes as Exhibit "6."

A letter dated June 27, 2013, from the League of Women Voters of Santa Fe County, submitted for

the record by the League, is incorporated herewith to these minutes as Exhibit "7."

Fred Rowe said he would like to speak on a point of Order. He has been an attorney for more than 60 years, and was licensed in New Mexico in 1996. He said he raises a point of order with great reluctance but as a matter of professional obligation. He said he communicated with the City Attorney's Office and they are fully apprised on this matter. He said he communicated the following to City Attorney Geno Zamora this morning:

As you know, the Charter Review Commission may conclude its important work at today's afternoon meeting. As a professional matter, please note that Section 10.0 of the current Charter providing the legal process for Charter amendments states in pertinent part, 'The Governing Body shall by resolution determine the manner of appointment of the Commission, provided that there shall be an odd number of commissioners. At this time, we know the Commission does not have an odd number of commissioners since one Commissioner has recently resigned. My professional concern is that any kind of determination or recommendation by the Commission may be legally invalid, or is, at least vulnerable to legal challenge on jurisdictional grounds or otherwise at any future time, before or after Council action and or ultimate balloting. Obviously, this legal cloud, risking costly and lengthy litigation is a critical matter calling for the City's Attorney's prompt legal judgement and advice to the Commission on how best to proceed. Please confirm receipt.

Mr. Rowe said, "And the City Attorney's Office has received this communication and may appropriately respond to it. I would say, with great reluctance, I raise this matter, but I think it is best raised now, rather than raised by someone else at whatever time in the future, and raising it now I think would be the most appropriate way to address it. Thank you."

Chair Serna said let me ask you a question you are right with the resignation of Commissioner Romano Abeyta we are left with a vacancy. If whoever appointed him appoint someone to replace him before we have a final vote would that cure your concern.

Mr. Rowe said I would not venture a legal opinion on that because we would be talking about if someone was appointed as a replacement next week next month could that retroactively validate the determinations that were made prior to that replacement appointment. I think it would be one way to try to address the problem as it would be also as if someone resigned and made it an odd-numbered commission in the future.

Vice Chair Long asked the City Attorney to weigh in on this issue, if they receive that communication this morning they may have had an opportunity to look at it.

Zach Shandler said yes Mr. Chair we sent an email earlier to Mr. Rowe, and let me read the contents to you as follows:

Dear Mr. Rowe

We acknowledge receipt of your email. You are free to raise the question, but you should anticipate that our reply will likely be:

You have correctly cited section 10.01 of the Charter. The City did by resolution, appoint the members solve the commission. At the time of appointment, there was an odd number of commissioners. (See Section 4 of Resolution 2012-45). Therefore, the City satisfied section 10.01.

The state Supreme Court in Denish v. Johnson, 121 NM 280 (1996) ruled that a [position is not vacant – it remains filled by the former appointee pending the appointment of a successor.

If the commission is concerned, one possible solution to any issue would be for the City Councilor who appointed Roman Abeyta to a point a replacement for he has vacancy. "Section 5. VACANCIES. Vacancies on the Commission shall be filled in the same manner as initial appointments."

Second, the Rules and Procedures for City Committees states that, "unless otherwise specified in committee's enabling legislation, a majority of the regular committee members shall constitute a quorum for the transaction of official business." Article 10, Section 4. (See also, section 6 of Resolution 2012-34, "A quorum shall be at least five members .")

Consequentially, because a quorum is needed for the transaction of official business, the Charter Commission may proceed unimpeded so long as it satisfies the quorum requirement.

Although the loss of a member of a commission may create tie results on voting for particular recommendations in close cases, the commission itself has the ability to make recommendations provided that it has a quorum to conduct official business.

Commissioner Farber said thank you for bringing that to our attention, and I reviewed it and I am not sure what the answer is. Mr. Shandler I don't mean to put you on the spot, you've just joined the City and this is your first meeting, I would have appreciated if you had shared that opinion with members of the commission that you sent to Mr. Rowe. I was wondering what the impact of Section 4 of the Resolution that constituted this commission, in light of Section 10.01 of the Charter, which seems to have some mandatory requirements in the be it therefore resolved part of the resolution as opposed to the whereas clauses, in that each Councilor shall appoint a member, and if you miss 3 meetings you are deemed to have been resigned. And Roman resigned . The Council, it appears accepts or rejects in their discretion the tender of a resignation or the resignation by failure to attend. However, it appears to require an appointment.

Mr. Shandler said the *Dennis V. Johnson* case says that you serve until your successor is appointed. And so it is our analysis, that that position is not considered to be vacant under that case. However if the commission is concerned about that, one remedy which has been suggested is to have the Councilor that appointed Commissioner Abeyta to make a new appointment.

Commissioner Farber said, just personally speaking, we've been working since December, so I would hate for all of our work to be null and void, or ineffective. And I don't recall who appointed him. He said at one of the early meetings I think we discussed who appointed all of us.

Vice-Chair Long said the way that I'm reading 10.01, of the Charter, is that the governing body shall, in its resolution that created this commission, determine the manner of appointment which it did, and provide for an odd number of commissioners and it did, and there was no magic number as long as it was nine. She would agree that's exactly what happened by the resolution, they created a commission with an odd number, and that we've complied with that. And I think that seat does remain vacant and I don't think that we have to constantly maintain that number. That wouldn't be practical and you can't force somebody to stay on the commission so we could maintain that number. It also would make sense to bring someone in late in the process, or even in the middle of it. The idea was to have that continuity, so I'm not as concerned about this issue.

Commissioner Farber said except there is a next section of the resolution on vacancies that says, "Vacancies on the commission shall be filled in the same manner as the initial appointments. Members shall serve without compensation."

Commissioner Werwath said but it says nothing about the commission work being invalid if... I think it's pretty clear here that we can move forward. The rules of a quorum are what are dictating whether or not our decisions are valid, and I think we're safe to move forward here.

Commissioner Farber said, I'm not sure if that's the correct legal conclusion.

Commissioner Werwath said that is the legal conclusion from our City Attorney's office.

Vice-Chair Long said it doesn't say that vacancies have to be filled, it just says they will be filled in the same manner. So I don't read it that way.

Chair Serna said, "Zach, it is your opinion, your studied opinion, that we may proceed as long as we have a quorum. And until there is an appointment, that there is no vacancy. Is that correct?"

Mr. Shandler said, "Mr. Justice, of course you are free to accept or reject the advice, but yes it is correct. The City Attorney's advice is that you can proceed."

Chair Serna said, "I, for one, accept the City Attorney's advice, and would like to proceed, but I'm only one and I would like to hear from the others. Do you all agree with what Mr. Shandler has told us?"

Councilor Farber said I am honestly unsure about it, and I would really like to think about it, because he thinks it raises a significant question. So I need to abstain in the context of if you're asking for a vote.

Chair Serna said, "Let the record show that everybody except the opinion given by Mr. Shandler and we will proceed, and Commissioner Farber has abstained. So I believe we have addressed your point

of order.”

Mr. Rowe said, “I appreciate the resolution of the matter by the Commission. As I stated at the outset, I think it was important that the issue be raised now, rather than two weeks or three months from now and be appropriately resolved.”

Chair Serna said he appreciates you raising the issue now instead of filing a lawsuit later. However I believe we all have confidence in our City Attorney that has studied it, and has given us a resolution with which everyone has agreed.

Commissioner Hiatt arrived at the meeting

Dr. Felicia Trujillo said she has been apprised by Commissioner Farber that some wording of her policy wording was not provided. I can certainly provide it for you, but I brought some other information. And I want to thank you all, and Justice Serna for your kind listening of myself and to Dr. Singer last week. [Dr. Trujillo provided some handouts for the Commission, Exhibits “2” and “3”]. At your last meeting, Dr. Singer presented on the health effects of cell phone radiation, which the world health organization classifies with DDT, lead and HIV virus as a possible human carcinogen. Our own Health Department has acknowledged the connection of cell phones to brain tumors after a use of a minimum of 30 minutes per day for appeared of 10 years. At this time the highest cancer death rate among children and young people to the age of 27 are all from these sort of gliomas.

Dr. Trujillo said, “Today I want to briefly acquaint you with another EMF emitter, coming to us in New Mexico. Although our New Mexico Gas Company is allowing a self read program for those with pacemakers, medical implants, children, or ill family members, PNM has flatly stated that it will not allow any evasion of smart meters. A PNM spokesman informed me that they are waiting for all of the wrongful death suits, fire suits, wrongful arrests, disconnection of services, and cities immobilizations across the U.S. to settle before they invest in their own rollout. You each have one of these, it’s an x-ray of one of my patients. This situation with smart meters is that there emissions interact with metal and electrical wiring. Dr. David Stupen, who is here tonight, stated, he is a Los Alamo’s physicist, he says this turns all communities into a low-power microwave oven. At this time, power companies have disconnected families from power to try to make them to accept smart meters. Many are choosing to live without power instead, as their children or family members became extremely ill after these meters were installed. Smart meters are not UL approved, and have damaged wiring, electronics and have resulted in fires. And I’m going to add this that I hope the office can get you copies of. These are two news articles of families who were forced to live without power and fires resulting in multiple deaths after they have put them in.”

Dr. Trujillo continued, “Professional security firms have proven they are easily hacked, thus leaving a homeowner vulnerable to being robbed. And in Texas, a Mayor was recalled and two City counselors voted out of office for not defending their population against smart meters, and 26 counties are following. Many are concerned as the data mined by the meters is being sold to third parties as well as provided to government agencies. One attorney general rejected smart meters and said they had no provisions for those on home life support systems. And as you know, the deal was smart meters is that they can be controlled at the home office, turning your AC down or off. If California starts to have a brownout, we can

send our electricity to bail them out . But there's no provision for home life support systems. Another attorney general rejected smart meters as they cannot prove there will be savings to match the expenditure of changing every meter in his state.

Our own state is concerned that the push is for only smart meter appliances to work. All other refrigerators, washers, equipment would no longer function. By 2011, 57 California counties and cities pass laws against smart meters, some included jail sentences and fines of up to \$500,000, as the power companies were breaking into homes to 14 installation. In a recent breakthrough, there are some opt out programs in California which however charge \$75 for keeping the analog meters and up to \$30 a month extra for maintaining an analog meter. And there are applications for the indigent to pay less.

I am sorry to bring this up today, I know you're really stretched for time. I'm bringing this up to go into the policy that I presented about cell towers to widen it as I had worded that policy, to include the precautionary statement for any kind of additions to neighborhoods that would threaten the health of people in those neighborhoods as outlined by the world health organization, which has outlined smart meters again as possible human carcinogens. All I ask is that perhaps Santa Fe, as creative and progressive as we have been, could began with such opt outs, rather than suffering through years of suits and tickets and possible fires and deaths from these untested unapproved meters. Thank you"

Barbara Levin, President, Candlelight Neighborhood, said she is here to support the wording of the Neighborhood Network's policy relating to Item 7(f). We met with the this steering committee of our neighborhood on Tuesday night and unanimously approved the wording and I would like to give you the exact wording that was approved by our Neighborhood [Exhibit "4"].

Commissioner Romero-Wirth asked if the wording differs from the wording that has been submitted to us.

Ms. Levin said she doesn't think so. We received we received this in the email and that's what we adopted verbatim.

Marilyn Bane said she is in favor of the neighborhood protection paragraph that has been submitted to you. In addition to that, I have a question. When we met at the library and began discussing government issues, Mayor Coss testified I believe, very specifically, that these would not go into effect until 2018. I am now hearing that it will go into effect in 2014 if it is approved by the voters. She said she would like for somebody to tell her exactly when these Charter amendments will go into effect.

Chair Serna said he doesn't know the answer, and asked Councilor Wurzbarger who is in the audience if she can answer that question, and she said she would defer to Mr. Shandler.

Ms. Bane said that is an important question and she would like very much to have an answer.

Chair Serna asked Mr. Shandler if he is prepared to respond to this question right now, and Mr.

Shandler said that he is, and the Chair asked him to respond.

Mr. Shandler said, "In the minutes there have been several parties that have talked about that it would not be effective in the next election cycle. And I have been trying to research the support for that. There's a certain common sense element to that in terms of if people are running for election that they should know what they are getting themselves into or not. So there is a certain common sense element in terms of having a delay. The Charter itself is not exactly clear in terms of having a delay. In comparison, North Carolina has a statute, and I'll read it, "The Council may submit new Charter amendments proposed under this article at any regular or special municipal election. Any amendment affecting the election of city officers shall be finally adopted and approved at least 90 days before the first election for the mayor or council members held therein. In the City's fact pattern, the Charter, if it goes through all of the proper processes would be on the ballot at the March election, so it would be different than North Carolina which requires a 90 day lead time for the changeover. The state statutes are particularly clear. They seem to imply that seems a, effective upon the adoption of the Charter. I haven't had a chance to talk to the City Clerk about whether there are technicalities in terms of whether she has to certify the vote. I believe the Charter says the Mayor is sworn in six days after the election. So, in summary I would like to hear more from the proponents that think there is a delay to 2018, and I would like and I would like to hear the references or the support for that, and possibly do additional research. Because it this time it appears that that things become effective when the Charter is adopted."

Chair Serna asked Mr. Shandler to get back to the commission when he has a more conclusive recommendation.

Helen Tomlin, President of the ACSYL Neighborhood Association, said she is here in support of the neighborhood network statement that they have recently made. She said she would like to also called to the attention to the commission that in updating the General Plan, the Sol y Lomas/ACSYL Neighborhood Association submitted these petitions to maintain the ambience that we currently have along Old Pecos Trail and we also submitted a general plan to the City based on development or non development along Old Pecos Trail. So I just wanted to say that we are in support of the Neighborhood Network, and would like to request that neighborhoods be considered in planning and development along the area.

Commissioner Farber said a while ago we got wording from the Neighborhood Network. He doesn't know if the wording has been changed and didn't see it in the packet of information we were provided today, and doesn't know if anybody has it. He was told it is in the matrix and asked if the neighborhood network has reviewed the statement in the matrix and if that is the correct wording.

