



Agenda

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CHARTER REVIEW COMMISSION
Wednesday, July 17, 2013
Santa Fe Community Convention Center
Nambe & Ohkay Room
4:00 pm to 6:00 pm

1. Roll Call
2. Approval of Agenda
3. Approval of June 27, 2013 and July 1, 2013 Minutes
4. Public Comment
5. Discussion and possible action regarding report to Governing Body
 - a. Presentation of Charter Review Commission's Report of Recommendations to the Governing
 - b. Presentation of Minority Report
6. Communication from Charter Commission Members
7. Public Comment
8. Adjournment

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CHARTER REVIEW COMMISSION
Wednesday, July 17, 2013**

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**MINUTES OF THE
CHARTER REVIEW COMMISSION
July 17, 2013
Santa Fe Community Convention Center
Nambe & Ohkay Room
4:00 p.m. to 6:00 p.m.**

CALL TO ORDER.

A meeting of the Charter Review Commission was called to order by Nancy Long, Vice-Chair, at approximately 4:00 p.m., on July 17, 2013, in the Nambe & Ohkay Room, the Santa Fe Community Convention Center, Santa Fe, New Mexico.

1. ROLL CALL

Roll call indicated the presence of a quorum as follows:

Nancy R. Long, Vice-Chair
Steven G. Farber
John B. Hiatt
Houston Johansen
Carol Romero-Wirth

MEMBERS EXCUSED

The Honorable Patricio Serna, Chair
Brian Patrick Gutierrez
Daniel Werwath
Roman Abeyta [Resigned]

OTHERS ATTENDING

Zach Shandler, 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 Hiatt moved, seconded by Commissioner Johansen, to approve the agenda as presented.

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

3. APPROVAL OF JUNE 27, 2013 AND JULY 1, 2013 MINUTES

Page 19, paragraph 7, line 1, correct as follows: "... although he may ~~tweak~~ read the...."

The following correction was made to the minutes of June 27, 2013:

The following correction was made to the minutes of July 1, 2013:

Page 7, in Header F, correct as follows: ~~PROPOSAL FOR MARIJUANA ADULT PERSONAL POSSESSION AND USE TO BE LOWEST PRIORITY FOR LAW ENFORCEMENT AND PROSECUTION~~ PROPOSAL REGARDING PREVENTION AND PROTECTION FROM ADVERSE IMPACTS OF ELECTROMAGNETIC RADIATION (WARN PROPOSED LANGUAGE)

MOTION: Commissioner Hiatt moved, seconded by Commissioner Johansen, to approve the minutes of the meeting of June 27, 2013, as amended, and the minutes of the meeting of July 1, 2013, as amended.

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

Commissioner Farber said, for the record, in the minutes of the June 13, 2013 meeting, there was a statement attributed to him on page 17, but he believes it was Commissioner Werwath that said that, not him, as follows:

Commissioner Farber said, "I..... do like the idea of having an at-large City Councilor or two or three or four, but I think, given the time constraints and the fact that we can't get a clear answer from the Attorney's Office, despite my particular interest in this issue, that we should move forward."

STENOGRAPHER'S NOTE: The tapes for the meeting of June 13, 2013, have been erased and the minutes are the official record, so there is no way to verify who said this. So I will leave it as Commissioner Farber saying he didn't say that, given the fact that there is no backup to dispute or to verify his contention, and noting that those minutes were approved at the meeting of June 27, 2013.

4. PUBLIC COMMENT

Jim Harrington, 1588 Cerro Gordo, Chair, Common Cause New Mexico, said he is here primarily to congratulate the Commission and thank them for their hard work. He said in the parts of the proposal with regard to campaign finance and redistricting, there may be a mistake in the draft report. He said that the burden of the redistricting proposal which appears in the report looks like Common Causes's original proposal which was to redistrict only very 10 years.

Vice-Chair Long said he is correct, and we will be talking about that.

Commissioner Romero-Wirth said they caught that error and we will be discussing it.

Vice-Chair Long thanked Mr. Harrington for his input and hard work, for attending our meetings, and for providing the Commission with a lot of guidance about the last Charter Commission's work, which was very helpful.

Commissioner Farber asked, "Does that require us to go back and change the minutes if there was a way in which it was reported."

Vice-Chair Long said the minutes are correct, but it just didn't get transferred to the report, and one of the things she wants to change when we get to that part of the report.

Joyce Blalock, League of Women Voters of Santa Fe County, congratulated the Commission for all of their hard work and the efforts that has gone into this, plus the efforts by the public. She said the League does support Mr. Harrington's position that all districting be done by a citizen commission. The League position is the same in all states and the nation and this is not a reaction to anything particular to Santa Fe. This is our position and it has been well studied. She said they appreciate being here.

Councilor Patti J. Bushee thanked everyone for their time, commenting this has been a laborious effort and a lot of thought went into it. She said she managed to stay out of most of the meetings. She didn't feel it was her job at this time to weigh-in on many things, and she is grateful the Commission did support a Citizens' Redistricting Commission and included a statement on water. Councilor Bushee said, "I will have plenty to say when it comes to Council about the strong Mayor proposal. I guess I just wanted to say I wish you had had more time to really review many more aspects of the Charter and the Governing Body and its structure. I feel it was a fairly limited review. And just speaking about the strong Mayor proposal, the main thrust that came out of the Commission, I would have hoped that you could have looked at quite a few more things. But I would suggest, on the strong Mayor, if the concern was about a revolving door on City Manager, which I actually don't find that to be the case, but if that were the concern there would be a possibility of having a super majority requiring 6 votes for anything like that. I would just say that I would actually like this Commission to have more time. I don't see the need for it to be done as quickly as it has been. And I would like to see a thorough, public involved discussion. I do thank you very much for what you've done to date."

6. DISCUSSION AND ACTION ON REPORT TO GOVERNING BODY

A. PRESENTATION OF CHARTER REVIEW COMMISSION'S REPORT OF RECOMMENDATION TO THE GOVERNING BODY

A copy of *City of Santa Fe Charter Review Commission Report and Recommendations to the Governing Body Draft #3*, dated July 17, 2013, is incorporated herewith to these minutes as Exhibit "1."

Vice-Chair Long thanked Commissioner Hiatt for putting together this report, which we are required to give to the Governing Body containing the results of our work. She said we did receive some comment. This is a chance for us to make corrections and get the report as accurate as we can. It's not a chance for us to re-vote on any thing, or to reconsider matters on which we have already voted. She said, "Those are not on the agenda. This is just to get the report in a form that we can get to the Council, and then we will be done."

Vice-Chair Long said we will be working with a draft dated July 17, 2013, marked Draft #3 [Exhibit "1"].

Vice-Chair Long said on page 6 of the report, correct 501(B) as follows: "Add an 's' to matter, so that it is "matters."

Chair Hiatt said, because the report is in his computer, he will volunteer to make changes and get them to Ms. Romero to be distributed to the Governing Body. He thanked her for paginating the report.

Vice-Chair Long said, regarding the redistricting language, Commissioner Romero-Wirth has looked at the minutes and that may be incorrect in the report.

Commissioner Romero-Wirth said, on page 3, under the heading Amend Section 6:03, line 2, to correct as follows: "... and revised every at least every 10 years following the decennial census by independent citizens' redistricting commission." [Commissioner Romero-Wirth noted the minutes of Thursday, June 13, 2013, page 16, which was voted on and approved by this Commission, provides: "**COMMISSIONER HIATT READ THE TEXT AS AMENDED AS FOLLOWS:** The City shall be divided into four dual-member districts numbered one through four. District boundaries shall be reviewed and revised at least every ten years following the decennial census by an independent citizens' redistricting commission."

Commissioner Farber asked if this means it can be done only one time during the 10 years.

Commissioner Romero-Wirth said no, it would be done at least every 10 years, but it could be done more frequently.

Commissioner Farber asked if it has to be after the decennial census.

Vice-Chair Long said it isn't terribly clear, but this is what we voted on. She said there was probably a better way to say it.

Commissioner Romero-Wirth said, "But that is what we voted on, and I think, rather than... I would agree with our Chair that we've done what we've done. So I don't think we should be entertaining new things, and the City Council can tweak the language as they see fit. I think the intent was that it happen more than once, and that is a question and it's a question I have had, and remain concerned about is, what triggers it besides the census. So I think that's an issue we didn't address and is an open question at this point."

Commissioner Romero-Wirth said on page 4, under Campaign Contribution Limits, Adopted 8-0, there is language about contractors' contributions. She said she would like to delete the language beginning on line 2 in the report which says, "*There is evidence that contributions from contractors and entities doing business with municipalities and other governmental entities have had a corrosive effect on fair and impartial decision making.*" She said this Commission did not consider evidence that draws that connection and she believes it is misleading that somehow we're stating that we thought, and we believe it, and we looked at it and are going to do it.

Vice-Chair Long said we didn't do any fact finding about this.

Commissioner Farber said this is language on which Commissioner Hiatt was asking input, in terms of the justification with regard to this proposal. He said, "Those statements of people, I can understand technically, is not evidence. There certainly was information that was presented that 'contributions from contractors and entities doing business with municipalities and other governmental entities have had a corrosive effect on fair and impartial decision making. And I used the examples of Advantage Asphalt, and the pending Santa Fe County indictment, and the issues that happened with regard to the Metropolitan Court scandal in Albuquerque, and the pay to play convictions involving Senator Aragon and others that happened there. Two State Treasurers were convicted, Michael Montoya and Robert Vigil, both of whom went to prison in the Pay to Play accusations – pay to contribute and get some work, of Joe Ruiz at the Insurance Department of the PRC, the State Investment Council investigations. So I raised all these issues, and they're in the record. If you want to take out the word 'evidence,' that's fine. I think we should include the word 'information,' because I don't see that there is any other way of reviewing that body of data without saying that it had a corrosive effect on fair and impartial decision-making."

Commissioner Romero-Wirth said she is aware of all of those cases from what she read in the newspaper, but we didn't consider each of these cases and draw hard lines. She said to Councilor Bushee's point, we may not have gotten into some of this at a really deep level. She said we need to be very careful in making sweeping statements in support of something. She said while we may have pointed to these things, we didn't study them in depth.