Peter Dwyer, 613 Camino de la Luz, Santa Fe, said in his individual capacity he would like to submit the Neighborhood Network, and Fred Rowe, and Marilyn Bane and the others who have come to speak on the half of the portion of the Charter addressing neighborhood preservation issues. I think that is a broad public policy issue within the City of Santa Fe that would appropriately be addressed within the Charter because we do care very much about our neighborhoods. We would like to see them as a priority

for future councils and the community as a whole. The preservation of the neighborhood character is important and I support that. I am also here as an attorney and I represent AT&T, and I see on the agenda there is Item 7(g) regarding regulation of telecommunications facilities as a potential policy statement. And I, and my client AT&T, do not support putting that kind of thing into this City Charter. I think it is outside the realm of the issues that are appropriately addressed by a local zoning body. You heard some prior statements from one of the prior speakers from the public about highly technical issues about radio frequency. Certainly we can present you or the City Council with information about that if that's something you're interested in. However, it is a highly technical field that is regulated comprehensively and preemptively by the Federal Communications Commission in Washington, D.C. He said he doesn't think it would be provident are wise for the City of Santa Fe to take up those kinds of thoroughly regulated, highly scientific national issues in the context of the City Charter.

Mr. Dwyer said, "I would also in furtherance of that say that those issues are not unresolved in the community. I am co-counsel with the City's counsel on a whole series of lawsuits that have been and brought filed regarding that very matter and they are being resolved through the courts. So I again would encourage you not to embrace that as an issue that local government should unnecessarily take public resources and commit them to. The issues are being looked at. They are being resolved. The courts are hearing those cases. The City is already a defendant in six cases that I can think of where that has been raised as an issue, so the courts will resolve them, but I don't think your work here would be well spent by further embroiling the City in issues said it has already been required to litigate."

Chris Furlinetto, Vice-President and Action and Advocacy Chair, League of Women Voters of Santa Fe County, said they have a very brief statement about the governance issues that you are going to be discussing. Ms. Furlinetto read a statement into the record. Please see Exhibit "6" for the text of this statement.

Commissioner Romero-Wirth asked when the study was done.

Ms. Furlinetto said it was done in 1996. However, the procedures are that every year we review all of the studies and all of the positions that we have and we determine whether or not those positions are still relevant and timely, or whether or not a study should be redone and/or revisited and positions updated. And we have not felt that it was necessary to revisit this particular study, so these positions are still valid.

Commissioner Romero-Wirth asked if the League has reviewed its position recently in this regard.

Ms. Furlinetto said we have a program planning meeting each year, usually in February where we review our local positions, and so it is a regular ongoing process in looking at our positions.

Vice-Chair Long said paragraph 2 of your recommendations says "It" shall appoint the City Manager, and she presumes by it they mean the Governing Body which is the Mayor and the Council. So you would support a change to the Charter, which is not before us, that the City Manager would be appointed by the Governing Body and not by the Mayor.

Ms. Furlinetto said yes. We are concerned that concentrating too much hiring and firing authority in the Mayor is not a good governance position, and it removes much of the checks and balances system that might be present, in its broader decision in hiring and firing. We are objecting to placing those powers within the Mayor's office, and not across the whole body.

Vice Chair Long said you understand that that power already exists, so you are promoting a change to the Charter, that the governing body would actually appoint the City Manager and not the Mayor. As it currently exists, the Mayor does that here in Santa Fe.

Commissioner Farber said point of clarification. The Mayor does it subject to the approval of the governing body.

Former Councilor Heldmeyer said they consider that to be not inconsistent with the current policy.

Commissioner Romero-Wirth said, the other thing is, your definition of governing body is the Mayor and the Council, together.

Former Councilor Heldmeyer said, "As with many things in the Charter, it's not talking about how the Mayor and Council together and the advice and consent situation. As you can imagine, we've had many discussions of this over the last week or so, since these issues came up. And we feel that the Mayor nominating someone and the Council has advice and consent is not inconsistent with that, that's just a more general statement of what's going on now.

Vice-Chair Long said she sees this differently, but I was just wondering if that was a change you were proposing.

Former Councilor Heldmeyer said and in fact, the reason you're getting this now as opposed to several months ago when we handed you are other changes is that we didn't realize there would be major changes at this point. We went through our positions and we took out those things that we felt needed to be changed or clarified. At that point we had not heard that there were major changes being proposed to governance, so we didn't present any of our governance positions to you, except the one thing you didn't have which was the Mayor votes in every case. This is part of our position and is something that is being proposed now. She said had we known this was coming up, you would have seen this a long time ago.

Vice-Chair Long said she would disagree you didn't know that this was coming up. It has been on the matrix, we had extensive discussions at the library two months ago. She said these issues have been well discussed at these meetings, noting Former Councilor Heldmeyer has attended all of the meetings. She said, "I would just disagree with that characterization."

Former Councilor Heldmeyer said she was talking about the beginning where the league handed out two and a half pages, and that hadn't been discussed publicly at that point.

Vice-Chair Long said everything has been discussed publicly, and we have never had a closed meeting yet.

Vice-Chair Long said you also have a recommendation to put into the Charter that the choice of the City Manager need not be limited to the inhabitants of the City or state. She asked former Councilor Heldmeyer if she believes that the choice of a City Manager is currently limited to inhabitants of the City or state, and if that is contained somewhere.

Former Councilor Heldmeyer said no. We just wanted to give you that piece off the position in its entirety.

Ms. Furlinetto said it is also that we hadn't presented these positions previously, and we wanted to make sure that we were on the record with our positions on these issues

Commissioner Farber said, a point of information, we've just been handed a suggested added Policy Statement to 2.04 Neighborhood protections [Exhibit "4"]. He said he assumes this is the position of the Neighborhood Network, which is for the information of those on the Charter Commission. It is not the same language that is in the matrix that we have been using, and has no official meaning is a working document.

Cheri Johansen, President of Neighborhood Network, said that is correct. She said unfortunately we had submitted the new language and for some reason you the Commission did not receive it. She said the Neighborhood Protection, 2.04(B) that you just referred to is a much reduced language and more to the point. We take took your advice from the first time we presented our position, and felt that we should clarify and reduce the language.

Chair Serna noted that this is a very late submission.

Ms. Johansen said, "And this is the one that the other neighborhood Association has approved is this language. Councilor Wurzburger had suggested that we include an addendum to this, but at this point this is our language, although the Council may do that"

Responding to the Chair, Ms. Johansen said, "This is the language that we're suggesting."

Bill Miller, Chairman, Creative Santa Fe, said their mission is to attempt to strengthen the economy of Santa Fe, which is you know represents over \$1 billion in revenue annually. He is here in support of moving the full time Mayor proposal forward. He said if he understands the process correctly, the Commission needs to make a recommendation to move this to the City Council where there can be a full public discussion on this issue and a decision by the City Council on this proposal. He said the full time Mayor proposal, which would give the individual elected by the electorate as a whole, the accountability and responsibility to manage this enterprise, the City of Santa Fe. So I think it's in the best interest of the City, the best interest of the creative economy of this City, if this commission sees in its wisdom to put this matter to a vote and to move it forward to the City Council and let the City Council vote, let there be public debate, let there be a full airing of this, and then it goes to the electorate to make a determination on this issue. It is this public debate that we need over this very significant issue.

Commissioner Farber said there is much more to this proposal than a full time Mayor. One of the provisions is to take away from the governing body the authority and power it now has under state statute to remove the City manager. Are you speaking in favor of that.

Mr. Miller said yes.

Commissioner Farber asked if he is speaking on behalf of creative Santa Fe.

Mr. Miller said no, I'm not proposing on behalf of creative Santa Fe, but I believe the whole proposal would be in the best interest of our creative economy. And I understand from prior meetings that the home rule home rule situation of Santa Fe would allow that to go forward, if approved by the City Council.

Commissioner Farber asked if he is also speaking in favor of this provision here that says that the Mayor appoints Department directors, and the Council has no say over it and the manager has no say over it.

Mr. Miller said, "Mr. Farber, I think what I'm saying is I'd like to see the commission take a stand on this issue and put it to the City Council and later public debate occur on this very significant issue that's what I'm trying to convey to the commission."

Commissioner Farber said this is the start of a public debate.

Mr. Miller said he understands that.

Commissioner Romero-Wirth said, "I do think, despite what the paper said, this is the beginning of the process. This is a public forum to hear these proposals. It's got a long way to go. It does go to the City Council. They can change it. They can adopted in whole. And then from there it goes to the voters, and the voters make the ultimate decision on all of this. So to think that we are doing this in some sort of hurry up way, really quickly, outside of the public is just as the past speakers said, wrong. This is the beginning of that very long public process, and I just want to make sure we were all very clear about that."

Paul Hultin, 1237 ½ Cerro Gordo Road, a licensed attorney in New Mexico, said he briefly addressed the commission at a previous meeting in connection with an issue about what the authority of Santa Fe is, as a home rule city, to self determine how it is governed, the powers of the Council, the powers of the Council relative to the Mayor, etc. He said he thinks it is explicitly clear under Article X, Section 6 of the State Constitution and under the municipal Charter act, pursuant to which the current Charter was adopted, that the Council, the governing body, has the authority in matters of local self-government which is what we are talking about here to do what ever they deem to be in the best interest of the City. And if they determine that a Charter amendment is in the best interest of the City to put that to the voters to let the voters decide.

Mr. Holton continued, saying he agrees with Mr. Miller's comments. He thinks the function of this commission is to determine what are important issues for consideration by the Council for possible amendment of the Charter. He doesn't think it is the role of this body to make policy decisions on the merits of those issues but to put them forward if there is community support for them, or if there have been substantial issues raised. Finally, he said he is very much in favor of giving the Mayor more power, having the Council be the legislative body of the city. He thinks governance by committee, which is what we have now, is dysfunctional. He thinks it has impeded the affected governance of Santa Fe. He understands there are people that strongly disagrees with that and he respects their position but believes it should be submitted to the Council for a full, robust debate. And then they will decide as the governing body whether or not it should be put to the voters. Mr. Holton said he thinks it should be put to the voters and he would be happy to entertain any questions on anything he has said.

Randy Weber, said he is a business owner in Santa Fe, and he has a background in computers and electronics. He said he is here tonight to comment on what is going on with the Charter, and the idea of a different Mayor and Council organization. He said he has been doing some research on this, political organizations and how they best function and how they are dysfunctional, and he sees how Santa Fe is organized and how other cities are organized. He has come to realize that any sort of proposal for changing this government really needs to be propagated to the public to the public so people are talking about it. He said he likes this idea of this dynamic evolution of this government which is exciting. He applauds the commission for looking at a situation that has been nonfunctional for so long now. He said he would like to see the public more involved and educated on government. He would like to see information in magazines or newspapers which people can easily become by, so they are informed. He doesn't want to see something coming in the mail telling him there is going to be a vote by the City Council, and people to have no information on it. And they don't know how to vote on it and they just trust what their neighbors say. He said education is the strongest form of enlightenment that we can provide to our citizens. He likes the idea of a stronger Mayor to solve some of these issues which have been problems in the past. He said the organizational chart shows that this one guy has nine bosses, which should not fly in the corporate environment from which he comes. He would like to see a more functional organizational chart. He said San Francisco has a board of supervisors which would be like the Council, a legislative and executive body which he lies.

Commissioner Farber asked him if he is familiar with the San Francisco form of government.

Mr. Weber said he printed out fair organizational chart.

Commissioner Farber said he doesn't know anything about that organization, but having served on the Council he is familiar with this organizational chart. He asked if the San Francisco legislative body, whatever it is call, have veto power over acts of the Mayor, and for advice and consent powers, with regard to appointments by the Mayor for high ranking positions within that governmental structure.

Mr. Weber said he doesn't have that level of detail, but he does believe that the Board of Supervisors is a legislative and it does have veto power, just like the Mayor has veto power over their legislative actions and they make can override his veto. However, he didn't go that far into his analysis, but

there seem to be a checks and balance, just like our federal government has a checks and balance. The President can veto a bill, although they can override him, and he likes that idea. He said there's a little more control. He said anything can be dysfunctional, and the reason he would like to see a discussion of the pros and cons for any system. He wants to see people talking about it. He likes the idea of trying something different.

Councilor Chris Rivera, 4504 Cedar Crest Circle, said a strong mayor form of government is a new thing, and it's a great buzzword, and everybody is wanting to try something new. He said what I would like to do is to provide a different perspective, and at least something to consider while you're making your decision. And the first thing is, it would limit who could run for mayor. Obviously if you're going to be the Chief Executive Officer for the city, you have to have some managerial experience. Right now anybody that wants can run for mayor. This would limit it severely, dramatically to a certain group of people, and he's not sure that's quite fair or quite democratic. The other thing is with an election in March, you were faced with a new budget and new fiscal year, almost as soon as you come into office. So whoever comes in is going to have to have strong knowledge of the city budget, definitely some kind of history with regard to the city budget, whether it is in city government sitting as a councilor, but you're going to have to have that institutional knowledge in order to do a good job. You're going to be appointing brand-new division directors, brand-new people into your administration and you're going to have to develop a budget potentially with a lot of people who don't know much about it. So just some things to consider and I trust you will make the right decision and I'll have opportunity to talk about this with the Mayor and City Council when it comes to us for vote.

Andrew Wallerstein, 1156 Camino DeLora, business owner, and the CEO of Avelon Trust and the Chairman of the Board of Site Santa Fe. Mr. Wallerstein said he is in support of moving this forward to the City Council for debate, commenting it is the natural next step. He said he has been frustrated in many instances, in terms of the way his business is able to run in this City, and how nonprofit is able to make decisions and there are many variables. I think it would be a very healthy debate and with any long-standing organization these debates make sense over time. Times change, organizations change, and I think where it is stage where this kind of discussion would benefit all of us.

Chair Serna said, then in summary, you are in favor of a full-time Mayor. And you are excited about of full robust debate by the Council on this issue.

Mr. Wallerstein said he thinks this is the natural next step, and he is not so presumptuous to say that every item in this proposal is absolutely correct. He said, "Let the process began and take hold, and that's the way democracies work."

5. DISCUSSION AND ACTION ON TOPICS CARRIED OVER FROM PRIOR MEETINGS:

A. PROPOSAL TO BAN AND/OR LIMIT CONTRIBUTIONS FROM CITY CONTRACTORS DOING BUSINESS IN EXCESS OF A SPECIFIED AMOUNT.

A copy of an email to Irene Romero dated June 23, 2013, from Jim Harrington, regarding Campaign Contributions, is incorporated herewith to these minutes as Exhibit "8."

A copy of *Alternative No. 1 and Alternative No. 2*, regarding campaign contributions, submitted for the record by Commissioner Farber, is incorporated herewith to these minutes as Exhibit "9."

Chair Serna said we have had extensive debate on this item, and extensive memos pro and con. Common Cause took a strong position against it. The spokesperson is in California for medical reasons, and could not be here tonight. The commissioners are familiar with Mr. Harrington's position on this, and Commissioner Farber is the proponent on the other side for this amendment.

Commissioner Farber said, "At the last meeting, let me say I appreciate Mr. Harrington's back and forth on this. I do disagree with his reading of several of the cases, and I do disagree with his philosophy that when a governmental issue that you should wait for some kind of court ruling before you move forward. I think if we did that, the city would never move forward, because there would be people, if they adopted that policy, who would just stand in place. And I never felt that when I was on the Council. I don't feel it now. I think that when there are good ideas that get voted up, when there are bad ideas that get voted down, or maybe they get voted down because people are not at that point in the evolution of their thinking to understand why it might be a wise thing. In any event, with regard to this proposal, I and new shall he thought that taking it from the Albuquerque City Charter, and we're talking about a ban or a limit on contributions from contractors are business entities that do business with the city of Santa Fe."

Commissioner Farber continued, "This takes on the all the more importance to us, not just for the Charter, but for the Council to pass an ordinance, if in fact there is even a possibility that this next Mayoral election is going to be electing a full time Mayor. We have to get the money out of politics. We have to do everything possible to avoid 'pay for play.' Now I understand from the comments of the various commissioners, that a number of people were adopting Mr. Harrington's position, or perhaps were reading the cases like he did, unlike the way I do. But I agree, and brought forward an alternative proposal. Mr. Harrington submitted correspondence to the commission that he is in agreement with the alternative proposal. I just handed it out, it would be alternative No. 1 [Exhibit "9:]. He had asked that two words be stricken.

MOTION: Commissioner Farber moved, seconded by Commissioner Gutierrez, "for the following proposal to be put into the Santa Fe Charter as a separate provision, to be submitted as a separate provision or I haven't kept up with the numbering, or it could be a sub paragraph 4.05(A), which would come under Public Campaign Financing though it's not that. So I don't know exactly how the numbering would work or what number we are up to, and I don't know that we need to get into that level of detail. That could very well be ministerial on the part of the city attorney's office, understanding that it is a separate provision. But it would read: *Section No. [whatever] Campaign Contributions from Contractors and Business Entities. The governing body shall adopt an ordinance or ordinances to provide for meaningful bans and/or limitations on campaign contributions from contractors and entities doing business with the City of Santa Fe to all municipal elected officials and this shall be done within one year after the effective date of the amendment to the Charter that includes this requirement.*"

DISCUSSION: Vice-Chair Long said Commissioner Farber said that Mr. Harrington corresponded with us, but said she didn't get a letter from Mr. Harrington.

Commissioner Werwath said there is a letter from Mr. Harrington in the commission packet [Exhibit "8"].

Commissioner Romero-Wirth said he's generally in support of Commissioner Farber's suggestion, although he said, "We remain somewhat wary of enacting any law aimed at a particular category of campaign donors while the courts are still engaged in spelling out these specific sweeping implications of the Supreme Court's rulings in *Citizens United*. We recognize that this general unease is not a sufficient justification for opposing every form of legislation on this subject. Steve's new proposal would allow the governing body to enact laws that are reasonably defensible and to refine those laws in light of future developments. This is sufficient to resolve our main concerns." She said he does not like this second proposal and he does asked that the words "and continuing" be stricken from the first alternative, which Commissioner Farber has done. So generally, I would say that he is fine with it.

VOTE: The motion was approved on a voice vote with Commissioners Long, Farber, Gutierrez, Johansen, Romero-Wirth and Werwath voting in favor of the motion, and Commissioner Hiatt voting against the motion.

B. GOVERNANCE ISSUES:

A copy of a redline proposal for Items B(1) through (5), is incorporated herewith to these minutes as Exhibit "10."

- 1. FULL TIME MAYOR PROPOSAL.**
- 2. MAYOR TO VOTE ON ALL ISSUES BEFORE THE GOVERNING BODY**
- 3. REMOVE POWER FROM GOVERNING BODY TO SUSPEND OR REMOVE THE CITY MANAGER AND ONLY MAYOR TO APPOINT AND SUSPEND OR REMOVE THE CITY MANAGER, CITY ATTORNEY, CITY CLERK AND ADDITIONAL HIGH LEVEL POSITIONS (I.E. DIVISION DIRECTORS)**
- 4. CLARIFY CHARTER POWER OF CITY MANAGER TO HIRE AND/OR FIRE CITY EMPLOYEES (I.E., CITY MANAGER DOES NOT HIRE OR FIRE CITY ATTORNEY OR CITY CLERK.**
- 5. CLARIFY AND ADD DEFINITIONS OF CHIEF EXECUTIVE OFFICER (MAYOR) AND CHIEF ADMINISTRATIVE OFFICER (CITY MANAGER)**

Items 5(B)(1) through (5) were combined for purposes of discussion.

Vice-Chair Long said she thinks it makes sense to put all five on the table as one group, because they're contained in one document and in many respects one relates to the other although I do understand there will be discussion on individual measures. She said I think it makes sense to move for approval on individual items as we go through.

Chair Serna read items one through five for the commission, and all those in attendance.

Commissioner Farber said, for clarification what he heard the vice chair say that we would discuss it all at once and vote on each item individually.

Vice-Chair Long said she has no problem in doing it that way, but there are some items that fit within several categories. And there are some items that meet more than one category just so you understand.

Commissioner Farber said he understands, he just wants them identified. And then he does have a point of order or clarification. Prior to Mr. Shandler being assigned to the Commission, he said he had requested an opinion with regard to the broad powers of the city to govern itself under, §10-11-6 NMSA, whether the city has the power to take from the governing authority the ability of the governing body to have approval power over the appointments by the Mayor, and whether the governing body has the independent power under paragraph D(2), to remove the city manager.

Chair Serna asked Mr. Shandler if he would like to respond to that at this time, and Mr. Shandler said yes.

Mr. Shandler said at a previous meeting, his predecessor sent out an email on this general topic and said he would like to flesh out that opinion a little bit. He said the short answer is yes. The legal analysis is a two-step process in trying to figure out whether something is a general law or a special law. A general law is one that applies generally throughout the state and relates to matters of statewide concern and impacts inhabitants across the entire state. And secondly you satisfied that test a municipality may exercise all legislative powers and functions as long as they are not expressly denied under the Constitution or in the statutes. In 1987, the state Supreme Court issued a ruling in the case of *Causey v. City of Gallup*, and for the record that is 106 New Mexico 571. In that case, Gallup which is a home rule municipality, wanted to trump the statute regarding municipalities greater than 10,000 citizens regarding its redistricting. In that particular case, the court ruled that the home rule municipality did not have that power because it failed the first part of the test. They considered the statute about municipalities over 10,000 population to be a general state wide law. The rationale was twofold. One, because it dealt with redistricting, which was dealing with important voting rights issues. And second there were a number of municipalities throughout the state that had that population over 10,000. So in that case the home rule municipality could not change their government.

Then several years later, in 1992, again the state Supreme Court ruled in *State ex. rel Haynes v Bonan*, for the record that citation is 114 NM 627, and I believe that was cited in the email that was sent out to the commissioners. In that case, Clovis which was a home rule municipality, wanted to change their governance in terms of the state law regarding the number of commissioners. And in that case the

Supreme Court ruled in the opposite direction, that it was not a statewide law, one in terms of the number of commissioners and they ruled that home rule municipalities should have the should have the power to set their local determinations. He the court wrote that determining whether a matter is of statewide or local concern is not always an easy task. There is a twilight zone within which it is difficult to discern the positive assurance what is a matter of general concern, as distinguished from a matter of local or municipal concern. I think that remains good law and that is what Ms. Barkley stated in her analysis of whether a home rule municipality could alter its governance.

Finally, there was some discussion about the second part of the test, and that is whether there is some other state law or constitutional provision that could trump this or expressly deny this. [There is a gap in the tape here]. Mr. Shandler cited another case, 103 NM 345, where home rule municipalities were trying to regulate certain telecommunications carriers, and the state Supreme Court said that failed the second part of the test because that was the jurisdiction of the then State Corporation Commission, which had constitutional jurisdiction over state telecommunication matters.

Mr. Shandler said the short answer is I concur with Ms. Barkley's analysis, but I have tried to take you through the evolution of the of the case law in a two-part test, that I think she went through in her analysis.

Commissioner Farber said because this is such an extraordinary proposal in my opinion, I am concerned to hear a little bit more from you about the concurrent voting to change the structure of government and having it apply to elected officials at that same election. We had been told by the Mayor, at least it was his understanding that it when go into effect until 2018. For those of us who had some concerns, that was a little less scary. How do you view the law with regard to voting on something that changes the structure of government, and then having it applied to those people who are elected at that same election. He said he realizes that is a tough question.

Mr. Shandler said I read the minutes of the meeting were the Mayor made those remarks, and I took them very seriously. And I look forward to a conversation with you and others about – I am trying to find the citations to support that. And at this point I am eager to hear if someone can provide those citations. I think the effective date in the charter provides the opportunity to make arguments on both sides but when the Mayor makes those statements he takes them very seriously. He said if he could find citations he can perhaps provide more definitive advice.

Commissioner Werwath said, "I'm not sure if Commissioner Farber's concerns about the explanation of the powers of home rule to overrule the oversight of the city manager's hiring by the city Council but I think by practical example outside of the law, this is currently the case in Albuquerque. And it is being done now the Albuquerque city Council has no power to hire or fire the chief administrative officer of the city, who functions below the Mayor in the city manager capacity. I think aside from the case law, there is one very practical example in the state of where no lawsuit has been brought to overturn that.

Commissioner Farber said, "Yes, but Daniel that's under their charter. And I understand that."

Commissioner Werwath said, "Your issue with state case law, not their charter."

Commissioner Farber said, "If I may. Under their charter, I understand they can do certain things. Under our charter we can do certain things. I want to go through an analysis, and I respect Zach Shandler tremendously, I may disagree with him sometimes, but he is a very thoughtful guy. And so the next step then becomes, is it a good idea, essentially. If it is legal, then we go is it a good idea."

Commissioner Werwath said, "And so you are conceding that we are past the legal issue."

Commissioner Farber said he trusts Mr. Shandler's judgment, although he may tweak the case a little differently, but I wanted to hear from somebody who thought through the issues, and I appreciate that.

Commissioner Romero-Wirth said she is now confused as to how we had decided to proceed in this matter because we got off on a legal issue. She said she thought Commissioner Long proposed making one motion, but we would talk about each thing, and we might tweak what has been presented. But then Commissioner Farber suggested that we were going to vote not with one motion, but a motion on each, so now I'm not sure where we are now. She said it would be her preference to have one motion to discuss each of the provisions that have been brought forward, and to entertain any changes that we might think are necessary. And then vote the whole thing up or down.

Vice-Chair Long said she thinks that makes sense and it gets us to the same place, because we can talk about all of these individually and vote them up or down, or change them.

MOTION: Vice-Chair Long moved, seconded by Commissioner Werwath, for approval of the amendment's that have been put forward, regarding governance issues, as contained in Articles V, VI and VIII of the Charter.

DISCUSSION: Commissioner Farber said point of order. I am concerned that this is a difficult and possibly improper procedure because the items have been noticed as separate agenda items, and it seems to me that we need to vote on each separate agenda item, that we don't have the power and we did not at the time that the agenda was approved to move everything 5A through 5F into one thing. And it is going to be very difficult, it seems to me, to know exactly how and when to offer amendments to particular provisions. I may be in favor of an A, B, C, or D, and not be in favor of one or more of the others. And I think we have to have a process where we in an orderly way are able to know what it is that where voting on what provisions of the charter it pertains to, because with regard to the agenda items they don't track by number for the public those portions of the charter that are being proposed to be changed.

Commissioner Romero-Wirth said just for the sake of argument we outlined them here individually and we did that as a public benefit so people would know what is contained in the proposal as a whole. She believes that we can vote with just one motion. She understands there are certain pieces of this proposal that are not as controversy will as others. We should give each other the courtesy of saying wordy you want to tweak and we can't agree or not agree to that and that we have heard from everybody that wants to speak on one of these pieces. I don't think were going to be unfair about this.

Commissioner Romero-Wirth said we now have a motion and a second and we are now at the point where we can discuss each of the different provisions.

Vice-Chair Long clarified that the motion is for purposes of discussion.

Commissioner Hiatt said I'm not sure how to say this, but I agree with Commissioner Farber. I think we ought to be taking these individually, and roll them up at the end but if you want to proceed this way, then I have an over all objection to a full time Mayor. And my thought process is if you vote on it this way, then I have to oppose this, given their other portions of this that I want to support. As a former employee of the city, I have some really strong feelings about some of these. And so I would like to support those that I can, but if you roll it up this way, then I'm going to have to oppose it and I hate to lose my vote that way. If it fails however, my inclination is to bring the individual ones that I do support back in the form of a motion.

Commissioner Romero-Wirth said she thinks this is a fine way to proceed, and if it fails, we can go back around, and fix individual pieces of it. I am curious as to why you are against a full time Mayor, when it feels the Mayor works full time already. She asked him what part of it he finds objectionable.

Commissioner Hiatt said he also has a sense the Mayor works full time. He said he is unsure Santa Fe is prepared, as a small city is prepared to go forward under this scenario. I have talked with people in the community that feel the process we have now is preferable. However, he is unsure that is true. He said he has a problem in sending a lot of issues to the city Council and so he probably is going to vote in a conscious way to limit the number of things that we send to the Council to consider. He said he has the feeling that these are items that don't necessarily belong in the charter and he is surprised we don't say this over and over again which is everything is available to the Council if they want to bring it up and put it out to the voters. So we are acting as the conscience of the community to look at the charter and move it forward. And there are so few items in those policy statements, I have a strong feeling that we ought to really be limited in the number of things that we put in the policy which is going to reflect in his overall vote later.

Commissioner Farber said he thought about this last night and the night before. He said he served with Mayor Jaramillo who did a lot of things he liked. However, he has no question that if an individual like Mayor Jaramillo was mayor now and was going to run for reelection that we would have Chamber of Commerce, the Realtors, the tourism industry and you name it down here objecting to this grab for power. He said he does not believe we should give any person the amount of power that is in this proposed change, because it will create an autocrat in the city of Santa Fe.