Commissioner Farber said he and Mr. Harrington had a very detailed discussion, debate and analysis of the basis of the initial proposal he had, and his view that you needed to be able to show corruption through the cases and his disagreement with that. He said he used as examples, these very real instances. He said we know it is anecdotal, but we know and can take administrative notice, like a judge could take judicial notice, there is a pending indictment involving Advantage Asphalt. He said we could take administrative notice that there was a conviction of Senator Manny Aragon and others regarding the metropolitan courthouse construction project and paybacks and kickbacks. We know two State Treasurers were convicted under Pay to Play allegations and served prison time, and that there is an ongoing investigation of impropriety at the State Investment Council. He said there is information, and he thinks that is the basis.

Commissioner Romero-Wirth said, "We can agree to disagree. And I think what we should use as our guide in this, is that I am uncomfortable with that sentence, based on the level of review that we gave it. I think if we all are not comfortable with whatever the language is that is in here, we ought to take it out."

Commissioner Farber asked if that is a motion.

Commissioner Romero-Wirth said, "I guess the other thing, we've already acted on all of these things, so this report reflects what we acted on and that's what we need to convey. The supporting stuff, I think we need to be very careful. I'm not advocating that we approve this report, but I am advocating that we all be comfortable with the language that's in it. And so I don't know how we want to do that. If we want to do it really formally, and motion by motion and vote on it, or whether we just want to respect that when there are particular things that are troubling to a member that we.... and I'm leaving in the other two sentences following it. "I think your point is still made there, even if we don't use that sentence, which I find uncomfortable.

Commissioner Farber asked how we want to proceed with this.

Vice-Chair Long said, "I would like to hear from others. I agree that the report should convey what actions we took, what our recommendations are. And that's what the Resolution requires us to do. I think we were looking for some statements about the justification for what we did, but to the extent that we all don't agree on them, I don't want to start having additional votes on the justification language, and I think that gets very confusing. I think if there is not agreement on it, that we should exclude it. I don't know what others think. Because then we're going to have votes within votes and line by line, and I don't think any of us want to do that."

Commissioner Johansen said he agrees with Vice-Chair Long that going line by line and voting line by line is going to be an arduous process that isn't necessary, and thinks retaining the other two lines here makes a very firm statement of why we came to our decisions. He said he agrees with Commissioner Romero-Wirth's statement on that one sentence, and would like to see it struck, so we are all comfortable with what goes in there. He said, of course, Commissioner Farber has the minority report where we have been able to voice majority opinions on this, which fully gives everybody what they want in this.

Commissioner Farber said, "I just don't see how anyone could disagree with that particular sentence."

Commissioner Romero-Wirth said, "Well, I do, and we can agree to disagree."

Commissioner Farber said, "I'm just trying to understand the process."

Commissioner Romero-Wirth asked if we can strike that sentence.

Commissioner Farber said, "I'm uncomfortable striking it, because I think it's true. But if it will make it more comfortable for you for this particular provision, then it would be okay, except I'm trying to be sensitive to the concerns, as I understood it, that were raised by Common Cause, that there should be some

kind of showing of either corruption, or the appearance of corruption to justify going forward with a ban or a limit on contributions from contractors and business entities doing business with the City."

Commissioner Romero-Wirth said, "I think those other two sentences don't give you that."

Vice-Chair Long said, "I think that was removed as a problem, with this language as well."

Commissioner Farber reiterated that he doesn't see why anyone would object to this, but he would like to hear from Mr. Harrington.

Vice-Chair Long said, three of us on the Commission are disagreeing on it.

Commissioner Romero-Wirth said, "So can we strike it."

Commissioner Farber said, "Yes."

There was a general consensus among the Commission to remove the language as proposed by Commissioner-Wirth.

Commissioner Farber asked, "Could you at least indicate my believe that it is a true statement. And, in an attempt to be harmonious, I've agreed not to make an issue of that statement, but I believe it to be a true statement."

Commissioner Romero-Wirth said on page 5, in the caption, she would like to insert the word "timely" to indicate that it is not okay for the Governing Body to let you know what they're going to with the bond after it is passed. She said, "They are supposed to tell you in a timely matter, prior. And we're not talking about timetables here, and so she would like to strike "timetable" out of the title.

Commissioner Romero-Wirth would like to amend the caption to reflect the section, as follows:
REQUIREMENT TO HAVE TIMELY FULL EXPENDITURE TIMETABLE FOR TAX AND BOND ELECTIONS- DISCLOSURE OF THE PURPOSES OF TAX AND BOND MEASURES."

Commissioner Farber asked, "Was that from the June 13, 2013, meeting as well, because I think we could just look at the minutes to exactly what it was."

Vice-Chair Long said, "We've got the language. We're just coming up with the title."

Commissioner Romero-Wirth said she wants the title to reflect what is actually in the section.

Commissioner Hiatt said he will be happy to accede to that change.

Commissioner Romero-Wirth said she would like to be consistent, noting currently the City is not required to disclose a timeline. Commissioner Romero-Wirth proposed, on page 5, to amend the language after "Note," because the Commission didn't vote on this language.

Commissioner Hiatt said, "I'll be happy to accede to whatever we decide here, but let's find the right language."

Commissioner Romero-Wirth proposed amending the language on page 5, so that it reads as follows: "*Note: Currently the City is not required to timely disclose a timeline for expending the purposes of tax and bond funds measures. and There is not a standardized format for how information about bond expenditures is presented to voters, aside from the language contained in the ballot.*"

Commissioner Romero-Wirth read the proposed language change to Additional Comments to the Governing Body, on pages 5 and 6. Commissioner Romero-Wirth proposed striking the language on page 6, line 4, as follows: "*...a specific recommendation. and therefore, it requests the governing body to direct staff to make inquiry and report to the governing body at the earliest possible time, the status and cost of the implementation of ranked choice voting at the next election.*" She said this Commission did not direct that this be done, and she wants to remove this language, because we didn't vote on it.

Commissioner Farber said, "I agree with you that we didn't vote on the specific language, and I think Commissioner Hiatt was trying to come up with language that captured what we were talking about. But, as I recall, there certainly was discussion, at least a number of the Commissioners, and I think a majority were concerned that the ranked choice provision of the existing Home Rule Charter was not being implemented, and there was discussion that there should be notification to the Council about the concern that ranked choice voting, as stated in the Charter, was not being implemented and it should be followed through."

Commissioner Romero-Wirth said, "I don't think there was an action item that we voted on directing them to do that."

Commissioner Farber said, "I'm agreeing with you that there is not."

Commissioner Romero-Wirth said, "So I don't think that we should say that we did, that we're requesting this because we, as a body, did not vote to request it."

Commissioner Farber said there should be some recognition that there seemed to be a consensus on the part of a majority of... and he said he didn't hear a negative voice about this, that since it was in the Charter, there ought to be movement towards its implementation.

Commissioner Romero-Wirth said, "Yes, except that we didn't do it, and I think the point is made that there appears to have some progress and sufficient information. And so I think it sort of begs the question that the Council should take note of that, and do what, in their collective wisdom they think they ought to do about that, but we did not vote to request that they do anything. And I would like to strike that language."

Vice-Chair Long said, "And I think that's accurate too. This reads as though we took some action on it. We're pointing out that that issue was discussed, and it's already in the Charter, but this is not a recommendation to any adjustments to the Charter. The language is already in there. We kept it in there."

We aren't recommending any revisions to it. We received information about why it hasn't been implemented. I would agree that language should come out, because we didn't act on it."

Former Councilor Heldmeyer asked if they would like a suggestion on this, and Vice-Chair Long said okay.

Former Councilor Heldmeyer said, "You received two sets of information. You received information from one group of people saying they had talked to the Secretary of State or some kind of national organization, and these machines might be available quite soon. You also received information from the City Clerk, saying that she felt that under the current State Constitution that she couldn't do it. So, it seems to me to say, well we received information that this is becoming more possible without the countervailing... and other people said other things when you didn't take a vote on it. Your vote was to suggest to the Council that they look into the issue of ranked choice voting and see if the technology was available."

Commissioner Romero-Wirth said, "I don't think that was our vote. And I think what we're doing now is reflecting the actions that were taken in here to the present. We're not adding or deleting here. We make the point. It seems we heard something and we're not sure and we don't have enough information and, you know what, I think we make that point to the Council, and the Council, again, in their collective wisdom can decide what to do with that."

Commissioner Johansen said, "I have to, once again, agree with Commissioner Romero-Wirth, and I think they make a strong point that this is an issue there is a lot of uncertainty about, but I do agree that we, never, as a collective body, said we would recommend that the Council do anything about this. And I would hope that the Council, in reading this text, would say, wow, we really should look into this. If they don't, then we're [inaudible]."

Commissioner Hiatt said he doesn't feel strongly about this provision, and asked to move on.

Commissioner Farber said, "Can I take just a moment. It was at our June 13th meeting apparently, so I know Carol's reference to June... I just have the agenda in front of me, and I see it was on the agenda for June 13, 2013. I didn't bring those minutes, although I have them in the computer. Maybe you can find exactly what we did or didn't do."

Commissioner Romero-Wirth said she knows we didn't request that the City Council take action, commenting she knows we didn't do that, "which is basically what this is directing."

Commissioner Johansen said he remembers a lot of discussion about this issue, talking about how, individually, we thought it was a good idea to have ranked choice voting. "But I don't remember us ever saying as a collective body to directly encourage or request, as it says here, that the Council do something about this."

Vice-Chair Long said while Commissioner Farber is looking for that information in the minutes, she would like to move forward with another issue.

Vice-Chair Long said, "Under the Note on page 9, so this is on the governance issue, Mayor proposal, City Manager. The Note says, '... that the Mayor's position is a part time paid position.' I think that's misleading, as though there is something in the Charter that says the Mayor's position is part time."