Commissioner Farber said, "And I will go through each of the provisions but when we talk in general that the Mayor is full time, good or bad, we can talk about that. But the Mayor appoints the city manager, forget about what the city Council says about that, forget about advice and consent, forget about checks and balances, that the Mayor appoints Department directors, talk about the opportunity for political patronage and contribution and favors and everything else. And I don't care whether it's a liberal or conservative. That's my concern is the core idea of concentrating so much power in one individual. And that's what this proposal does. It takes away from the governing the body the ability in the event there is an unfortunate alliance, between the Mayor and city manager to the detriment of the community, the ability to remove the city manager. And you can't remove the Mayor except through recall, and not in the first year and not in the last year. But this is a really dramatic change to our form of government. When I said it was a radical restructuring I was not exaggerating. This really needs to be debated, pro and con, in terms of as we go

down each of these issues. But this is so fundamentally significant that as interested as I am in the policy statements, and I disagree with my good colleague Jack whom I have become very friendly with, and we've known each other through the years, I think the policy statements should be included because I represent community concerns. But this is more important than all those and it is really substantial and significant and we really need to think very very carefully about this particularly if it goes into effect in 2014. You have a number of counselors who are running that don't know what the rules are, they may have to give up jobs, unless there is an amendment that says this stuff is going to take effect in 2018. And I'll tell you I'm going to propose that amendment, because I don't think it's fair to the public that you elect people in 2014 and all of a sudden the form of government changes. I just think it's structurally deficient to proceed."

Chair Serna said we have heard where Commissioner Farber stands, now he would like to hear where the other Commissioners stand.

Commissioner Werwath said that generally he is in support of this, but he isn't married to the particular design of this as it stands now. He wants to address to concerns that Commissioner Farber brought up. One is the fear that the Mayor would appoint Department heads, which he doesn't think is necessarily well-founded, because those currently are appointed by the City Manager. He said the City Manager works for the Mayor, and it still concentration in a single person. He said, "So I don't think that having the Mayor be the person making that decision, as opposed to a City Manager is particularly radical. It's about shifting that responsibility that currently is vested with the City Manager to the Mayor. It's about shifting a lot of the responsibility that currently rests with the City Manager to the Mayor."

Commissioner Werwath continued, "You bring up the issue of an unfortunate alliance between the City Manager and the Mayor. Your only possible reference to such is Debbie Jaramillo and City Manager Coss who... we're talking about an issue of corruption that involved donating fire truck to a town in Mexico. He did lose his position over that and came back to be the Mayor of the town. So I don't know that necessarily having that level of power is..., and if that's your best example of corruption, I'm not particularly worried is what I'm saying."

Commissioner Werwath continued, "To the point of oversight, and I think the one critical thing... strong Mayor system, Mayor/Council systems are old. They're the oldest form of municipal government in the country and came from England. They were how the colonies were organized. This is not radical. 60% of major cities in the United States use this method of governance. 68% of the 25 largest cities use this method of governance. It's not radical at all. I think one thing that I would like to bring up for discussion is a possible amendment to assuage the concerns of the League of Women Voters, is looking at allowing city council review of the appointment of the City Manager, or as I'd like to think of it is a chief administrative officer of the City who is, I think the buffer that provides for professional administration of the City. I think a lot of the concerns around a strong Mayor that someone who is not necessarily savvy at administration is elected. I think to protect against that occurrence, and to reinforce the requirement in our Charter that the city Manager be professional, that we consider allowing the City Council a confirmation vote of the Mayor's appointment. But I believe that a core aspect of this proposal that must remain is that a City Council cannot fire a City Manager, independent of the Mayor."

Commissioner Werwath continued, "And so, I'd just like to offer that up in discussion as to potentially assuage the concerns of the League of Women Voters, and to assuage my own concerns about professional administration with an elected position."

Vice-Chair Long said then that would be a proposal for 501(D), so it would be "Appoint and remove the City Manager, City Attorney, City Clerk and members of advisory commissions, subject to the approval of the Governing Body," and continue from there if we decide to include appointment of department directors."

Mr. Werwath said the suggestion would be to strike "and remove." That the Mayor would appoint, and the City Council would confirm the appointment, but they would not have the power to remove those positions."

Chair Serna said when Mayor Coss addressed us, he indicated he would not be opposed to the City Council confirming his appointment of the City manager, with confirmation by the City Council. So, the Mayor is not in opposition to that.

Commissioner Farber said he is unclear what the proposed role of the City Manager would be. He said under this proposal, it appears the Mayor takes the position of the City Manager, even with lack of qualifications if we look at the duties.

Vice-Chair Long asked if he is speaking of department head appointments.

Commissioner Farber said, "No, just in terms of the duties that the Mayor has, and with regard to also the appointment of the City Manager, the department heads, the responsibility for the..."

Vice-Chair Long said the City Manager already appoints them, and under the Charter the Mayor does appoint the City Manager now.

Commissioner Farber said, "We know what a City Manager is supposed to do. The City Manager is supposed to be the professional administrator who takes care of the day to day operations of City government. And this proposal seems to put the Mayor in the role of doing that. And then I wonder so what is the role of the City Manager."

Commissioner Romero-Wirth asked where he sees that. Why are you saying that the Mayor would suddenly be the City Manager.

Commissioner Farber said because the Mayor, being the full time chief executive officer of the city has the powers as he reads it to do all of these things.

Vice-Chair Long said the Mayor already is the chief executive officer of the City, that's already in the Charter.

Commissioner Farber said he understands. He said, "I'm asking, because this is an important discussion. He will be the ceremonial person, but apparently also with the power to appoint the City Manager, maybe

subject to confirmation by the Council. Department directors, oversee the process of government.”

Vice-Chair Long said under the Charter already the Mayor appoints the City Manager. The Mayor is the Chief Executive Officer. The Mayor, by separate paragraph, is the head of City government for ceremonial purposes and none of that changes.

Commissioner Farber said what changes in this dialogue and in your proposal is that the Governing Body, including the 8 members of the Council is no longer the principal policymaker of the City. It takes that power away from the Council and puts it all into the Mayor.

Commissioner Romero-Wirth said but the Council still votes to adopt policy, so you're not putting it all on the Mayor. The Council still has authority to bring up ideas, pass those ideas. She said nothing is really changed. All we're trying to do is to say that, under Daniel's idea, if we give advice and consent to the City Council, it's just that the City Council can't remove the City Manager. That's the only thing we're doing here that's different.

Commissioner Farber said he respectfully disagrees. He said, “I guess I'm sensitive to this issue, having given 4 years of my life, and countless hours serving on the Council. I think it emasculates the role of the City Council.”

MOTION TO AMEND: Commissioner Hiatt moved, seconded by Commissioner Farber, to amend Paragraph C to remove the additional language involving which position and so forth, the full time language.

DISCUSSION ON THE MOTION TO AMEND: Commissioner Werwath said we just agreed to consider these all as one amendment, and there is a motion on the floor regarding that and are currently in discussion.

Commissioner Hiatt said he is moving to amend the motion, noting he is simply amending the full-time concept and what he is moving to delete as contained in Paragraph C.

Vice-Chair Long said, “I am becoming a little bit concerned about the language, ‘shall not be otherwise employed or self employed,’ based on what we're hearing that these Charter amendments might take effect in March 2014, and I don't think that we should make any suggested amendment or recommendation regarding that. I think that's going to be a matter of law for the City Attorneys and the City Council to figure out.”

Commissioner Romero-Wirth said she thinks we should when all of the Charter amendments are effective, and should say the entire proposal won't be effective until March 2018. She said, “I think we need to look at this, not with regard to personalities. Let's leave the personalities out. Past mayors, current mayor, future mayors. Let's think about this just as a structure of, do we have the right checks and balances and do it that way. And then say when it's going into effect and don't leave that to be determined. I like that idea.”

Commissioner Hiatt said, "With the Chair's permission, Zach, I don't have the time, if you would just look for language for 2018. Not right now. If this passes, I'd really like to tack that on too."

Commissioner Romero-Wirth said she thinks we should pass it with it on there, and if there is an issue down the road, then the City Council can take it off.

Commissioner Hiatt asked Commissioner Long if she is concerned that the language at the end of the sentence seems disconcerting to her.

Vice-Chair Long said she isn't as concerned, if it has the later effective date.

Commissioner Romero-Wirth would like to take a straw poll on the ideas presented, saying, for example, she think's Commissioner Werwath's proposal for advice and consent is a good idea and something we should do.

Commissioner Hiatt said, "Let me tell you why I think it's better to do it this way. If my vote fails, if my deletion fails, then I want to consider Daniel's proposal.

Vice-Chair Long said that is in a different paragraph and it is a different idea.

Commissioner Werwath said his issue is that he agrees with these as a bundle, but if you start taking individuals ones out, he doesn't agree with other stuff, and the reason he wants to consider these as a whole. He said the only way to get there is to "do what you're trying to do."

Commissioner Hiatt said, "I think so. It's a democratic process, so let's have at it."

Commissioner Romero-Wirth asked if there is support to get rid of the language on a full-time Mayor. She said, "All votes will be 3-4, because we're 7 members."

Commissioner Hiatt said, "Well, let's vote."

VOTE ON THE MOTION TO AMEND: The motion failed to pass on a voice vote, with Commissioners Hiatt, Farber and Gutierrez voting in favor of the motion, and Commissioners Long, Johansen, Romero-Wirth and Werwath voting against the motion.

FRIENDLY AMENDMENT: Commissioner Werwath proposed to amend the motion to change the language in Section 5.01(D) to allow for confirmation of the Mayor's appointment of the City Manager, so that it reads: "*Appoint the City Manager, City Attorney, City Clerk and members of advisory commissions, subject to the confirmation by the Governing Body, and appoint Department Directors.* **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE COMMISSION.**

CONTINUATION OF DISCUSSION ON THE MOTION, AS AMENDED: Commissioner Farber asked what is being done with the underlined language where it has 'other positions like Department Directors,' and

asked if that is being withdrawn.

Commissioner Romero-Wirth said, "We are doing this wrong. We want the Mayor to be able to remove these people. We don't want the City Council to be able to remove these people. So we want to leave in remove in the Mayor's duties."

Commissioner Werwath said "confirmation should be pulled out and put under the powers of the City Council, independently.

Commissioner Farber asked, "How many department directors are there and what are the positions.

Commissioner Werwath said, "Housing, Community Development, Public Works, Land Use, Finance, Police, Fire..."

Commissioner Farber thinks the public needs to know the position of the department directors, not the name. He doesn't know, and yet, we're being asked to vote on this.

Commissioner Romero-Wirth said it is a lot like State government. We elect a governor, and then the governor, subject to confirmation by the Senate, appoints their people to the various positions of government.

Commissioner Farber said the Cabinet Secretaries then hire the people under them, essentially.

Commissioner Romero-Wirth said the division directors are basically cabinet secretaries.

Commissioner Farber said, at least for the minutes, the name of the departments they are directing should be stated.

Commissioner Romero-Wirth said we can put that in the Commission Report, if we adopt this.

Commissioner Farber wants to know right now.

Commissioner Werwath said, "Public Works, Housing and Community Development, Finance, Human Resources, Land Use, Police, Fire and Public Utilities."

Commissioner Farber ask why we wouldn't want a professional City Manager to be making that decision, as opposed to the Mayor.

Commissioner Werwath asked how we know that the Mayor doesn't already make that decision and let the City Manager do it, which in practicality how he's seen this done through 3 administrations.

Commissioner Farber said he understands Commissioner Werwath works for the City. He said, "I'm looking at it from an idealistic standpoint which is the Mayor gets elected, and obviously the Mayor appoints the City Manager, subject to the approval of the Governing Body and it still would be that way."

Commissioner Werwath said, "Who is inherently a close ally of the Mayor."

Commissioner Farber said, "Or not, but hopefully, it would be through a process by which a very capable, qualified individual would be appointed to be City Manager, and would make all those judgments about who could best administer all the programs, because you're asking, it seems, in this proposal, the Mayor to be making those decisions. The Mayor may not be qualified, truly, to be making those decisions, which is why you have a professional City Manager in the best of all worlds."

Commissioner Werwath said, "Or a chief administrative officer who serves in an advisory capacity to the Mayor in major decisions, and is the chief administrative officer in terms of the day to day operations of the City, as it's done in Albuquerque."

Commissioner Farber said that's not what this proposal says, and "that's my problem."

Commissioner Werwath said, "The Mayor has the power, but it doesn't mean that he alone has to go into a room without speaking to anyone when he makes these decisions."

Commissioner Farber said, "I'm just trying to understand, specifically, the impact of what these decisions mean. And I think that there is always the law of unintended consequences."

Commissioner Werwath asked, "Do you think that currently, the Mayor doesn't pick who the Department Heads are."

Commissioner Farber said, "I would hope that, in most cases, the Mayor would not, but I would hope, but certainly the City Manager would say, hey, I'm considering hiring X to be the Fire Chief. This person has worked through the ranks for 20 years and I think they're really qualified. And the Mayor says, that sounds okay to me, as opposed to..."

Commissioner Werwath said that's not really how it works practically, currently. He said, "I don't think it's about cynicism, it's observation. I'm telling you practically, this is to address your core concern which has come up over and over again. You call this a radical restructuring, and I'm saying these individual points you keep bringing up, they're not radical. This is not radical. This is how it happens now and a lot of these changes being proposed are about changing what we have on paper to how things actually work, and that's the power in a way that makes it actually be effective."

Commissioner Farber said, "Are you saying that government in Santa Fe is actually closed and all decisions are made behind closed doors."

Commissioner Werwath said, "No, not at all. I'm saying that the choice of the City Manager to hire and fire is not hermetically sealed from the Mayor. The Mayor appoints the City Manager, who is generally a close ally, occasionally not. I think the case of Asenath Keppler is a great example of where you had a City Manager revolt against the Mayor and the Mayor's own will, and he had no power to change that until he got a constituency on the City Council to back him up. This is about effective governance that we're talking about."

Commissioner Farber said, "I don't know that you would say that Mr. Buller was an effective ally of Mayor Coss. It seemed to me that he was an individual of some capability and wasn't so political. I don't know that Mr. Snyder, who was running the Water is a close political ally of the Mayor. He was selected because he...."

Commissioner Werwath said, "He was the Mayor's choice. He appointed him."

Commissioner Farber said, "I understand that, but not because he was a close ally to my knowledge. I think he's a professional who was running a department of government."

Commissioner Werwath said, "Sure, and those things aren't necessarily exclusive are they."

Commissioner Farber said no.

Commissioner Werwath said so both could be true, and Commissioner Farber said sure.

Commissioner Johansen said the perception of the public is that the Mayor wields tremendously more power than he actually does, and the Mayor and the citizens are burdened by the way it is. The Mayor gets calls and demands placed on him constantly where he often has no power or authority with which to deal directly. He said, "I think these proposals move us more in line with what the public perception and understanding is of how the Mayor and the City function. And if we're here to truly represent the people and do what they think is right, my sense is, knocking on enough doors in this City is they think the Mayor has a ton of power, and the Mayor can really respond to things quickly and effectively. That's not the case, so let's move us to the place the public actually thinks we are."

Commissioner Farber said, "Like last night. I was here. I've made it a point, I probably have appeared before the City Council 2-3 times, because I gave up my seat. I raised my children. On a personal level, I just thought, I give it up from that standpoint. But the gun issue was very important to me. And I saw the Mayor last night eloquently try and state the case for why that ordinance should have been passed, and I think it should. I guess under your proposal, maybe he would have been able to twist the arms, because that City Attorney's Opinion could have been written more neutrally. The Chief of Police could have been more neutral. But I'm advocating something different, even though I wanted to see a different result last night, because I'm really afraid we're taking away the checks and balances. I didn't like the vote last night, but there's a check and balance in our system of government. And so I understand what you're saying, but from having sat up here for four years, it's different. I don't know how else to explain it."

Responding to Vice-Chair Long, Commissioner Farber said, "That check and balance that the Council has, that's my concern."

Vice-Chair Long said, "But you're saying if the Council last night didn't like the opinion of the City Attorney, they should be able to fire the City Attorney, which is a power they don't currently have."

Commissioner Farber said he wouldn't hope they would do it just for one thing. However, if they saw a pattern of behavior or a lack of responsiveness, or a lack of good advice, I would think they would have the

right to be able to articulate that view if they could command 5 votes.

Vice-Chair Long said they don't have this power currently under the Charter.

Commissioner Farber agreed for the City Attorney or the City Clerk, but they do have it for the City Manager.

Commissioner Werwath said they did go to the City Manager say, you need to fire the City Attorney or...

Chair Serna said we need to move this forward, because we only have 40 minutes left.

Commissioner Farber said, "But Justice Serna, I see this as a really complex issue that should not be rushed. I want to talk it through, because I think it deserves to be talked through and we deserve to have more input and they deserve to hear from us. And maybe my Councilor out there is going to say, "Steven you're full of it, and whatever you're saying doesn't make any sense." He said, "Maybe Councilor Rivera disagrees with me. I don't know. I'm just trying to express what I have observed from a working standpoint."

Chair Serna said, "Let's move on. We can talk it to death. Now, Mr. Holton, I think you're an expert in this field. Do you have anything to say."

Paul Hultin said, "I think there seems to be an underlying assumption that you're writing the language that goes to the voters and then it goes to City Council, and the City council votes up or down what you say. I don't think that's the case at all. I think you're passing up, generally, some points to be considered by the City Council for consideration for amendment of the Charter, and so you're parsing words, you're speculating about what may or may not be the case, and the language. And I think the forum for that is really the Council. There will be a lot of input, public meetings, notice and so on that can take place there. So, it seems to me, this is an opportunity to screen the subjects that should go to Council for consideration, a vote and presentation to the voters. Under the State Constitution and the Municipal Charter Act, the Council has the power, and you have the power, in my opinion."

Commissioner Farber said he doesn't think it is our task here to just come up with general ideas. He said Councilor Heldmeyer actually served on a Council that reviewed Charter recommendations. And they added some language, but they didn't rewrite this stuff, they took the product from the Charter Commission, and Mr. Harrington had been at almost every one of our meetings, that was very detailed, very thorough, and they didn't redo it.

Commissioner Romero-Wirth said, "Thank you for your comments, but we are presenting language to the City Council. They absolutely have the power to change completely, in whole cloth, anything we bring to them. But the way this has been done in the past, we are going to do more than just say we should have a strong mayor, you figure out what that looks like."

Mr. Hultin said, "I completely understand that, but what I'm sensing, having watched several of these meetings, is that this group has a very important job to do, but I think your job is to pass something on, something specific, for debate and consideration and vote by the Governing Body which has the power. That's all I'm saying."

Commissioner Romero-Wirth said they have the power to then approve and tweak whatever we send to them, and then they send it to the voters and the voters vote it up or down. They don't get the liberty of changing it. They vote it up or down.

Mr. Hultin said he completely agrees. He said, "The argument that Commissioner Farber has made that this hasn't been aired out appropriately or sufficiently, or had enough debate, this isn't the forum. The only forum where that's going to happen. The Council can entertain as much debate on it, and you'll have the opportunity to appear there as a member of this Commission, and a member of the public and say whatever you want to say, as will I, as will anybody else in this room. It's an open process, and I think it serves the public to move on with it and not have debates in a forum like this that a lot of people don't know about or don't understand what the power is, or don't care about, frankly. That's my personal view."

Commissioner Hiatt asked Mr. Hultin what he does and where did he get all of this.

Mr. Hultin said he has had a home in Santa Fe since 2001. He has lived here part time since then, and retired from his law practice in Denver at the end of last year at the age of 67. He sat for the New Mexico Bar last fall, and people asked him, and he said, "Beats the heck out of me." So, he is a concerned citizen at this point and feels this is an important issue and he has taken the time to read the statutes and the State Constitution and the cases that were cited by the City Attorney. So, these are my informed opinions as a concerned citizen and as an attorney."

Responding to Commissioner Hiatt, Mr. Hultin said he read the minutes and wishes he had gotten involved sooner. He said he read the minutes as they pertain to the consideration of these governance issues and he was out of town visiting an ill friend on June 19th so, he was unable to attend that meeting.

Commissioner Hiatt thanked him for attending and for his input.

Commissioner Farber said he was just handed a list of City Departments, which are: Land Use, Police, Fire, IT, Public Works, Community Services, Public Utilities, Finance, Housing and Community Development, Human Resources, Convention & Visitors Bureau. He asked if there is an administrative services, and the response was inaudible from staff.

Irene Romero said currently IT is under Finance, and that possibly may change in the next fiscal year.

MOTION TO AMEND: Chair Long moved, seconded by Commissioner Romero-Wirth, to amend 5.01(B) would read, *Appoint, with the consent of the Governing Body, the City Manager, the City Attorney, the City Clerk and members of advisory commissions.* Then a new 5.01(E) *Appoint Department Directors.* Then 5.01(F) is *The City shall have a Mayor who have sole authority to remove the City Manager, the City*

Attorney, the City Clerk and Department Directors. And then re-letter appropriately.

DISCUSSION ON THE MOTION TO AMEND: Commissioner Farber asked the reason this power would be taken from the City manager.

Commissioner Werwath said, "It's not taking any power away from anybody."

Commissioner Romero-Wirth said then 5.01(E) would read, *The City shall have a Mayor who shall appoint Department Director*, which currently is done by the City Manager.

Vice-Chair Long said it is done by practice, but she doesn't think it is contained in the Charter.

Commissioner Romero-Wirth said then we don't want advice and consent on those appointments, and asked the reason.

Commissioner Hiatt said in the State government all of the cabinet secretaries are approved and there is one Division Director that is approved by the Senate.

Commissioner Farber said, "If you are analogizing this to cabinet secretaries, the department directors are the cabinet secretaries, subject to advice and consent of the Senate. If we are trying to analogize it to State government and have it be somewhat synonymous with State government, I can understand that, but that's not what you're doing."

Commissioner Hiatt said he doesn't think it is a good idea.

Commissioner Romero-Wirth said it is a time consuming process to appoint all these people.

Commissioner Werwath said they seem to be doing okay without that oversight currently, without the Council.

Commissioner Hiatt said he thinks it works fine. He asked Commissioner Long if she is offering this as an amendment.

Commissioner Farber said one of the items on the agenda is 5(B)(5) *Clarify and add Definitions of Chief Executive Officer (Mayor) and Chief Administrative Officer (City Manager)*. And in 5(C) it says the Mayor shall be the chief executive officer of the City, and in 8.02 it says The City Manager should be professionally trained and have the necessary administrative skills, and 8.03(A) provides that the City Manager shall be the chief administrative officer of the City.

Commissioner Farber said, given the pending motion, "There needs to be some definition of what the difference is between the chief executive officer and the chief administrative officer, given the new powers that are being given to the chief executive officer."

Vice-Chair Long said, "I disagree. I think we've clarified that in the amendments to 8.03.

Commissioner Farber said 8.03 doesn't do that.

Vice-Chair Long said 8.03 provides, "The City Manager shall have the power to hire and fire all City employees, except for those employees for whom the mayor has the exclusive authority hire and fire."

Commissioner Farber said if we're talking about a flow of responsibility so that two people are working together, cooperatively and have an understanding of what their roles and responsibilities are, we're not setting that out. He said we're leaving that extraordinarily vague it seems to him.

Commissioner Romero-Wirth said we are following the State model.

Vice-Chair Long agreed saying she doesn't think we should have that kind of detail in the Charter.

Chair Serna said earlier we verified that the Mayor, a strong Mayor establishes policy and that the City Manager implements the policy.

Commissioner Farber said it doesn't say that, unless it is implicit as an administrative officer, but that's not what this proposal says.

Commissioner Romero-Wirth said we could add language that the Mayor is responsible for implementing policy.

VOTE ON THE MOTION TO AMEND: The motion was approved by a show of hands, with Commissioners Hiatt, Long, Johansen, Romero-Wirth and Werwath voting in favor of the motion and Commissioners Gutierrez and Farber voting against the motion.

CONTINUATION OF DISCUSSION ON THE MOTION AS AMENDED: Commissioner Hiatt said he doesn't understand Item 5(H) and asked what that adds to the Mayor's responsibility. He believes the Mayor works with City personnel to help prepare the budget.

Commissioner Romero-Wirth said it is to be really clear as to who is responsible for preparing the budget. She said in her reading of other Charters, sometimes the manager is responsible for preparation of the budget. She said what we are saying here is that is the responsibility of the Mayor.

Vice-Chair Long said Mayor Coss spoke to this at the meeting at the Library, and he is in favor of this, and said it places more responsibility on the Mayor, and believes it is the up-front and responsible thing to do.

Commissioner Hiatt asked the source of this language, and Commissioner Romero-Wirth said that came from Councilor Ives in the proposal he presented at the previous meeting.

Commissioner Hiatt asked about 5(J), commenting the Mayor does that now.

Commissioner Werwath said he does, and this is new language, and that came from Councilor Ives as well.

Commissioner Gutierrez said, regarding 5(H), with regard to the Mayor now doing the budget. He asked if qualifications for the Mayor should be added, in light of all of the new duties the Mayor is being given.

Commissioner Romero-Wirth said we don't have qualifications when we elect a Governor, and the Governor is responsible for preparing a budget.

Commissioner Johansen said that is done in consultation with the Governor's staff.

Commissioner Romero-Wirth said the Mayor may or may not have that experience, but regardless will do that in consultation with the City Manager and the Finance Director. She said budgets are a policy tool, and where you put your money where the priorities are. She said this power needs to be given to a strong Mayor. She said the check is that the City Council approves the budget, and can tweak it, and say they don't like the priorities.

Commissioner Hiatt asked if Item 6.02(A) is also from Councilor Ives.

Vice-Chair Long said that is conjunction with setting the legislative agenda and doing the budget, and was presented as part of that whole proposal. She noted that 6.02 deals with the powers and duties of the Governing Body to consider policies, propose amendments and propose new policies.

Commissioner Romero-Wirth said Section 8.03 provides that the City Manager shall have the power to hire and fire all City employees except for those employees for whom the Mayor has exclusive authority to hire and fire. She asked if we want to say "hire and fire," as opposed to appoint and remove to be consistent.

Commissioner Hiatt said he is happy to use "appoint and remove."

FRIENDLY AMENDMENT: Commissioner Hiatt proposed, in Section 8.03(B) to amend to use "appoint and remove," as opposed to "hire and fire." **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THE SECOND AND THERE WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE COMMISSION.**

CONTINUATION OF DISCUSSION ON THE MOTION AS AMENDED: Vice-Chair Long asked if we still need the language in 8.04, "The City Manager may be suspended or removed (A) by the Mayor." She said we have the word "suspended," but doesn't think we want to do with that.

Commissioner Farber would like to have votes on these particular paragraphs as we go forward, rather than lump everything together, and we are deviating from the agenda by doing this.

Vice-Chair said she would disagree, but it if it's more clear it can be done.

Commissioner Farber said he might be in favor of the Mayor should make a speech and set forth his legislative agenda, and would want to vote for that, while at the same time, think it's not the Mayor who should be doing the budget, and that should be done by the City Manager, and vote against "your proposal." He said he understands he is in the minority, but thinks "you are going down a dangerous path, but would like to at least make a positive vote."

Commissioner Romero-Wirth said, "When we voted to have a redistricting commission, I was the sole vote. I was very much in the minority against doing that. However, I support an independent redistricting commission. I do not support redistricting more than every 10 years. I didn't get to take that vote separately. I think you should explain your vote, rather than us having to take these things independently."

Vice-Chair Long said the proposal in 8.04 that the City manager may be suspended or removed by the Mayor, and her question is whether we need this language. She said this has already been done and we may want to recommend deletion of this section completely.

Commissioner Romero-Wirth said perhaps that might be confusing for the voters.

Vice-Chair Long said, "Until all of this gets put together, maybe we should keep 8.04 in"

Responding to Commissioner Romero-Wirth, Vice-Chair Long said this just has to do with the removal of the City Manager in the Charter under Article 8, it deals with the City Manager."

Commissioner Romero-Wirth asked, "Do we need to include them, all these people he can appoint with consent, the City Manager, the City Attorney, the City Clerk. Who else could get rid of the City Clerk."

Vice-Chair Long said, "It's the Mayor and that is under 8.03(B). The City Manager shall have the power to appoint and remove all City employees, except for those employees for whom the Mayor has the exclusive authority to appoint and remove. So, I think we I've taken care of that. I think we should leave recommended edits to 8.04, and if it can be simplified by just getting rid of it, but I think it's clear to leave it in."

Vice Chair Long said, "And then, how about having a vote on all matters before the Governing Body. How do we feel about that. I think that's the last thing left."

Commissioner Hiatt said he is happy having the Mayor vote on all matters before the Governing Body.

Vice-Chair Long said she believes there is public comment on that.

Marilyn Bane asked, "Are you considering the Mayor part of the Governing Body now, or is he separate from the Governing Body."

Commissioner Romero-Wirth said the Mayor continues to be part of the Governing Body, saying, "We're not changing the provision that says the Governing Body is composed of the Mayor and the Council."

Vice-Chair Long said we did have discussion about that, but "we didn't go there."

Vice-Chair Long said she thinks we need to vote on the Motion as amended.