Vice-Chair Long proposed, under the Note on page 9, to delete the first two sentences of the note, and that it read, instead, "*The Charter does not specify whether the Mayor's position is full time or part time, period. And then another sentence, which picks up most of what you have here Jack, " The Commission supported an amendment to recognize that the Mayor's position is, in reality, a full time job, and also voted to allow the Mayor to vote on all matters, not just in case of a tie or on matters that require more than a majority vote."*

Commissioner Hiatt said, "Let's split those up. The first one, you suggested two sentences in lieu of the first sentence."

Vice-Chair Long said, "Although I'm adding the editorial to recognize that the Mayor's position is in reality a full time job. That was not in here before. But I just think it reads as though we are looking for an amendment to the Charter to change it from part time to full time, and there's nothing in the Charter that says the Mayor is part time."

Commissioner Hiatt asked if we are still "on the Mayor," and Commissioner Romero-Wirth said yes.

Commissioner Hiatt said he has no problem with Commissioner Long's recommendation. He said, "Carol are you contemplating. I can tell you're contemplating, but are you contemplating this."

Commissioner Romero-Wirth proposed to amend under the Note on page 9, to delete the first two sentences of the note, and add language as follows: "*The Charter is silent on the full or part time nature of the Mayor's position, although as a practical matter, it seems the current Mayor works full time.*"

Vice-Chair Long said she is fine with amending her amended language to say that the Charter is silent as to whether the Mayor's position is full time or part time.

Councilor Bushee said, for clarification, "Where the part time came in, I think H.R. has to calculate an hourly rate and I think they calculate one for Council and Mayor as half time. It's a Class A County. The decision is based on what the Commissioners are paid, but it is really, for H.R. purposes, calculated for both positions. I don't think it's written thoroughly in the Code, and obviously it's not very clear in the Charter, but I think that's where the half time comes in. Because I was told when I first got on the Council it was paid half time at \$7.50 an hour or something like that."

Vice-Chair Long said that is done by Ordinance

Commissioner Romero-Wirth said, "And I think's that also kind of, at least for me, and I support the Strong Mayor stuff, is that we acknowledge what the nature of the position is and that he or she, currently he, be compensated commensurate with that position. I know that this where we get stuck, and I think we need to be looking at what other cities our size pay their Mayors. I don't want to get into that whole thing."

Councilor Bushee said, "I just wanted to clarify where the half-time concept comes from, and what it's based on."

Commissioner Romero-Wirth said "I think us specifying that it's full time, that's why."

Vice-Chair Long said, "Yes, and that is a Charter change."

Vice-Chair Long proposed to amend the language on page 9, after Note: so that it reads as follows: "~~The Charter does not specify~~ is silent as to whether the Mayor's position is full time or part time. ~~The Commission supported an amendment to recognize~~ acknowledge the full time nature of the position, ~~that the Mayor's position is, in reality a full-time job and also voted to allow the Mayor to vote on all matters, not just in case of a tie or on matters that require more than a majority vote.~~"

Commissioner Farber said, "Mayor Coss, I think, said he had been devoting full time to the position, and I understand that, and having served on the City Council, I certainly know how time consuming it is to appropriately do the job of a Councilor, which many times is 40 hours or more a week, depending on issues, sometimes it's 30, rarely it's 20. But at the same time, if we look back, I don't believe that Mayor Delgado spent full time as Mayor and he was Mayor for many years. I don't think Mayor Jaramillo spent full time, she had a part time job with City [State?] government. She certainly spent lots of hours, and at times, I'm sure more than 40 hours. So it really is the choice of the person who's elected. And for us to be making judgments about how to characterize the position in a general way, I think is probably not appropriate, because different Mayors handle the job differently."

Commissioner Romero-Wirth said, "And I think what we're saying as a Commission though is, given the nature and the responsibilities to go with the job, going forward, we should have a full time Mayor who does nothing but concentrate on leading the City."

Commissioner Farber said, "But that's the position that some of the members of the Commission, well Commissioner Hiatt, you know, agreed with a number of the Strong Mayor proposals, but as I recall was against the full time Mayor concept. I'm just saying there's a division of opinion about how we characterize it. That's all."

Commissioner Romero-Wirth said, "Absolutely. And I'm sure that is reflected in your Minority Report and in the minutes. And we did though, by majority, vote to be clear about what it is."

Commissioner Hiatt said we need to go back to the ranked choice voting.

Commissioner Farber said, "I found the rank choice voting. It's on page 17 of the minutes of June 13, 2013, and the motion was: '*Commissioner Werwath moved, seconded by Commissioner Farber, to leave the language intact, as it is currently stated in the Charter, and include a note around implementation in the Report to the City Council, which includes the information which was provided today*.'"

Commissioner Romero-Wirth asked, "Where does that leave us."

Commissioner Farber said, "Well it says there should be implementation, and then, under discussion, it says, '*Commissioner Werwath said, "I would just reiterate what I said at earlier meetings, that I think that there is somewhat of a breach of faith to the public that this hasn't been implemented. I said that at a previous meeting, and that's why one of the reasons we considered removing it, was because it looked like it was going to be implementable. I think it would be great if, in our report, we could highlight that there has been progress made. I think this is a great opportunity to increase the participation in local elections, and so I'm strongly in support of seeing this implemented as it's currently written in the Charter*.'"

Commissioner Farber said, "So I think Commissioner Hiatt's attempt was to try and capture what that motion was, based on the discussion. And it was approved unanimously."

Commissioner Romero-Wirth said, "So, fine, but I don't think that we requested the Governing Body to direct staff to do anything, so I think we need to soften this a little bit."

Vice-Chair Long agreed.

Commissioner Farber said, "Right. I'm just thinking there should be a sentence that the Commission recommended that the ranked choice voting be implemented."

Commissioner Romero Wirth said, "I'm not sure that we did that either. I think what we said is there are some issues around implementation [on] which some attention should be focused."

Commissioner Farber suggested inserting language that "The Commission recommended that the Governing Body move forward to implement..."

Commissioner Romero-Wirth said, "But we didn't."

Commissioner Farber said, "That is what the motion said."

Commissioner Romero-Wirth said, "No it wasn't."

Commissioner Farber said, "Include a note about implementation in the report, which includes the information which was provided today. And I realize, this was only one of the issues early on that had a bulk of debate back and forth. It can be a simple sentence."

Vice-Chair Long suggested language to the effect that "the Commission recommends that the Governing Body look into the implementation of this Charter provision."

Commissioner Romero-Wirth said, "I don't think we voted to recommend, so I think I wouldn't use that language. I think we would say something softer like, "Attention should be given to the implementation of ranked choice voting," because it wasn't a hard action item.

Commissioner Romero-Wirth proposed amending the language regarding ranked choice voting on page 6, line 4, as follows: "*There appears to have been some progress in the acquisition of the appropriate voting machines that would make ranked choice voting possible, but there was insufficient information available to this Commission to make a specific recommendation. ~~and therefore, it requests the governing body to direct staff to make inquiry and report to the governing body at the earliest possible time, the status and cost of the implementation of ranked choice voting at the next election.~~ Attention should be given to the implementation of ranked choice voting as provided in the Charter, Section 4.06."*

Commissioner Romero-Wirth said, "On page 8, Section 8.01 Appointment of the City Manager. But you also have to look at page 6, Powers and Duties of the Mayor. So, let's start with page 6, Article V. THE MAYOR. 5.01 Powers and Duties. The City shall have a mayor who shall, and then you skip down to Item D, 'appoint with the consent of the governing body the city manager, city attorney, city clerk and members of advisory commissions.' So, there we say 'the consent of the governing body,' which is clearly our intent. I think on page 8, under appointments, 'The city manager shall be appointed by the mayor with the ~~advice and~~ consent of the governing body.' I think we need to add, 'with the consent of the governing body,' just to be consistent. This isn't new, this is what the majority had agreed to do and just so there's no ambiguity."

Commissioner Hiatt said, "Okay."

Vice-Chair Long said, "In the Charter now, it says, with the advice and consent of the governing body, that's why it shows it as a strike-out."

Commissioner Hiatt said then we need to strike "advice and," and Vice-Chair Long said yes, just so it matches what we have.

Commissioner Farber said, "Except there's a motion that I remember, at least it was on.. I don't know whether it was ever voted on, to strike that language."

Commissioner Romero-Wirth said, "Our intent is clear that what we were trying to do is, with approval of the City Council, the Mayor could have this power. And all I'm trying to do is to make sure that people who come later who read this, it's consistent wherever it comes up."

Commissioner Farber said, "I understand that, I'm just saying that it seemed to me clear to be right about what has been voted on. And I just remember specifically, that language was stricken for the vote."

Commissioner Romero-Wirth said, "But I don't think I'm doing anything new."

Commissioner Farber said, "I'm not saying you are. I'm just saying I remember specifically during the discussion that language was stricken."

Commissioner Romero-Wirth said that's all she has for the moment.

Vice-Chair Long said she has nothing else right now. She said, "But, oh, I do have a question for you. On page 4, your language, this part of the election issues, an independent redistricting commission. And you go to page 4, and we need some language here about the status. Do we need that language."

Vice-Chair Long asked if we can take that out.

Commissioner Hiatt said, "No. Here's what I did. I went through as much as I could to each of those sections and pulled the language off the spreadsheet, and I don't recall if I had language here, and so we put language in every other place, and I thought we needed language here to have a note, a justification as we say."

Commissioner Farber said, "I think that what happened was there was a recognition that there may be a need for more frequent redistricting, based upon changes that happen in this community, using as an example, a huge annexation that happens right before an election, bringing 10,000 people potentially into the City."

Vice-Chair Long said it does more than that.

Commissioner Farber said, "I understand that, I'm just trying to explain it. It was to give to the Council, however the language is, it was to give to the Governing Body the flexibility to do it more often than once, and there was also, if I remember correctly, Commissioner Romero-Wirth was concerned about the language that was stricken is that it should not favor or disfavor any particular person or group. But that her point was that these, I think it was, 5 statements were actually the principles of law, so existing principles of law. So a sentence could be, 'This provision gives flexibility to the Governing Body to empower an independent redistricting commission as appropriate. The standards are based upon existing law.' Something like that."