Commissioner Farber asked for a restatement of the Motion, "So it is clear for the record, what the motion

is, because I am not entirely clear, because some provisions were amended, some you said you were deleting. I don't know what's happening to Article 8. Is that being deleted in its entirety."

Vice Chair Long said, "No, Article 8 is on the City Manager. I was only talking about 8.04, and that is staying in, as proposed in my amendment.

Commissioner Farber asked about 8.01, where it says, "The City Manager shall be appointed by the Mayor, striking 'with the advice and consent' of the Governing Body."

Vice-Chair Long said we can leave that in.

Commissioner Romero-Wirth said it is no longer needed.

Commissioner Werwath agreed, saying it is explained previously.

Commissioner Farber asked, "Are you going to delete it from the Charter, so on the ballot it would be deleted."

Commissioner Romero-Wirth said, "I would just leave it. It's not inconsistent with what we already have."

Vice-Chair Long said then there will be no change to 8.01.

Commissioner Farber asked the language of 8.04 under the Vice-Chair's proposal.

Vice-Chair Long said there would be an 8.04 which would state, "The City manager may be removed by the Mayor," and everything else is deleted from the current Charter.

Commissioner Farber said, "Just as a point of clarification, why wouldn't you want to give, I mean I don't agree with your proposal, but why wouldn't you want to give to the Mayor the right to suspend the City Manager as a preliminary step to removal."

Vice-Chair Long said, "This doesn't prevent that and the title of this Article is 'Removal,' and it doesn't say anything about suspension, so I think it's clear. I don't think it changes that power."

MOTION TO AMEND: Commissioner Long moved, seconded by Commissioner Werwath, to amend 8:04 that the word "suspended or" be removed from the proposed amendment, in addition to the language which is proposed to be deleted regarding the City Council.

VOTE ON THE MOTION TO AMEND: The motion was approved on a voice vote, with Commissioners Hiatt, Long, Johansen, Romero-Wirth and Werwath voting in favor of the motion and Commissioners Gutierrez and Farber voting against the motion.

Chair Serna said there is a motion, as amended, to vote as a whole on the Governance Issues, Items 5(B)(1) through (5) inclusive.

Commissioner Farber asked for a debate on the full motion, commenting that hasn't happened, and the Chair agreed.

CONTINUATION OF DISCUSSION ON THE MOTION AS AMENDED: Commissioner Farber said, "I think this is a very serious change to the Charter, and without knowing or including language in this full motion, that this should not take effect until the election in March 2018, it is a serious flaw.

Commissioner Romero-Wirth said she thought that had been done.

Commissioner Hiatt asked Mr. Shandler if he has suggested language.

Mr. Shandler said, "I would just point the group to 11.04 of the Charter."

Commissioner Farber said there was a provision regarding the Ranked Choice Voting effective date.

Former Councilor Heldmeyer said if you look at the charters of other cities, many have effective dates, particularly when they are doing things such as changing the way they do districting, or changing the date of the election, and it says 'this will be effective of,' and they give a specific date.

Vice-Chair Long said the question was what the last Charter Commission did in terms of the effective date of its amendments, because that's not in here.

Former Councilor Heldmeyer said it was silent, and the reading at the time was if it is silent, it goes into effect when the election is certified.

Commissioner Romero-Wirth would like to include an effective date and leave it to the attorneys to decide where to put it.

Commissioner Hiatt said, "Absolutely."

Commissioner Farber asked Mr. Shandler the appropriate language, if the intent it would go into effect in March 2018.

Mr. Shandler said, "I don't have any better ideas than you have, but given some time, I can quickly come up with an answer."

Mr. Hultin suggested that they be effective when the people are sworn in and assume the office in 2018.

FRIENDLY AMENDMENT: Commissioner Romero-Wirth proposed an amendment to provide that these Charter amendments shall take effect when the Mayor and Council who are elected at the March 6, 2018 election, take the oath of office. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND SECOND AND THEIR WERE NO OBJECTIONS BY THE OTHER MEMBERS OF THE COMMISSION.**

VOTE: The motion, as amended, was approved on the following Roll Call Vote [4-3]:

For: Vice Chair Long, Commissioner Johansen, Commissioner Romero-Wirth and Commissioner Werwath.

Against: Commissioner Farber, Commissioner Gutierrez, Commissioner Hiatt

Explaining his vote: Commissioner Farber said, "I'm going to vote no for several reasons. The primary reason is, I think that I understand the intent of the makers of the motion and the proponents of the motion is to have an efficient government. But I think that this proposal dramatically takes away checks and balances that currently exist within municipal government structure that are crucial for the continuation of the government of this City and the ambiguities that exist between the role of the full time Mayor, chief executive officer, with the City Manager being the chief administrative officer, which is not spelled out. And I think it is a particularly concerning position that the Mayor gets to appoint all of the department directors, and I think potentially, whether it's a liberal government, a conservative government, a male, a female, anything, that there is the potential for political patronage and that concerns me greatly. And I consider myself a progressive, a reformer, a looker-forward, not afraid to make changes, always making changes, not afraid to confront authority, but I'm sorry, I think that this is not, for the long-haul, going to be a good change. I hope I'm wrong, but that's the way I see it, at least today. So, I vote no."

Explaining his vote: Commissioner Gutierrez said, "I also vote no. There's a few things I don't agree with in the package as a whole. I do believe the Mayor does work full time. I do believe he should have a right to vote. I have a problem with the City Manager being removed solely by him. That's my vote. Thank you."

Explaining his vote: Commissioner Hiatt said, "I vote no, primarily because I don't want to have the Mayor be a full time Mayor, even though he or she is going to be a full time Mayor, and I don't think we have that much money. I think we've tweaked it as well as we can, and if this moves forward, I hope the City Council gives it due consideration. I do think the system needs to be changes, I really do, but I vote no."

Statement by the Chair following the vote: Chair Serna said, "I don't have a vote, but I would like to make a statement. Eleven (11) City Managers for the last 3 Mayors is *per se* dysfunctional and a disservice to the citizens of Santa Fe, and something needs to be done to alleviate the situation. So I believe that this is a start to alleviate that situation.

Commissioner Hiatt asked, in terms of the agenda, if we are done with Item 5, and the Vice-Chair said this is correct.

6. DISCUSSION AND ACTION ON PROPOSAL TO PUBLISH NOTICE OF BUDGET AND CAPITAL OUTLAY AND IMPROVEMENT PROJECTS. [Language for proposal was submitted at May 28, 2013 meeting]

**DISCUSSION AND POSSIBLE ACTION ON TOPICS PRESENTED AT PRIOR MEETINGS –
POLICY ISSUES:**

- A. PROPOSAL FOR GUN VIOLENCE PREVENTION ORDINANCES
- B. PROPOSAL REGARDING CHILDREN'S ISSUES AND CONCERNS
- C. PROPOSAL FOR MARIJUANA ADULT PERSONAL POSSESSION AND USE TO BE
LOWEST PRIORITY FOR LAW ENFORCEMENT AND PROSECUTION
- D. PROPOSAL ON WATER RESOURCE AND CONSERVATION ISSUES..
- E. PROPOSAL REGARDING IMMIGRATION POLICIES AND ENFORCEMENT.
- F. PROPOSAL FOR PRESERVATION OF NEIGHBORHOODS AND NEIGHBORHOOD
INTEGRITY.
- G. PROPOSAL REGARDING PREVENTION AND PROTECTION FROM CELL PHONE
TOWER ADVERSE IMPACTS.:
- H. TECHNOLOGICAL IMPROVEMENTS FOR CITY BUSINESS.

***[Specific language for proposals or amendments are requested to be submitted to the
Charter Review Commission, c/o Irene Romero at the City Attorneys Office, at least 48
hours prior to the meeting.]***

8. DISCUSSION/POSSIBLE ACTION AGENDA ITEMS FOR FUTURE MEETINGS

Chair Serna said he understands it is too late to have a meeting on July 1, 2013, because of the Open Meetings Act.

Commissioner Farber said Geno Zamora, City Attorney, sent out an email that said it is not too late to have a meeting on July 1, 2013. Commissioner Farber said the email was in response to his question to the City Manager, and read the Memo into the record as follows: *There is an easy answer to the question. Item 8 on the June 27 Agenda allows the Commission to identify the items for the next agenda, thus make sure you discuss Item 8 prior to adjourning, and ask staff to prepare and publish an agenda on Friday, June 28th, containing those items not completed on the 27th. Under the Open Meetings Act, 2013 revision, publishing an agenda 72 hours in advance of your July 1st or another date in July meeting would be sufficient and in compliance with the law. Staff would simply have to make sure the agenda is published 72 hours or more in advance. For example, if the meeting is scheduled for July 1, at 4:00 p.m., then the agenda would have to be published by 4:00 p.m. on Friday. Of course, the Clerk's deadlines would be much earlier in the day on Friday, but it is doable.*

Commissioner Werwath said then we need to have an agenda ready for them tomorrow morning first thing.

MOTION: Commissioner Farber moved, seconded by Commissioner Werwath, to prepare an agenda for a meeting on July 1, 2013, at 4:00 p.m., to consider Items #6 through #11 from this agenda, including also items #1 through #4, presuming there will be no minutes for approval.

DISCUSSION: Commissioner Hiatt said if the Chair is going to be gone for 3 weeks, we may have to meet without the Chair, but we are going to have to finish this agenda. It would be unfair to any of the people who have proposed these subjects if we don't get through all of them.

Chair Serna said we could all be here on July 1, 2013, if we can find a place to meet, commenting if we meet July 2nd, we will lose Commissioner Romero-Wirth.

Commissioner Farber said he thinks a meeting on July 1st would accommodate everyone.

Commissioner Romero-Wirth said then all that is left are the items which are on this agenda.

Commissioner Farber said he and Commissioner Hiatt discussed that it would be appropriate to meet to adopt a report, and we would have to designate a committee to do that, commenting he would like to write a minority report. He said the next step would be to complete today's agenda on Monday, with the Commission's approval. He asked Mr. Shandler to comment on the proposed meeting on Monday.

Mr. Shandler said, "If Mr. Zamora says we'll do it, we'll do it. And we'll meet the new law."

Chair Serna said it will be a continuation of today's agenda, minus those items on which we took action.

Commissioner Farber said Mr. Zamora said specifically to reference Item 8.

Ms. Shandler said in the interim he would like the Commission to look at §3-15-10, which appears to be the effective date of the other provisions. He said it is a little confusing to him, because it talks about going into effect immediately regarding election of officers. However, it appears you have made a policy decision about the election of officers issues. There may be a 60 day delay in the implementation of the other items which you approved previously. The voters approved the previous Charter Amendment in March 2008 to be effective in May 2008. He wants everyone to look at this because of the concern about effective dates, and that may be the applicable statute.

Chair Serna said it is a good idea for all members to review the Final Report, so it will be circulated to everyone.

Responding to Commissioner Farber, Mr. Shandler said, "I did not give you a clear answer throughout the process about the effective dates of Items 5(B)(1) through (5), because I was not sure how to interpret the words "election of officers," because that means it goes into effect immediately. And I don't know if the sections with which you dealt, dealt with the election of officers. But, as policymakers, I don't think I need

to research that any more, because you've given language. I was only pointing out that for items not involving election of officers, it may be more clear that there is at least an effective date of at least 60 days out. But, I would like you to look at that and provide input as to how to diagram that statute."

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

9. DISCUSSION AND POSSIBLE ACTION REGARDING REPORT TO GOVERNING BODY

10. COMMUNICATION FROM CHARTER COMMISSION MEMBERS

11. PUBLIC COMMENT

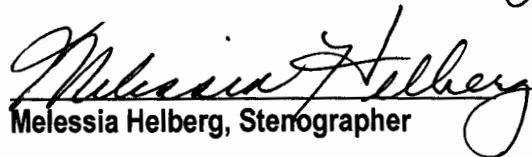
There was no further public comment.

12. ADJOURNMENT

MOTION: Commissioner Hiatt moved, seconded by Commissioner Werwath, to adjourn the meeting.

VOTE: The motion was approved unanimously on a voice vote, and the meeting was adjourned at approximately 7:15 p.m.


The Honorable Patricio Serna, Chair


Melessia Helberg, Stereographer

Dear Mr. Rowe:

We acknowledge receipt of your email. You are free to raise the question, but you should anticipate that our reply will likely be:

You have correctly cited section 10.01 of the Charter. The City did, by resolution, appoint the members of the commission. At the time of appointment, there were an odd number of commissioners. (See section, 4 of Resolution 2012-45). Therefore, the City satisfied section 10.01.

The State Supreme Court in *Denish v. Johnson*, 121 NM 280 (1996) ruled that a "position is not vacant--it remains filled by the former appointee pending the appointment of a successor.

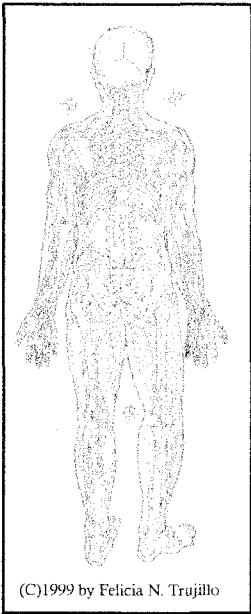
If the Commission is concerned, one possible solution to any issues would be for the City Councilor who appointed Roman Abeyta to appoint a replacement for his vacancy, "Section 5. VACANCIES: Vacancies on the Commission shall be filled in the same manner as initial appointments."

Second, the Rules and Procedures for City Committees states that "Unless otherwise specified in committee's enabling legislation, a majority of the regular committee members shall constitute a quorum for the transaction of official business." Article 10, section 4. (See also, section 6 of Resolution 2012-45, "A quorum shall be at least five members.")

Consequently, because a quorum is needed for the transaction of official business, the Charter Commission may proceed unimpeded so long as it satisfies the quorum requirement.

Although the loss of a member of a commission may create tie results on voting for particular recommendations in close cases, the commission itself has the ability to make recommendations provided that it has a quorum to conduct official business.

Exhibit "1"



SANTA FE DOCTORS W.A.R.N.

WIRELESS AND RADIATION NETWORK

(505) 471-4194

P O BOX 28068, SANTA FE, NEW MEXICO 87592-8068

To the Members of the Charter Review Commission

June 27, 2013

I wish to thank you again for your insightful inclusion of the information presented by members of Doctors W.A.R.N.

At your last meeting, Dr. Singer presented on the health effects of cellphone radiation, which the World Health Organization classified with DDT, Lead and HIV as a possible human carcinogen. Thus our own Department of Health has acknowledged the connection of cellphones to brain tumors after use of a minum of 30 minutes a day for a period of ten years. At this time, the highest cancer death rates are among children and young persons up to the age of 27, all from such gliomas.