Vice-Chair Long said she thinks that captures the points, "but I would re-order them, because I think the primary purpose of the Amendment, or where it was directed, was to establish an independent redistricting commission. And following that, there was some recognition you may want to do it more than every 10 years and that you wanted it to comply with legal requirements. So I would just redirect it. Start with the independent redistricting commission. I think that was the most important point."

Too many people talking here at the same time to transcribe

Mr. Harrington said the principal thrust of this is to it away from the governing body the powers and duties for redistricting.

Too many people talking here at the same time to transcribe

Commissioner Farber said it can be done more than once every 10 years, and the principles are recognized legal principles.

Former Councilor Heldmeyer said, "If, for whatever reason it is, that that redistricting also be done by a citizen redistricting commission, so it's not just the one that is done every 10 years. Somehow if there is one in between, that also will be done by a citizen redistricting commission, as [inaudible] has pointed out, will take a lot of the politics out that he was concerned about, in redistricting more frequently."

Vice-Chair Long said she will come up with some language to put there

Commissioner Hiatt noted there is a typographical error on page 10, #5 should be "proposal" involving children.

Former Councilor Heldmeyer said, "I just wanted to say that long, last [inaudible] section that talks about the Mayor. It talks about things you discussed and things you voted on, but it talks about it in terms of 'the' full-time Mayor. Some of the things that are in that section are not the results of making the Mayor full-time, they are the result of other changes that you have proposed. And I think that to someone who hasn't been following all of this, that section may be someone confusion, thinking, oh well, the Mayor's full time, that means X, Y and Z, when all it means is the Mayor is full time, and there are other things in that in the sections that precede it, that members of the Committee may have felt would result in those positive outcomes that we talked about. But, it's not just making the Mayor full time."

Commissioner Romero-Wirth said, "So if we get rid of full time, if we just say the Mayor, rather than a full-time Mayor, then characterizing him. Does that fix it."

Former Councilor Heldmeyer quoted, "...A full time mayor will have the authority required to provide better services at an overall less cost to the taxpayers." She said, "I don't know that thinking somebody is full time gives them any additional authority. We talked about other things that would give the Mayor additional authority, but not being full time."

Commissioner Farber said, "Because this goes back to what I think is unintentionally a double standard, with regard to findings of evidence. There was absolutely no evidence presented to us that having a full time mayor would 'provide better services at an overall less cost to the taxpayers.' Some people may have said that was their opinion, but there certainly was no data, no information, no spreadsheet, there was nothing."

Commissioner Romero-Wirth said, "So, let's get rid of it."

Commissioner Hiatt, Commissioner Farber, Vice-Chair Long, Commissioner Romero-Wirth and Commissioner Johansen agreed to strike the language on page 9, on line 3 as follows: ~~*"A full-time mayor will provide leadership for the entire city and will have the authority required to provide better services at an overall less cost to the taxpayers."*~~

Marilyn Bane said, "I'm a little confused and I just want some clarification on page 8, at the very bottom of the page, it says, 'This recommendation is made to reform and improve the governance and administration of Santa Fe. This recommendation will replace the outmoded "governance by committee"

system...' I don't know what that means, first of all. Does that mean no Planning Commission. I'm confused by it..."

Commissioner Romero-Wirth said, "It is a reference to the Council and the Mayor – the City Councilors being able to fire the City Manager."

Ms. Bane said the implication is there is no longer a governing body *per se*. I don't think you meant to say that, or at least what I'm taking away with it."

Vice-Chair Long said this is not what this is directed at.

Ms. Bane said she commented in a previous meeting about the "right choice situation." She said, "Here you say, 'Santa Fe needs a full time Mayor who is elected by and accountable to all the voters of Santa Fe.' He's not going to be elected by all the voters. He will be elected by whatever percentage of the voters who voted for him."

Commissioner Romero-Wirth said, "We can't put that there."

Too many people talking at the same time here to transcribe

Ms. Bane said she is worried [inaudible].

Former Councilor Heldmeyer said, "Maybe what you need to do, if you want to reflect what you talked about, is take the end of this and put that up at the front, because that's what you're talking about. A package of recommendations that were voted on as a package. And then once you have all those in, and not just the [inaudible]."

Too many people talking here at the same time to transcribe

Former Councilor Heldmeyer said, "The majority can say about it what everybody wants."

Commissioner Hiatt said we no longer have the redline version, so I'm not sure what you were referring to.

Vice-Chair said she think's she's talking about the Note.

Former Councilor Heldmeyer said, "You would have to change the language a little, but it is, 'To effectuate this recommendation, the Mayor's position is proposed...' and then it lists all of the different changes. Start out with that and then whatever you want to say, you can say."

Commissioner Hiatt asked if the Commission wants to move that language to the front and Vice-Chair Long said yes.

Commissioner Romero-Wirth asked, "Does it make sense to start the whole paragraph with, 'To effectuate this recommendation'."

Vice-Chair said we can delete "To effectuate this recommendation," and start with "The Mayor's position."

Commissioner Romero-Wirth said maybe we need to say what we're trying to do is to make a strong Mayor.

The following language was proposed by the Vice-Chair for the Note on redistricting on page 4: *"The Commission recommends that redistricting be accomplished by an independent citizens redistricting commission, as opposed to the current process of having the governing body perform the redistricting. Additionally, the recommendation allows redistricting to occur more frequently than every 10 years, and provides that redistricting be accomplished only pursuant to the relevant legal standards."*

The following language was proposed by Commissioner Romero-Wirth on pages 8-9: *"The Commission's recommendations are intended to move Santa Fe's weak Mayor into a position of strength. These recommendations include designating the Mayor as a full time position, allowing the Mayor to vote on all matters, not just in case of a tie or on matters that require more than a majority vote, allowing the Mayor to continue to appoint the City Manager, City Attorney and City Clerk with the approval of the Council, but only the Mayor may remove these appointees. And finally, the Mayor will also appoint department directors. These recommendations are made to reform and improve the governance and administration of the city of Santa Fe. These changes have been adopted by a majority of well run cities in the United States. The recommendation will allow the City Council to focus its attention on legislative and policy matters, and will eliminate the involvement of Council members in details of City administration. This recommendation will eliminate the inherent conflicts in the current system, where Council Districts sometimes find their interest in conflict with the best interests of the City as a whole. The City Council will retain its ultimate legislative power to work out fair compromises of their differences that are in the best interests of all citizens of Santa Fe. As has always been the case in Santa Fe, checks and balances of political power in city government remains in the hands of the voters."*

B. PRESENTATION OF MINORITY REPORT

A copy of *Minority Report to the Governing Body*, dated July 17, 2013, from Steven G. Farber, Commissioner, Santa Fe Home Rule Charter Review Commission, is incorporated herewith to these minutes as Exhibit "2."

Vice-Chair Long said she received the Minority Report today at 1:00 p.m., and it is 18 pages and she has not looked at it, and doesn't know that is necessary. She asked Commissioner Farber if he would like to comment on the Minority Report.

Commissioner Farber said, "I intend to read it, or at least portions of it."

Vice-Chair Long said, "Please don't read it."

Commissioner Farber said, "I think I have a right as a member, I'm not going to read all 18 pages. I think I have a first amendment right as a duly appointed member of the Commission and as a citizen, to articulate and express my views regarding issues of important to this community."

Vice-Chair Long said, "But you've prepared a written report. You have a summary of it. It's available to anyone that wants to see it."

Commissioner Farber said, "I want it to be a part of the record and not an exhibit, and I believe I have a right to express my opinion and to read portions as I deem appropriate, of the Minority Report. I have patiently listened as you have spent perhaps an hour, going back and forth with regard to what I would consider the majority report of the Charter Commission, so. And I would also like to say..."

Vice-Chair Long said what they did was to make the language accurate, to reflect the votes, but it wasn't to promulgate some position. It was to capture the work of this committee, and said, "I disagree with the characterization of the time that we have taken on our report."

Commissioner Farber said, "I'm not saying it was done in vain, I'm just saying that there was time that was used and I believe, as a member of this Commission, I have a right to express my views, and I intend to do that."

Commissioner Farber said, "I got the minutes from the July 1, 2013 meeting yesterday at around 3:30 p.m. I chose to review them again, to continue to work so I could document things, until 1:00 a.m., to prepare this report, and to refer to items that I think are significant."

Vice-Chair Long, "Let me just remind you, as you go into that, everyone, that we do have additional public comment, should anyone want to comment, and we will be done by six. So with that in mind, it is twenty-five to six."

Commissioner Farber said, "I would like to review the Executive Summary of my Report and then I will pick out and not review issues regarding the policy statements that appear, starting at page 13, and my concerns regarding our lack of resources and having no budget, and how I feel that detrimentally affected our deliberations and our work as a Commission, and my perception of the structural conflict of interest that in general the Office of the City Attorney has, simply because the City Attorney is hired by the Mayor. Commissioner Farber read portions of his Minority Report into the record, as follows. Please see Exhibit "2" for the complete text of his Minority Report.

1. Executive Summary of Minority Report:

"There are many fine proposals being submitted for consideration by the Governing Body, such as an independent redistricting committee; the requirements for a campaign finance campaign ordinance and an ordinance banning or limiting campaign contributions from contractors or business entities doing business with the city; the

requirement of an audit committee ordinance; a tax and bond timetable disclosure; the addition of a water protection and conservation statement in section 2.03 of the Charter and an amendment to Section 2.04, specifically including neighborhoods. These proposed amendments should be approved and submitted to the electorate.

Commissioner Farber said, "I would also like to interject that though the meeting is call for four to six, there's nothing that says it has to end at six. There's no other group that's coming into this room, and if we go beyond six, then that's not a violation of anything."

Vice-Chair Long said, "Well, we won't have a quorum, because I have something at six."

I submit a Minority report to express my strong opposition to the proposal being presented by the majority of the Charter Review Commission members and that is commonly referred to as the "strong Mayor proposal." As I state in **Part 3**, at page 3, this deeply flawed proposal radically restructures City of Santa Fe Government. It is no exaggeration to state that the potential for an autocrat, an autocratic form of government, and political patronage are made possible through the proposed consolidation of such enormous power in the office of the Mayor.

This "strong Mayor proposal" requires amendments to give (5) separate sections of the Santa Fe Home Rule Charter listed in this Report and specifically to nine (9) subsections of Section 5.01. This "strong Mayor proposal" is complex and controversial. There is substantial ambiguity regarding the coordination of the roles and functions of the Mayor and City Manager under this full time and "strong Mayor proposal."

The majority's proposed amendments to implement these dramatic changes to increase the Mayor's powers will eliminate the system of checks and balances that currently exists in the city's governing structure. These amendments will decrease the role and importance of the City Council in city government structure. In my opinion, these amendments will allow the substantial possibility of pay to play and political patronage and favoritism to flourish in city government because of the enormous hiring and firing power being given to the Mayor.

Without any runoff provisions or any minimum percentage of the vote required to win an election stated in the Home Rule Charter a weak candidate in a crowded field with only a small plurality of the vote could be granted a generous salary and benefits and enormous powers to govern this city. The "strong Mayor proposal" should be stricken because it has not been fully researched, analyzed and debated. The City Council should not be made bystanders and powerless as a Governing Body in the face of potential misconduct or overreaching by a Mayor and City Manager and other Executive employees appointed by the Mayor.

2. Introduction:

First, I want to thank the Chair of the Santa Fe Home Rule Charter Review Commission, retired Justice Patricio Serna, for the professional and courteous manner in which he has chaired the Charter Review Commission and its meetings. It is an honor to be able to serve with all of you and with him, on such a Commission and with such a distinguished jurist.

3. Objection to the "Strong Mayor Proposal"

Councilor Farber said, "As I stated, there are many fine proposals being submitted for consideration, but I think that the "strong Mayor proposal" is a terrible idea.

As I understand it from communications from an Assistant City Attorney, each provision of the Charter that is being proposed for Amendment will need to be voted on separately by section. As per the April 10, 2013 email messages of Assistant City Attorney Barkley regarding the form of the ballot:

'Last night after the meeting, Commissioner Romero-Wirth asked me about how the commission's proposed charter amendments that are approved by the governing body will be voted on by the electorate.

What has happened in the past has been that all amendments to a given charter section are treated as one ballot question, with a "yes" vote adopting all amendments to that section and a "no" vote leaving the section as is.'

....

[Then in a separate email she sent to me]

The voters will be asked whether to accept all proposed revisions **to a given charter section** together.

[Now, I'm back to me and not Ms. Barkley]

According to the Assistant City Attorney, the voters would be given the choice of accepting or rejecting in Toto the changes to the amendments to the nine (9) subsections of Charter provision 5.01, and there would also be separate ballot questions for each of Sections 6.01, 8.01, and 8.03, and 8.04. Thus, there will be five separate ballot questions regarding the "strong Mayor proposal." And, it is not at all clear that these ballot questions would be clustered together.

It is all the more ironic that the majority should have favored this approach and created a complicated ballot issue when consistently during the Commission process

members of the Charter Review Commission stated to the public and other members of the Charter Review Commission concerned with various policy statements and amendments to specific charter provisions that proposed amendments to the Home Rule Charter should be short and not be complicated. *[Mr. Farber said, "And there are examples given from the July 1, 2013 minutes on the pages cited on page 4."]* See, e.g., 7/1/13, minutes, pp. 3-4, 5-6, 9-10, 11-13, 17. There was never a vote by the Charter Review Commission that proposals for amendments should be short or truncated but that impression was certainly understood by those citizens and Commissioners attending the Commission meetings wanting to offer policy statements or proposed amendments.

As I frequently stated throughout this Commission process with regard to the issue of proposed policy statements and amendments to Charter provisions, some issues are more complicated than others are and required a detailed statement for a Charter Amendment. As the Commission minutes reveal, proposals offered of more than several sentences were often challenged, criticized and picked at by various Commissioners. But, this was not the case by the same proponents of the "strong Mayor proposal." It appears to me that in this context there was a double standard applied because this "strong Mayor proposal" is complex, convoluted, and controversial.

Commissioner Farber said, "I state on page 5 that there are changes that the majority has proposed and voted on and I state that it is a recommendation that I agree with, to have the Mayor vote on all matters that come before the Governing Body."

The role of the Governing Body being the chief policy maker for the City of Santa Fe as stated in Section 6.02 of the Home Rule Charter is eliminated. The Governing Body's role that currently exists to provide for extra or special duties to be fulfilled by the Mayor as currently allowed per Section 5.01 J is eliminated. The independent right of the Governing Body allowed under both State law and the current charter provisions to terminate the City Manager is eliminated by amending Section 8.04. The roles of a full time Mayor as the Chief Executive Officer and a City Manager as the Chief Administrative Officer are now completely ambiguous and confusing. There is no specification regarding the manner of the coordination of the position of a full time Mayor in the structure of city government *[and the role of the City Manager in the structure of City Government]* as per the Santa Fe Charter and relevant state statutes.

In my view, the majority's complicated amendments to the Santa Fe Home Rule Charter to implement these dramatic changes to increase the Mayor's powers will eliminate the system of checks and balances that currently exists in the city's governing structure. These amendments will decrease the role and importance of the City Council in city government structure. It is my opinion, these amendments will allow the substantial possibility of pay to play and political patronage and favoritism to flourish in city government because of the enormous hiring and firing power being given to the Mayor. Rather than be concerned, as a justification for these amendments Commissioner Werwath stated that the changes supported in the proposal regarding giving the sole

hiring power to the Mayor for Department heads was happening now anyway given the influence of Mayors and the practices that he has observed at City Hall. See, e.g., 6/27/13, Minutes, pp. 26-27. *Commissioner Farber said, "And he said that on June 27, 2013, the minutes reflect that on pages 26 and 27."*

My opposition to these changes is structural and not a liberal or conservative issue. In my judgment, these proposed amendments potentially affect the integrity and non-partisan nature of municipal elections in Santa Fe. Indeed, it is my opinion that these changes will only increase partisan politics in our municipal elections (and not just of the traditional Democratic or Republican divide or the many intra-Democratic party politics and power plays). In this age of the Citizens United decision, these proposed amendments will also promote and increase the infusion of large sums of money into the political and electoral process and they will increase special interest monetary pressure and political patronage into city government.

The majority glosses over its recommended removal of the checks and balances against the potential of an arbitrary and/or inappropriate use of power. The corrective power of the voters and the Governing Body is diluted. Mayoral elections only happen every four years. The power of recall in the Charter is not able to be used in the first or last year of a Mayor's term of office as per Section 3.03(C). And, under the majority's recommendation, there would be absolutely no power of removal of a City Manager except by the act of a Mayor. The power of recall would only apply to the Mayor, and not a City Manager, and the Mayor is insulated from a recall in the first and last years of the term of office. If a Mayor and City Manager were improperly colluding and/or engaging in mismanagement or impropriety there would be no effective means of removal of a City Manager. The sole power for the removal of an underperforming or derelict Department Director would be limited to the Mayor since the City Manager's role in the hiring and firing decision regarding Department Directors is eliminated. And, there would be no proper checks and balances oversight by the Governing Body regarding the City Manager and the proper functioning of municipal government.

There was no substantial evidence or data presented to the Charter Review Commission that supports these radical revisions and changes. There was no management study presented to the Charter Review Commission that supports these changes. There was no comparison of other governmental systems by the Charter Review Commission based on input received from other municipalities around the state. The Charter Review Commission did not take the time as a group to compile and study other municipal government operations in New Mexico relating to this change in the structure of the city's government. The Commission was provided copies of various Charters from other municipalities but it did not seek any organized follow up input from those municipalities about what actually works and does not work in municipal government structure.

The Charter Review Commission had no independent staff and no budget to seek out the assistance of professionals or consultants for analysis. See, e.g., 6/19/13, Minutes, p. 28. The Charter Review Commission did not reach out to the Municipal League for input, advice or assistance in analyzing these proposed changes. The Charter Review Commission only had the input from Mayor Coss at the April 23, 2013 meeting, pp. 17-25, and then Councilors Ives and Wurzbarger advocated at the June 19, 2013 meeting for this "strong Mayor proposal" insisting that these changes were necessary.

Prior to making its recommendation or voting on the "strong Mayor proposal" the Charter Review Commission did not find it necessary to invite to its meetings former Mayors, former City Councilors, and former City Managers, among other interested and informed residents, to hear their views on the subject nor did it request and receive written input from them regarding their insights and opinions about the proposed changes.

The specific wording of the "strong Mayor proposal" was submitted so late in the Charter Review Commission process that various civic and neighborhood groups, such as the League of Women Voters, were not even notified of these proposed changes until the day the proposal was submitted at the start of [the] June 19, 2013 meeting thus limiting their opportunity for review of the proposal and interfering with their ability to provide informed comment and detailed input. See e.g., 6/19/2013, Minutes, p. 2.

The process that was followed in pushing this "strong Mayor proposal" forward in my opinion undermined all the hard work that the Charter Review Commission, under the leadership of Justice Serna, had previously done to have an open and transparent process. The presentation of the "strong Mayor proposal" red lined version to the community at large at the June 19, 2013 Charter Review Commission meeting by Vice Chair Long and Councilor Ives and Councilor Wurzbarger did not afford this community ample opportunity for review and input regarding this fundamental change. To state that there was complete surprise about the scope of this proposal by a number of citizens in attendance at that meeting would be an understatement. See e.g., 6/19/2013, Minutes, pp. 2, 15-16.

At the June 19, 2013 meeting Councilor Ives, the proponent making a presentation in favor of these amendments, had absolutely no information regarding the scope and manner of any fiscal impact of having a full time Mayor and a full time City Manager. After being pressed for some information on the fiscal impact Councilor Ives and being advised about Mayor Coss' prior statements, Councilor Ives took the position that Mayor Coss' comments regarding a \$100,000 range for a salary should be considered presumptively correct. See, e.g., 6/19/13, Minutes, p. 5. Commissioner Werwath opined that his research based upon Albuquerque was that the monetary cost would be less than \$150,000. See, 6/19/13, Minutes, p. 6. The Assistant City Attorney Martinez opined that the costs would likely be the same as the costs for a City Manager. See, 6/19/13, Minutes, p.20.