Members include 94 concerned scientists and health care professionals including local Medical Doctors, Dentists, Doctors of Optometry, Nurses, Physical Therapists, Psychiatrists, Physicists, Osteopathic and Naturopathic Physicians, Acupuncturists, and Massage Therapists who have supported more protective laws and legislation for the State of New Mexico.

Today, I want to briefly acquaint you with another EMF emitter coming to us in New Mexico. Although our NM Gas Company is allowing a self-read program for those with pacemakers, medical implants, children or ill family members, PNM has stated flatly they will not allow any evasion of Smart Meters. A PNM spokesperson informed me that they are waiting for all the wrongful death suits, fire suits, wrongful arrests, disconnection of services, and citizen mobilizationa across the US to settle before they invest in their own rollout.

At this time, power companies have disconnected families from power to force them to accept Smart Meters. Many are choosing to live without power instead, as their children or family members became extremely ill after these meters were installed. Smart Meters, incidentally, are not UL approved and have damaged wiring, electronics and resulted in fires. Professional security firms have proven they are easily hacked, thus leaving the homeowner vulnerable to being robbed.

In Texas, a mayor was recalled and two city councilors voted out of office for not defending against smart meters and 26 counties are following, many concerned as the data mined by the meters is being sold to third parties, as well as provided to government agencies.

One Attorney General rejected Smart Meters because they have no provisions for those on home life support systems. Another AG rejected Smart Meters as they cannot prove there will be savings to match the expenditure of changing every meter in his state. Our own State Department is concerned that the push is for only Smart Meter appliances to work, all other refrigerators, washers, etc. would no longer function.

*Coordinators:
Felicia N. Trujillo, ND,
Feldenkrais® Practitioner
Michael Blanshan,
Traditional Naturopath*

By 2011, 57 Californian cities and counties passed laws against Smart Meters, some including jail sentences and fines up to \$500,000 as the power companies were breaking into homes to force installations. In a recent breakthrough, there are some opt-out programs which, however, charge \$75 for keeping the analog meter and up to \$30 extra a month for mainaining the analog meter. There are applications for the indigent to pay less.

All I ask is that perhaps Santa Fe, as creative and progressive as we have been, could begin with such opt-outs, rather than suffering through years of suits and pickets and possible fires and deaths from these untested meters. Thank you.

Exhibit "2"



*Felicia N. Trujillo, ND,
Feldenkrais Practitioner(R)
Health Educator,
Member of Santa Fe's
Doctors W.A.R.N.*

As a native New Mexican, I am horrified that our beautiful environment is now to be filled with a proven cause of diseases that will harm the whole population, especially those most vulnerable—our children, the elderly, and the disabled.

Our New Mexico Gas Company has in place a self-read program for those who are concerned about the pulsing radiation technology of Smart Meters.

However, PNM representatives have stated they will not allow any self-read programs and are waiting to see outcomes of nationwide suits for fires, security and health issues resulting from Smart Meters before PNM will rollout the meters in New Mexico.

One Los Alamos physicist says there is better technology already in place—meters used locally that are only activated for less than a second once a month. The new 'smart meters' fire every 15 seconds, 24/7, with 5,760 emissions per day.

But most importantly, our families must have a medical 'opt out' or waiver plan for those with children, medical implants, and prior medical conditions that doctors know will be dangerously affected by these wireless meters. Better yet, we don't need them here at all!

For Related Web Sites:

- <http://www.electricalpollution.com/smartmeters.html>
- http://emfsafetynetwork.org/?page_id=872
- <http://www.smartmeterdangers.com>
- <http://www.ncil.org/resources/radiofrequencyarticle.html>
- <http://www.bioinitiative.org>
- <http://www.eon3.net> [video by research scientists]

For the complete letter from Norbert Hankin, US EPA, see: [http://www.emrpolicy.org/litigation/case_law/docs/ noi_epa_response.pdf](http://www.emrpolicy.org/litigation/case_law/docs/noi_epa_response.pdf)

WHAT DO WE WANT?

We want federal help in changing the 1996 Telecommunications Act so that health and environmental issues can be considered in the placement of wireless devices, and new information can be acknowledged in deciding whether to continue to pursue wireless at all.

We want an adequate safety standard that will protect us from the cumulative radiation exposure from ELF's, EMF's, RF's that we all now suffer and that is rapidly becoming much worse.

We want and deserve safe products, and will hold the wireless industry accountable. International evidence from non-industry funded scientific and medical research/studies clearly reveal that wireless devices from cell phones to 'smart' meters and their required infrastructure are presenting all of us with serious health and environmental risks.

Our children are especially vulnerable. Wireless is not safe. Growing numbers of individuals are verifying this with personal experience. We want our nation, state and communities to install an under-ground fiber optic cable broadband system as an alternative to wireless that will provide all of us with faster, safer, more durable and secure internet service. This will provide many new green jobs.

*Virginia J. Miller
Legislative Coordinator
NM DPI*



To voice your concerns:

- NM Public Regulation Commission:**
- Consumer Relations Division, 827-4648**
- Santa Fe County Commissioner,
Liz Stefanics, 986-6210**
- District 3: City of Santa Fe,
Jerome Block, 827- 4533**
- District 4: Eldorado, Rancho Viejo, La Cienega,
Las Companas, Theresa Becenti-Aguilar, 827-8019**
- N.M. Representative Brian Egoft, 986-9641**
- N.M. Senator Peter Wirth, 988-1668, x104**
- U.S. Senator Tom Udall, 988-6511**
- U.S. Senator Bingaman, 988-6647**
- U.S. Representative Ben R. Lujan, 984-8950**



WIRELESS METERS

New Mexicans will soon be told they must submit to wireless "smart" meters being attached to 350,000 homes despite the documented concerns of researchers, medical doctors, and residents.

The meters transmit pulses of microwave energy every 15 seconds, around the clock, reverberating with your house wiring, and even repeating the signals from neighboring meters in what's called a 'mesh network'.

As one Los Alamos scientist says, "This turns whole communities into a low-power microwave oven."

Proven to cause a host of health problems, security issues, damaging customers' other electronics—and sued for giving inaccurately high readings—'smart meters' are being halted by towns and cities across the US by the passing of moratoria and ordinances, and suits demanding the proven safety of their old analog meters.



SECURITY CONCERNS

There are security & privacy concerns: After testing five different brands of 'smart meters,' a top cybersecurity firm found that they could *EASILY* be hacked, allowing someone to remotely shut down your power, inflate your bills, tell if you're out-of-town (making you a target for burglary), commit identity theft, or even bring down the whole electricity grid. (For more details, see http://www.denverpost.com/frontpage/ci_15106430%29)

James Woolsey, former CIA director during the Clinton administration says

"And a so-called "Smart Grid" that is as vulnerable as what we've got is not smart at all, it's a really, really stupid grid.

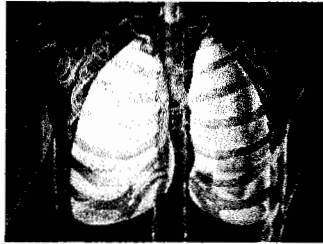
Because, first of all, DoE doesn't really have any authority over the grid. Nobody has responsibility for the survivability and protection and security of the grid. The FERC, the Federal Energy Regulatory Commission, has responsibility over the transmission grid for some aspects, many aspects, of reliability, but they don't have the authority for security, and neither does NERC, the so-called "watchdog."

CONNECTICUT ATTORNEY GENERAL noted that there are no provisions for protecting those on home life support systems.

"The BioInitiative Report is a major milestone in understanding the health risks from wireless technology. Every responsible elected official owes it to his or her constituents to learn and act on its findings and policy recommendations."

Whitney North Seymour, Jr. Former New York State Senator, Former United States Attorney, SDNY; Co-Founder, Natural Resources Defense Council See: http://www.eon3.net/emr_protection/emr_health_protection.html

For more national and international articles, extensive research references, and video clips, check under at: www.WhyFry.org



There is no safety standard for the biological effects of continuous exposure for our 500,000 children currently enrolled in New Mexico's schools.

The FCC "safety" guidelines are solely designed to protect a 6 foot tall, 185 lb man from tissue heating during a short (6 minute) exposure. They are not designed to protect even a 6 foot tall man from biological effects during a continuous exposure.^{6,7} Exposures from transmitting utility meters and other transmitters are continuous, so these "safety" standards are meaningless.

*Grant L. Microwaves Imitate Pesticides. U.S. Department of Energy Risk Management Quarterly, Volume 5-3. <http://www.stralingsvrijkind.nl/documenten/Bijlage-MicrowavesPesticides.pdf>; *Cherry, N. 2000 Criticism of the Health Assessment in the ICNIRP Guidelines for Radiofrequency and Microwave Radiation (100 kHz- 300 GHz)

EVEN THE EPA ADMITS:

"Federal health and safety agencies have not yet developed policies concerning possible risk from long-term, repeated short duration nonthermal exposures.... information on exposure scenarios with an exposed population that includes children, the elderly, and people with various debilitating physical and medical conditions, could be beneficial in delineating appropriate protective exposure guidelines."

Norbert Hankin, Center for Science and Risk Assessment, Radiation Protection Division, United States Environmental Protection Agency
http://www.emrpolicy.org/litigation/case_law/docs/noi_epa_response.pdf

Those living in apartment buildings will be exposed to every meter in that building. Those with heart implants are told to avoid coming within six inches of the meter.

Microwave and radiofrequency radiation are shown by worldwide, non-industry research to be linked with development of:

- asthma
- palpitations, arrhythmias
- high blood pressure
- sleep disorders
- diabetes
- attention deficit disorder

Research has shown ongoing exposure tied to:

- DNA breaks
- chromosome aberrations
- multiple sclerosis
- Alzheimer's disease
- leukemia
- brain tumors
- breast cancer
- and epilepsy

*From Erica Elliott, MD,
Board Certified in
Family Practice
and Environmental Medicine*



In my private practice, I have seen a significant rise in the number of patients who experience electromagnetic hypersensitivity over the last 5 years.

Some of the early symptoms are:

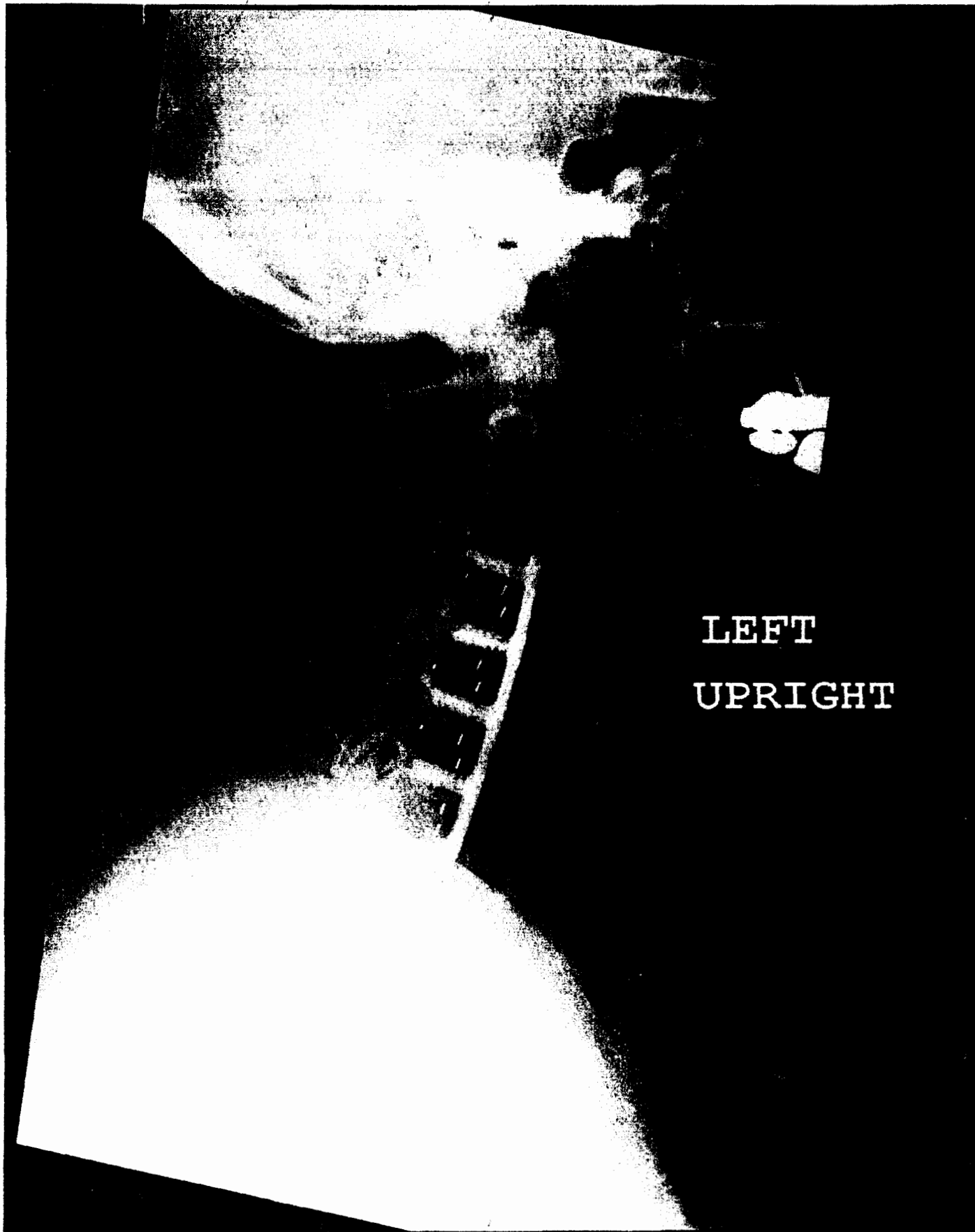
- elevated blood pressure,
- ringing in the ears,
- and sleep disturbances.

In more advanced cases, the symptoms can include:

- numbness/tingling in the extremities,
- heart arrhythmias,
- seizures,
- and other neurological impairments.

By blanketing our state with wireless devices, we are potentially putting countless people at risk for developing serious health problems.

I feel we are making a grave mistake by moving forward in this project without further studies and consideration of health effects.