Neither Councilor Ives nor Councilor Wurzbarger nor Vice Chair Long, or any other proponents of this proposal, provided specific information regarding the coordination of the roles and functions of the Mayor and City Manager under this full time and "strong Mayor proposal." See, 3.g., 6/19/13, Minutes, pp. 4-23.

During the Charter Review meeting process there were public and media appearances by the Chair and other Charter Committee members. There were notices and minutes on the City's website. However, the posting of minutes was necessarily delayed after each meeting due to the labor intensive nature of preparing the minutes and the workload of the stenographer. For instance, the minutes from the very important meetings of June 19, 2013 (when the wording for the "strong Mayor proposal" was first introduced and discussed) and June 27, 2013 (when there was continuing debate and a vote on the amendments for the 'strong Mayor proposal') were not even received by the Charter Review Commission members until respectively June 25, 2013 and July 15, 2013. The minutes from the July 1, 2013 meeting were only received the afternoon of July 16, 2013, [yesterday] the day before the last scheduled meeting of the Charter Review Commission.

There was an attempt to use social media. Near the beginning of the process Commissioner Werwath was appointed the Chair of the outreach committee. But, the results of feedback from social media were rarely reported to the Commission by he Chair of the outreach committee. The outreach committee Chair did not follow through with the process as had been explained at the outset to provide full and complete information to the community regarding proposed changes to the Charter. Apparently, the Charter Review Commission Facebook page was never updated after April 23, 2013, and thus failed to provide the public with notice of proposed amendments to the Charter. ¹

Commissioner Romero Wirth said, "You know that's because the City lost its technical person, right."

Commissioner Farber said, "I'm making a comment with regard to whatever the fact is, is the Committee didn't. I think the City has more technical. I didn't interrupt you Carol. We were never notified of that."

This focus on a deadline for an election vote on proposed changes rather than a meaningful attempt to gather all relevant information and a meaningful debate on the substance of this "strong Mayor proposal" was detrimental to the work of the Commission. For that reason alone, the Governing Body should reject for consideration at the next municipal election the issue of the "strong Mayor proposal" because it was not fully researched, analyzed and debated. There should be due consideration of these important

¹ It has been reported that a Draft of the Charter Review Commission Report appeared on the Facebook page on July 16, 2013.

ideas without any hovering deadline. I understand that there is cost in having a separate Home Rule Charter Amendment election for a "strong Mayoral proposal," but it seems to me that this issue is of such import to the city that additional time should have been, and should be, taken to carefully study the many facets of this particular proposal.

Commissioner Farber said, "I'm going to read two more paragraphs and then have my, two or three more paragraphs."

I completely agree that a Mayor is the head of our municipal government and should have an agenda and set a course for this city. The Mayor should be able to communicate this agenda and gather support to implement these policies. We do need to be mindful that without any runoff provisions or any minimum percentage of the vote required to win an election stated in the Home Rule Charter that a weak candidate in a crowded field with only a small plurality of the vote could be granted a very generous salary and enormous powers to govern this city.

I strongly agree, honored to have been elected in District 2 to serve as a City Councilor, that City Councilors should not be involved in any micromanagement of the government or city employees. Therefore, from an informed position, I state that the role of the City Council being the main policy maker for the City as exists under the Home Rule Charter should be maintained. The role of the City Council to maintain checks and balances is crucial and should be retained. The City Council should not be made bystanders and powerless as a Governing Body in the face of potential misconduct or overreaching by a Mayor and City Manager.

Commissioner Farber said, "I commend to the members of the Commission who may be interested, and the public, that I am not going to read from pages 11 and 12, though I think they are important with regard to the role of the Mayor and the City Manager in our form of government."

It has been stated that a reason for this change [to a strong Mayor] is that there have been too many personnel changes in the City Manager position. But this general statement does not take into account the information that the Charter Review Commission members also received, individually or collectively, that there were many reasons why various City managers resigned. There was no substantial or credible information presented that the City Managers were forced to resign as a part of a pattern and practice of meddling by majority factions of the City Council, rather than for many other legitimate or personal reasons. The push to make these changes [referring to the strong Mayor proposal] seems to stem more from subjective opinion than objective evidence warranting these changes.

These proposed changes to the structure of city government should have been thoroughly betted, researched, reviewed, and been the subject of more public hearings prior to any vote on the proposal. And, the proposal was made more complex by the

decision of Councilor Ives at the end of the process prior to the June 27, 2013 meeting to add even more sections of the Charter to be amended to carry out this "strong Mayor proposal." These supplemental amendments were received by the Charter Review Commission members between the June 19, 2013 meeting and the June 27, 2013 meeting. And, it is not at all clear when members of the public were furnished with the supplemental amendments that were prepared and submitted by Councilor Ives.

From the public hearings, it did not appear that there is serious or substantial support in the community at large, via petition or otherwise, for this proposal. At the time he presented the proposal, Councilor Ives admitted that he had received no citizen's petition seeking these changes. See, e.g. 6/19/13, Minutes, p. 6-7.

Councilor Farber said, "I commend to the public, I commend to the Council, I commend to the members of this Commission my further comments that I will not read with regard to the various policy statements that were not recommended, except to state with regard to the United Way proposal, it escapes me why a provision regarding support of children was not approved to be included in the Charter for the City of Santa Fe, and the Neighborhood Network's original statement, as well as stating something about a priority to not tarnish people with arrest records for the adult possession of personal and small amounts of marijuana. Thank you."

6. COMMUNICATION FROM CHARTER COMMISSION MEMBERS

A letter dated July 17, 2013, to the City Councilors, from Carol Romero-Wirth, is incorporated herewith to these minutes as Exhibit "3."

Commissioner Hiatt asked Commissioner Farber if he has a preference as to where the Minority Report fits in the report to the Governing Body.

Commissioner Farber said it could be done after the Report of the Charter Review Commission.

Vice-Chair Long said she believes it should go as a separate report, noting it isn't coming from the Commission. It's coming from Commissioner Farber, and it will be up to however Irene Romero transmits the report to the Council. She said, "I don't think it should be part of our report. I don't think it should be an exhibit, an attachment, an appendix or anything."

Commissioner Farber said he isn't saying that. He said it would go with the majority report and it would be the minority report, like a dissenting opinion in a case, is the way he sees it. He thinks they should follow one another and should be together.

Vice-Chair Long said there are a lot of reactions and points that could be made in response to your report, "And I'm not going to do that."

Vice Chair Long said, "I would like to point out that the reason that our minutes took so long, in defense of our recorder, is that, and I don't know if you all remember this, but she had some medical issues, including sciatica, and it was difficult for her to sit and be confined to a chair in order to get the minutes done in a traditional way, so she is using a different process to do that, which is very slow. And I know she was sorry that getting the minutes out was prolonged, but I don't want to leave anyone with the impression that she wasn't doing her job or anything was your fault in getting the minutes to us, to the extent that that had any effect on what we were doing."

Commissioner Farber said, "And may I just state that nowhere in there am I critical of the reporter. I said it was very labor intensive and I understand that. I understand that from afar, actually not from so far, the pain of sciatica. So, I'm sorry that has happened to you, but I was just pointing out to you facts and dates."

Commissioner Romero-Wirth distributed copies of a letter she wrote to the City Council, dated July 17, 2013, to the members of the Charter Review Commission [Exhibit "3"]. She said the letter is about two things which she believes requires additional attention, and doesn't know where Commissioner Hiatt wants to put it.

Commissioner Hiatt said it should be included in the same place where Commissioner Farber's is included, and Commissioner Romero-Wirth said this is fine with her.

Former Councilor Heldmeyer asked Commissioner Romero-Wirth to send an electronic copy to Ms. Romero so she can send it out, and Commissioner Romero-Wirth said she will do so.

Mr. Shandler said, in terms of process going forward, he and Ms. Romero spoke to the City Clerk before the meeting, and said this will be on the agenda for a presentation for the Council at its meeting on July 31, 2013. He said, however, it is contingent on the report being filed with the City Clerk by Friday at noon to meet her requirements.

Commissioner Hiatt said there are only minor changes and he believes he can do that.

Commissioner Romero-Wirth asked him to mark on the final report that it is the Final Report, to avoid confusion.

Mr. Shandler said the City Clerk said the Chair and Vice-Chair will be listed as the presenters, and if the Chair not available, Vice-Chair Long will make that presentation.

Former Councilor Heldmeyer asked if the report will be going to any City Committees.

Vice-Chair Long said she asked Ms. Vigil if it would be going to committees, and she told her she didn't think it was going through the committee process, commenting that this isn't our purview.

Mr. Shandler said he doesn't have the answer, and that might be something that would be better answered by the City Clerk. He said he was just doing the courtesy notification to Vice-Chair Long that her name would be listed as a presenter.

Commissioner Farber said he thinks Justice Serna will be back by that time.

7. PUBLIC COMMENT

Marilyn Bane said the President of the Neighborhood Network couldn't be here this evening, and she asked her to please convey our thanks and gratitude. Ms. Bane said this Commission has been unfailingly courteous to all of us, and she is very grateful for that, as well as for your time, your fairness, your expertise, commenting she doesn't agree with everything, but that doesn't matter. She said, "You all are great and I thank you very very much."

Councilor Peter Ives said he came specifically to thank the Commissioners for their service, knowing it has been an intense amount of work and everyone at the City appreciates it very much. He said at some point in time he will submit something, what "I would describe as the inaccuracies stated in the Minority Report." He asked, "In the context of congress, we have a majority report and a minority report, which usually means there are volumes of people on those two sides. Who are the minority who are the proponents of the report."

Vice-Chair Long said it is just one person, Commissioner Farber.

Councilor Ives said, "In which case, I wonder if it should be called the minority report, or whether it should be called imply Commissioner Farber's statement."

Vice-Chair Long said that is a good point, because there is no one else joining in the report.

Commissioner Farber said, "I want to say, Councilor Ives, I lent my name to your campaign. I regret that to this day, based upon that comment, and not just that comment, but your service to date."

Vice-Chair Long said, "Commissioner Farber I really think those comments are uncalled for. It's rude and disrespectful."

Commissioner Farber said, "I stated at a meeting several meetings ago, that I was intending to submit a minority report. For your suggestion to try and diminish the nature of my efforts to be clear, to be concise, to point to the record in support of the various comments that I made, I think is inappropriate. And I think that I am in the minority. It is a minority report. I have every right to label it as such. If you wish to censure me, you can do that, but there will be ramifications for that."

Vice-Chair Long said, "Let me just say, I think it was a valid question, that is a report that has been prepared and submitted solely by you, and usually in the context of a minority, there are others that are

joining in that, and I did not see that as any effort to diminish your views, or the report. So I would disagree with your characterization of it. And I think it's a valid point to be made that it is a report solely submitted by you, you have the right to do that, but to call it a minority report may be inaccurate."

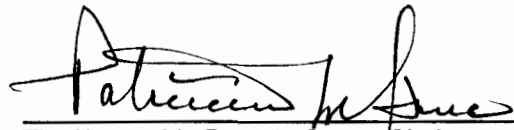
Commissioner Farber said, "I'm in the minority."

Commissioner Romero-Wirth said, "I submitted a letter where I disagree. I wouldn't call it a report. It's only 1 page, it's not 18 pages. I would agree that it's a valid point. I think you have that right to say you disagree and to write about it, and to present it. I have no problem with that. That's fine. So I don't take issue with it."

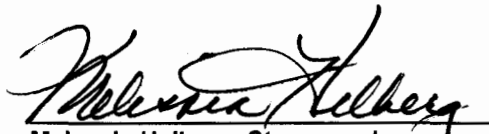
8. ADJOURNMENT

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

VOTE: The motion was approved unanimously on a voice vote, and the meeting was adjourned at approximately 6:45 p.m.



The Honorable Patricio Serna, Chair



Melessia Helberg, Stenographer

VERBATIM TRANSCRIPT
OF COUNCILOR IVES' REMARKS UNDER
PUBLIC COMMENT

COUNCILOR IVES: I too came specifically to thank all the members for their service on the Commission. I know it's been an intense amount of work and discussion and certainly I think everybody in the City, insofar as they know what you have done, appreciate it greatly. And if they don't, hopefully we can let them know and thank you properly, certainly as this matter comes on for Council. I will probably try at some point in time to submit something in some form in response to what I would describe as some of the inaccuracies that are stated in the minority report. And I did have one question on that report, which is, in the context of congress, we have a majority report and a minority report. Usually it means that there are whole volumes of people on those two sides. Who are the minority that are the proponents of the report."


COMMISSIONER
ROMERO-WIRTH: It's just Steve.

VICE-CHAIR LONG: Yeah. It's just one person.

COUNCILOR IVES: In which case, I just wonder if it should be called the minority report, or whether it should be called simply Mr. Farber's statement, but...

VICE-CHAIR LONG: Yeah, that is a good point, because there's no one else joining in the report.

I certify that this is a true and accurate transcript of the requested portions of Councilor Ives' remarks under Public Comment, at the Charter Commission meeting on July 17, 2013


Melessia Helberg, Stenographer

VERBATIM TRANSCRIPT OF
REMARKS BY COMMISSIONER ROMERO-WIRTH
UNDER PUBLIC COMMENT

COMMISSIONER
ROMERO-WIRTH:

Well this is just jumping.... I mean. I submitted a letter where I disagree. I wouldn't call it a report. I mean, it's only 1 page, it's not 18 pages, but...

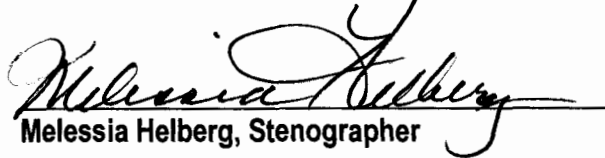
COMMISSIONER
HIATT:

That is on the permanent record, not 18...

COMMISSIONER
ROMERO-WIRTH:

Yeah, probably. Better go back and redo it. So I would agree that I think it's a valid [point]... and I don't think of any of us... I don't think any of us... I think you have that right to say you disagree and to write about it, and to present it. I have no problem with that. That's fine. So I don't take issue with it.

I certify that this is a true and accurate transcript of the requested portions of Councilor Ives' remarks under Public Comment, at the Charter Commission meeting on July 17, 2013


Melessia Helberg, Stenographer

July 17, 2013

Draft #3

CITY OF SANTA FE

CHARTER REVIEW COMMISSION

REPORT AND RECOMMENDATIONS TO THE GOVERNING BODY

INTRODUCTION

The Charter Review Commission was created by Resolution 2012-45, adopted by the Governing Body on April 25, 2012, pursuant to Section 10.01 of the Municipal Charter, which requires appointment of a commission to review the charter at least every ten years. The members of the Commission were appointed by the Governing Body and began deliberations in December, 2012. Since that time, the Commission has held 16 meetings of two to four hours duration each. It has received many suggestions and comments from members of the public, as well as detailed communications from several organizations, members of the Governing Body and City staff.

In the course of its deliberations, the Commission has considered more than 30 proposals to amend the Charter. Of these, the Commission has decided to recommend seven substantive amendments to be placed on the ballot for the election to be held in March, 2014. In this report, the Commission presents a description and justification of each of the recommended amendments, followed by a brief description of the remaining proposals for additional amendments that were considered, but not recommended.

Early on in the Commission process, an outreach subcommittee was formed to develop and implement a strategy to maximize the availability of the Commission's deliberations to the public. The results included a webpage on the City's website, Facebook page and Twitter account. To further promote participation, the Commission held meetings in each of the four City Council Districts utilizing the Southside Library, Santa Fe School Board Chamber, Downtown Library and Genoveva Chavez Community Center. Members of the

Exhibit "1"

Commission also provided public outreach by conducting interviews on radio stations KSWV, KTRC and KVSF. Additional public coverage of the Commission proceedings were provided by newspaper articles in the Santa Fe New Mexican and Albuquerque Journal North (copies attached to this Report).

CHARTER AMENDMENTS RECOMMENDED TO THE GOVERNING BODY

POLICY ISSUES

Water Protection and Conservation. Adopted 4-3, Justice Serna voting to approve after tie vote.

Amend Section 2.03 as follows:

The natural beauty of Santa Fe, its historical heritage, and its unique architectural style are among the city's most valued and important assets. In order to enhance the beauty and quality of both the natural and built environment within and around the city, the governing body shall protect, preserve and enhances the city's natural endowments, plan for and regulate land use and development, manage the city's growth, encourage source reduction, re-use and recycling of materials, and promote and maintain an aesthetic and humane urban environment. To effect these ends, the governing body may take whatever action is necessary and may enact ordinances and may establish appropriate commissions with jurisdiction, authority, and staff sufficient to effectively administer this policy. Because water quality and availability are extremely important to the citizens of Santa Fe, the governing body shall protect, preserve, and enhance the city's water resources through regulation, conservation and tying development to water availability.

Neighborhood Preservation. Adopted 7-0.

Amend Section 2.04 as follows:

Cultural and Neighborhood Preservation.

The people of Santa Fe derive invaluable benefits from our multi-cultural heritage. The multi-ethnic and multi-racial residents who have made their homes here over the centuries have each left their unique mark on our city, producing a rich blend of stories, ~~and~~ traditions and neighborhoods. The result is a community that treasures a variety of artistic, literary and musical forms, that symbolizes an architectural style, and that celebrates the diversity of those who have chosen to live here. We therefore declare that the multi-cultural heritage and neighborhoods of Santa Fe ~~is~~ are essential to the people of this community and that public officials shall at all times exercise their powers with sensitivity to and respect for that cultural and neighborhood heritage.

ELECTION ISSUES

Independent Redistricting Commission. Adopted 6-1.

Amend Section 6.03 as follows:

“The City shall be divided into four dual-member districts numbered one through four. District boundaries shall be reviewed and revised every decennial census by an independent citizens’ redistricting commission. The governing body shall, by ordinance, ~~{set the boundaries of each district and}~~ establish a procedure for the appointment and deliberations of the commission which will, to the maximum practicable extent, ensure that the commission’s decisions will be based exclusively on ~~{the periodic review of district boundaries. In establishing the district boundaries, the governing body shall consider}~~ the following principles in the following order of priority: A. each district shall contain as nearly as possible substantially the same population based upon the most recent federal census; B. districting plans must avoid dilution of minority voting strength; C. communities

at least every 10 years following the

of interest, including those based upon ethnic and economic factors, shall be preserved within a single district whenever reasonable; D. each district shall be formed of compact, contiguous territories. The total length of all district boundary lines shall be as short as possible; E. districting plans shall compensate for U.S. census undercount of minorities.”

We need some language here about the status.

- Archer's suggestion

Campaign Contribution Limits. Adopted 8-0.

Create a new Section 4.07 as follows:

“The governing body shall have an ordinance that limits the amount of campaign contributions that can be accepted by all candidates.”

Note: While there is an ordinance in place, a charter amendment would ensure permanency.

Ban on Contributions From Business Entities and City Contractors. Adopted 8-0.

Create a new Sections 4.07B as follows:

“The governing body shall adopt an ordinance or ordinances to provide 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.”

There is a widespread recognition that money plays a very negative role in electoral politics. ~~There is evidence that contributions from contractors and entities doing business with municipalities and other governmental entities have had a corrosive effect on fair and impartial decision making.~~ There are instances regionally and statewide of pay to play contributions from contractors and business entities doing business with governmental entities. This provision is intended to require that the City of Santa Fe enact permissible limits and/or bans on contractors and business entities doing business with the City of Santa Fe. The City Council would be required to have such an ordinance in place within

*delete
not
considered*

one year of the effective date of the amendment. There is nothing that would stop the Governing Body from enacting such an ordinance before the upcoming municipal election.