LEFT
UPRIGHT

Agenda Item 7 (g)

POLICY STATEMENT

Separate Provision: _____

Electromagnetic Radiation Issues:

It appearing that there is significant if not conclusive evidence of the carcinogenic potential of exposure to low frequency electromagnetic fields from cell towers, especially for children, and that cellphone towers and antenna have aesthetic impacts, the governing body shall take all necessary and appropriate action to protect health, safety, welfare and aesthetic impacts in the City of Santa Fe from electromagnetic radiation and cellphone towers and antennae, including steps to prevent the placement of cellphone towers and antennae near schools and public facilities.

Exhibit "3"

ROMERO, IRENE K.

From: Cheri Johansen <cherijohansen@gmail.com>
Sent: Friday, June 28, 2013 8:57 AM
To: ROMERO, IRENE K.
Subject: FW: hullo from Felicia -- wording below!

Irene, Felicia sent this to me. Do you have this for the packet? This is not a Neighborhood Network proposal. I think she did not have your email???

cheri johansen
Johansen Enterprises
2369 Botolph
Santa Fe, NM 87505
505.930.1946

From: Felicia N Trujillo [mailto:felitru11@fastmail.fm]
Sent: Thursday, June 27, 2013 10:17 PM
To: cherijohansen@gmail.com
Subject: hullo from Felicia -- wording below!

Hullo Cheri,
Well, it was worth sitting through that meeting just to meet YOU! Below is my original wording for the policy
My number is 471-4194 if you have any questions or would just like to visit.

To be inserted as new section under Article II. Policy Statements:

**International Precautionary Principle:
Neighborhood Protection**

[Definition] This principle allows policy makers to make discretionary decisions in situations where there is the possibility of harm from taking a particular course or making a certain decision when extensive scientific knowledge on the matter is lacking. The principle implies that there is a social responsibility to protect the public from exposure to harm, when scientific investigation has found a plausible risk.

The City of Santa Fe hereby becomes the first U.S. city to incorporate the International Precautionary Principle, now a statutory requirement in the European Union and many other countries.

To ensure that citizens can actively participate in protecting their neighborhoods, the City of Santa Fe:

1) shall require transparency of any business plan to install technology, disperse chemicals, or otherwise change any neighborhood environment by immediately printing such applications in the local newspapers.

2) shall delineate "safety zones" near all schools to prevent possible toxic exposures of Santa Fe children to chemicals, microwave radiation, or other toxins classified as such by the World Health Organization.

3) shall ensure that specified input from citizens and neighborhoods regarding proposed or existing technology and/or chemical exposures be given the same weight as the input from industry representatives submitting applications.

Felicia N Trujillo, ND, GCFP
International Feldenkrais(R) Assistant Trainer
DOCTORS W.A.R.N. (Wireless and Radiation Network)
FACEBOOK: Santa Fe DOCTORS W.A.R.N.
P O Box 28068
Santa Fe, NM 87592
(505) 471-4194

"Democracy--only works if you work it."

Suggested Added Policy Segment:

2.04. (A) Cultural preservation

2.04. (B) Neighborhood protection

The Santa Fe community is defined not only by the cultural composition of its citizens, but also by the variety and diversity of the neighborhoods in which these citizens reside. Santa Fe neighborhoods have distinct features that reflect a cultural and architectural heritage, and legitimate interests which affect the quality of life of their residents. These features and interests should be recognized, promoted and protected. To this end, the governing body shall encourage Neighborhood Associations to represent and articulate the legitimate interests of individual neighborhoods, and shall enact ordinances and establish appropriate commissions/commissioners with jurisdiction, authority, and staff sufficient to effectively administer this policy.

Exhibit "5"

Agenda for Candlelight Neighborhood Association meeting Tuesday, June 25, 2013

1. Discussion of problems with the Web page and actions taken to mitigate problems
 - a. Greek letters
 - b. Failure to access announcements page
 - c. Registration issues
2. Communication Issues and Steps taken to address some of the concerns
3. Carole Owens, Neighborhood Watch
4. Request from Neighborhood Network Charter Commission

Request from Neighborhood Network Charter Commission words: The Neighborhood Network has been following the work of Santa Fe's Charter Review Commission. The Commission's task is to recommend proposed Charter amendments to the City Council, which can then decide whether or not to put them on the ballot next March. At that time, the voters will decide whether they support any of the amendments that are on the ballot.

Article II of the Charter contains several Policy Statements. They include paragraphs on what the City values and the policies that guide our laws: Human and civil rights, Environmental protection, Cultural diversity, a code of ethics, etc. The Neighborhood Network believes neighborhoods are important components of Santa Fe, ones that the City should nurture and protect. Therefore, we are proposing this be added to the Policy Statements of the Charter:

The Santa Fe community is defined not only by the cultural composition of its citizens, but also by the variety and diversity of the neighborhoods in which these citizens reside. Santa Fe neighborhoods have distinct features that reflect a cultural and architectural heritage, and legitimate interests which affect the quality of life of their residents. These features and interests should be recognized, promoted and protected. To this end, the governing body shall: encourage Neighborhood Associations to represent and articulate the legitimate interests of individual neighborhoods, and shall enact ordinances and establish appropriate commissions with jurisdiction, authority, and staff sufficient to effectively administer this policy.

Please let us know if you or your Neighborhood Association supports this addition. To do so, you can (1) come to the meeting and speak (there is a public comment segment at the beginning of the meeting, although the Commission sometimes limits this to items not on the agenda), (2) you can reply to this email and the Neighborhood Network will make your support known, or (3) you can contact the Commission directly through their staff person, Irene Romero. **The Commission meets this Thursday, June 27, at 4 PM in City Council Chambers** and may vote on this issue. Other proposed policy statements cover water, gun violence prevention, children's issues and concerns, adult use of marijuana, immigration, cellphone towers, and technology improvements for the city. You might want to attend to have your concerns about these issues heard. For further information contact: Karen Heldmeyer or Marilyn Bane

'5. Preparations to address Long-Range Planning Map changes

'6. Suggestions for Neighborhood Improvements-process and ideas

Exhibit "6"



LEAGUE OF WOMEN VOTERS[®]
OF SANTA FE COUNTY

To: The Santa Fe Charter Review Commission

From: The League of Women Voters Santa Fe County

Date: June 27, 2013

Topic: Governance Issues

The League of Women Voters of Santa Fe County developed the following positions on governance within the city after an extensive study and consensus process:

The League of Women Voters of Santa Fe County supports a home rule charter for the City of Santa Fe with a Mayor/Council form of government. The Home Rule Charter should include these provisions:

1. A Mayor elected at-large by the citizens of Santa Fe. The Mayor should serve as a member of the Council and vote on all business before the Council.
2. The governing body (the Mayor and the Council) of the city shall serve as the principal policy maker for the City. It shall appoint the city manager and the boards and commissions.
3. The city manager should be professionally trained or have had executive and administrative experience. The city manager shall be the chief administrative officer and have the power to hire and fire all City employees including department heads. The choice of a city manager need not be limited to the inhabitants of the City or State.

Exhibit "7"

ROMERO, IRENE K.

From: James Harrington [harr77@earthlink.net]
Sent: Sunday, June 23, 2013 6:41 PM
To: ROMERO, IRENE K.
Cc: Viki Harrison
Subject: charter commission/campaign contributions

Irene -

Please pass along this e-mail to the commissioners. Thank you very much.

Jim H.

Dear commissioners -

Thank you for requesting Common Cause's comments concerning the new version of the proposed charter amendment on campaign contributions by city contractors which was presented by Commissioner Farber at the end of the last commission meeting. Again, I apologize for being unable to attend the June 27 meeting, but I hope these comments will be of some help as you work to resolve this issue.

At the outset, we wish to thank Steve for being willing to make major changes in his proposal to accommodate our concerns. These changes have effectively eliminated our two principal objections to his proposal and have therefore persuaded us to withdraw our opposition.

Thus, first of all, the revised proposal no longer seeks to impose a self-executing ban on contractor contributions - a form of legislation which, for the reasons we described in previous communications, would probably be held unconstitutional under the existing case law. The new version would instead merely obligate the governing body to enact some sort of "meaningful bans and/or limitations" on such contributions. This language is sufficiently open-ended that it could be satisfied by adoption of any of a wide variety of "limitations" - such as contribution limits or prohibitions against contributions by bidders during the actual procurement process - which we believe would stand a much better chance of surviving a constitutional challenge.

Secondly, and more importantly, the revised proposal refrains from attempting to prescribe every detail of the proposed restriction on contractor contributions. The governing body would instead be left free to devise the specific terms of any "bans and/or limitations" that it might choose to enact. This would allow the city to adapt its laws to changes in campaign practices or constitutional principles that might occur in the future. The new proposal would thus effectively preserve the current system of regulating campaign finance that has worked so well during the preceding decade, whereby the city's ordinances have been frequently amended in accordance with the recommendations of the ECRB and the city attorney to accommodate the latest developments in this constantly evolving area of the law.

Our two principal objections to Steve's original proposal have thus been adequately addressed by the changes he has made. Although we remain somewhat wary of enacting any law aimed at a particular category of campaign donors while the courts are still engaged in spelling out the potentially sweeping implications of the Supreme Court's ruling in *Citizens United* (see, generally, http://www.harvardlawreview.org/media/pdf/vol126_united_states_v_danielczyk.pdf), we recognize that this general unease is not a sufficient justification for opposing every form of legislation on this subject. Steve's new proposal would allow the governing body to enact laws that are reasonably

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Exhibit '8'

defensible and to refine those laws in the light of future developments. This is sufficient to resolve our main concerns.

As for the specific language of the new proposal, we have only two comments. First, we suggest deleting the references to "continuing" contributions. As was pointed out at the last commission meeting, any payment to an elected city official by a person doing business with the city other than a campaign contribution would be covered by the gift ban that is imposed by the city's Code of Ethics, which generally prohibits such payments with a few narrow exceptions (§1-7.7(A) SFCC 1987). There is therefore no need for including in the campaign finance laws a duplicative system for regulating these kinds of payments. Secondly, we do not see the necessity for the additional language in "Alternative No. 2" which prescribes an elaborate process for enacting the kind of legislation that would be required by the proposed charter amendment. This language is copied from the section of the charter (§4.05) that mandates adoption of a system of public campaign financing. That section called for the creation of an entire new method of financing campaigns which entailed the drafting and enactment of a whole new article of the Santa Fe City Code (Art. 9-3 SFCC 1987; Ord. #2009-44). We do not foresee that the adoption of a law limiting campaign donations by city contractors would involve anywhere near such an elaborate undertaking. The governing body's normal committee process should be sufficient for this purpose.

I hope this e-mail adequately conveys our position on the revised proposal. Again, I thank the commission for requesting Common Cause's comments, and I apologize for having to miss the next meeting.

Jim H.

Alternative No. 1

To be enacted as a Separate Provision or Sub-provision of the Charter

Section No. _____, Campaign Contributions from Contractors and Business Entities

The governing body shall adopt an ordinance or ordinances to provide for meaningful bans and/or limitations on campaign ~~and continuing~~ contributions from contractors and entities doing business with the City of Santa Fe to all municipal elected officials and this shall be done within one year after the effective date of the amendment to the Charter that includes this requirement.

Alternative No. 2:

Section No. _____, Campaign Contributions from Contractors and Business Entities

The governing body shall adopt an ordinance or ordinances to provide for meaningful bans and/or limitations on campaign and continuing contributions from contractors and entities doing business with the City of Santa Fe to all municipal elected officials and this shall be done within one year after the effective date of the amendment to the Charter that includes this requirement. Prior to such adoption, the governing body shall take such action as is reasonable and necessary to provide for a well-informed consideration and review of the issue of campaign and continuing contributions from contractors and entities doing business with the City of Santa Fe and to solicit public input on the substance that may be included in such an ordinance or ordinances, including, but not limited to the creation of a subcommittee, task force or similar body or delegation to an existing City Committee that will conduct public meetings, study the issue of campaign contribution law and make recommendations to the governing body on a form of ordinance or ordinances for consideration by the governing body.

ARTICLE V. THE MAYOR

5.01. Powers and duties.

The city shall have a mayor who shall:

- A. be elected at large by the voters of the city;
- B. ~~have a vote on all matters that come before the governing body only in the case of a tie or when his or her vote will provide the necessary number of votes required by law for taking action on an issue before the governing body.~~
- C. be the chief executive officer of the city, which position shall be no less than full time (forty (40) hours per week), and shall not be otherwise employed or self-employed.
- D. ~~appoint and remove, subject to the approval of the governing body,~~ the city manager, city attorney, city clerk, _____ (other positions like Department Directors _____); and appoint and remove, subject to the approval of the governing body, members of advisory commissions;
- E. cause the ordinances and regulations of the city to be faithfully and constantly obeyed;
- F. have, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;
- G. propose programs and policies to the governing body;
- H. work with City personnel and timely prepare an annual budget and proposed spending priorities for review and approval by the Finance Committee and the City Council;
- I. represent the city in intergovernmental relationships;
- J. present an annual state of the city message, which shall identify among other matters the mayor's legislative agenda for the upcoming year.
- ~~K. perform other duties compatible with the nature of the office as the governing body may from time to time require;~~
- ~~K-L.~~ be recognized as head of the city government for all ceremonial purposes; and;
- L.M. be recognized by the governor for purposes of military law;

Exhibit "10"

ARTICLE VI. THE GOVERNING BODY

6.01. Composition.

The members of the governing body, exclusive of the mayor shall be known and designated as councilors. The mayor and the councilors together are the governing body of the city.

6.02. Powers and duties.

A. The governing body shall ~~consider the legislative agenda put forth by the mayor and propose amendments to existing policies and propose new policies~~ serve as the principal policy maker of the city.

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

C. The governing body shall by ordinance fix the annual salaries of the mayor, the municipal judge and councilors and shall review those salaries not less than every four years.

D. The governing body shall by ordinance set a policy for reimbursement of the actual and necessary expenses incurred by the mayor, the municipal judge and city councilors.

ARTICLE VIII. CITY MANAGER

8.01 Appointment.

The city manager shall be appointed by the mayor ~~with the advice and consent of the governing body.~~

8.02 Qualifications.

The city manager should be professionally trained and have the necessary administrative and managerial skills to manage the municipality.

8.03 Powers and duties.

The city manager shall:

- A. be the chief administrative officer of the city;
- B. have the power to hire and fire all city employees except for those employees for whom the mayor has the exclusive authority to hire and fire; and
- C. have such other powers as are provided for in city ordinances and state law.

8.04 Removal.

The city manager may be suspended or removed:

- A. ~~by the mayor subject to the approval of the council; or~~
- B. ~~by the governing body by a majority vote of all members at a regularly scheduled meeting.~~

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