*timely disclosure
of tax & bond measures*

REQUIREMENT TO HAVE ~~FULL EXPENDITURE TIMETABLE~~ FOR TAX AND BOND ELECTIONS. Adopted 8-0.

Create a new Section 4.08 as follows:

“The governing body shall adopt an ordinance that ensures that the City shall provide and disseminate in a timely manner the purposes of proposed expenditures for any tax increase or bond measure that requires ratification by the voters.”

timely the purposes of tax and bond

Mean

Note: Currently the City is not required to disclose ~~a timeline~~ for expending bond funds and there is not standardized format for how information about bond expenditures is presented to voters aside from the language contained in the ballot.

CREATE AN AUDIT COMMITTEE. Adopted 8-0.

Create a new Section 9.04 as follows:

“The governing body shall, by ordinance, adopt an independent audit committee for the City.”

Note: There is currently an audit committee, but a charter amendment would solidify its existence.

ADDITIONAL COMMENTS TO THE GOVERNING BODY

The Commission expresses concern that the matter of ranked choice voting has not been implemented since its adoption by the voters in 2008. The editorial note to the Charter states that this manner of voting “... will go into effect with the regular municipal election in March 2010 or as soon thereafter when equipment

and software are available...". There appears to have been some progress in the acquisition of the appropriate voting machines that would make ranked choice voting possible, but there was insufficient information available to this Commission to make a specific recommendation, and therefore, it requests the governing body to direct staff to make inquiry and report to the governing body at the earliest possible time, the status and cost of the implementation of ranked choice voting at the next election. *Attention should be given to the implement as per in Charter Sect.*

GOVERNANCE ISSUES

CHANGE THE DUTIES AND POWERS OF THE MAYOR. Adopted 4-3.

Amend Articles 5, 6 and 8 as follows:

"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 matter^s that come 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 with the consent of the governing body the city manager, city attorney, city clerk and members of advisory commissions;
- E. appoint department directors;
- F. have sole authority to remove the city manager, city attorney, city clerk and department directors;
- G. cause the ordinances and regulations of the city to be faithfully and constantly obeyed;
- H. have, within the city limits, the power conferred on the sheriffs of counties to suppress disorders and keep the peace;

- I. propose programs and policies to the governing body;
- J. 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;
- K. represent the city in intergovernmental relationships; ~~perform other duties compatible with the nature of the office as the governing body may from time to time require;~~
- L. present an annual state of the city message, which shall identify among other matters the mayor's legislative agenda for the upcoming year;
- M. be recognized as head of the city government for all ceremonial purposes and; ~~perform other duties compatible with the nature of the office as the governing body may from time to time require;~~
- N. be recognized by the governor for purposes of military law;

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 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 be 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 expense 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 consent of the C.B.* ~~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 whom the mayor has the exclusive authority to appoint and remove; and
- C. have such other powers as are provided for in city ordinances and state law.

8.04 Removal.

The city manager may be removed by the mayor ~~subject to the approval of the council or by the governing body by a majority vote of all members at a regularly scheduled meeting.~~

Effective Date: These amendments shall take effect when the mayor and councilors who are to be elected at the March 6, 2018 election take office.

This recommendation is made to reform and improve the governance and administration of Santa Fe. This recommendation will replace the outmoded "governance by committee" system currently in place with a modern form of

municipal government that has been adopted by a majority of well-run cities in the United States. Santa Fe needs a full time mayor who is elected by and accountable to all the voters of Santa Fe. ~~A full time mayor will provide leadership for the entire city and will have the authority required to provide better services at an overall less cost to the taxpayers.~~ The recommendation will allow the City Council to focus its attention on legislative and policy matters and will eliminate the involvement of council members in details of city administration. This recommendation will eliminate the inherent conflicts in the current system where council districts sometimes find their interests in conflict with the best interests of the city as a whole. The City Council will retain its ultimate legislative power to work out fair compromises of their differences that are in the best interests of all citizens of Santa Fe. As has always been the case in Santa Fe, checks and balances of political power in city government remain in the hands of the voters. *delete* *These become all to create a strong Mayor* *Move to* [To effectuate this recommendation, the mayor's position is proposed to become "officially" full time; the mayor is allowed to vote on all matters, not just in case of a tie or on matters that require more than a majority vote; the mayor will continue to appoint the City Manager, City Attorney and City Clerk with the approval of the Council, but only the Mayor may remove these appointees; and the mayor will also appoint Department Directors.]

Note: ~~The Mayor's position is a part-time paid position. The Commission supported an increase to full time in addition to allowing the Mayor to vote on all matters, not just in case of a tie or on matters that required more than a majority vote.~~ The Commission recommends that the Mayor assume the responsibilities to appoint the City Manager, City Attorney and City Clerk with the approval of the Council, but that only the Mayor may remove these appointees. In addition, the Mayor would appoint Department Directors.

MATTERS NOT RECOMMENDED BY THE COMMISSION

1. PERSONAL USE AND POSSESSION OF MARIJUANA BY AN ADULT SHOULD BE THE LOWEST LAW ENFORCEMENT PRIORITY
2. PROPOSAL FOR GUN VIOLENCE PREVENTION ORDINANCES
3. PROPOSAL REGARDING IMMIGRATION POLICIES AND ENFORCEMENT

4. PROPOSAL REGARDING PREVENTION AND PROTECTION FROM ADVERSE IMPACT OF ELECTROMAGNETIC RADIATION FROM CELL TOWERS.
5. PROPOSAL REGARDING CHILDREN'S ISSUES AND CONCERNS *change*
6. PARTIAL REDISTRICTING AND PARTIAL DISTRICTING
7. CHANGES TO THE THRESHOLD NUMBER OF SIGNATURES REQUIRED FOR REFERENDUM, INITIATIVE AND RECALL
8. ALL MAIL BALLOTS FOR ELECTIONS
9. COUNCILOR RESIGNATION TO RUN FOR MAYOR
10. TERM LIMITS FOR ELECTED OFFICIALS
11. MUNICIPAL ELECTIONS TO BE HELD IN THE FALL
12. RANKED CHOICE VOTING
13. SALARIES FOR ELECTED OFFICIALS TO BE SET BY AN INDEPENDENT COMMISSION

Note: [Delete the first 2 sentences and replace with the following]

"The Charter does not specify whether the Mayor's position is full time or part-time. The Commission supported an amendment to recognize that the Mayor's position is, in reality a full time job and also voted to allow the Mayor to vote on all matters, not just in case of a tie or on matters that require more than a majority vote."

The Charter is silent as to whether the Mayor's position is full time or part-time. The Commission supported an amendment to acknowledge the full time nature of the position and also voted to allow the Mayor to vote ...

Note: [Delete the first 2 sentences and replace with the following]

is silent as to
"The Charter ~~does not specify~~ whether the Mayor's position is full time or part-time. The Commission supported an amendment to ~~recognize~~ that the Mayor's position is, ~~in reality a full time job~~ and also voted to allow the Mayor to vote on all matters, not just in case of a tie or on matters that require more than a majority vote."

acknowledge the full time nature of the position

July 17, 2013

Minority Report to the Governing Body

From: Steven G. Farber, Commissioner,
Santa Fe Home Rule Charter Review Commission

1. Executive Summary of Minority Report:

There are many fine proposals being submitted for consideration by the Governing Body, such as an independent redistricting committee; the requirements for a campaign finance campaign ordinance and an ordinance banning or limiting campaign contributions from contractors or business entities doing business with the city; the requirement of an audit committee ordinance; a tax and bond timetable disclosure; the addition of a water protection and conservation statement in section 2.03 of the Charter and an amendment to Section 2.04, specifically including neighborhoods. These proposed amendments should be approved and submitted to the electorate.

I submit a Minority report to express my strong opposition to the proposal being presented by the majority of the Charter Review Commission members and that is commonly referred to as the "strong Mayor proposal". As I state in **Part 3**, at page 3, this deeply flawed proposal radically restructures City of Santa Fe Government. It is no exaggeration to state that the potential for an autocrat, an autocratic form of government, and political patronage are made possible through the proposed consolidation of such enormous power in the office of the Mayor.

This "strong Mayor proposal" requires amendments to five (5) separate sections of the Santa Fe Home Rule Charter listed in this Report and specifically to nine (9) subsections of Section 5.01. This "strong Mayor proposal" is complex and controversial. There is substantial ambiguity regarding the coordination of the roles and functions of the Mayor and City Manager under this full time and "strong Mayor proposal".

The majority's proposed amendments to implement these dramatic changes to increase the Mayor's powers will eliminate the system of checks and balances that currently exists in the city's governing structure. These amendments will decrease the role and importance of the City Council in city government structure.

In my opinion, these amendments will allow the substantial possibility of pay to play and political patronage and favoritism to flourish in city government because of the enormous hiring and firing power being given to the Mayor.

Without any runoff provisions or any minimum percentage of the vote required to win an election stated in the Home Rule Charter a weak candidate in a crowded field with only a small plurality of the vote could be granted a generous salary and benefits and enormous powers to govern this city. The “strong Mayor proposal” should be stricken because it has not been fully researched, analyzed and debated. The City Council should not be made bystanders and powerless as a Governing Body in the face of potential misconduct or overreaching by a Mayor and City Manager and other Executive employees appointed by the Mayor.

Part 4, at page 13, presents a summary of a number of important Policy Statements that were presented to the Charter Review Commission but not recommended for action by the Charter Review Commission either because of a negative vote, as was the case for the United Way proposal regarding children, or by Motions not receiving a second so that the matters could be further debated and considered.

Part 5, at page 17, expresses my concerns about the lack of resources provided the Charter Review Commission to enable it to do its work in a fully informed manner. **Part 6**, at page 18, states my concern about the role of the Office of the City Attorney serving as the liaison and support for the Charter Review Commission in the face of an appearance of a conflict of interest.

2. Introduction:

First, I want to thank the Chair of the Santa Fe Home Rule Charter Review Commission, retired Justice Patricio Serna, for the professional and courteous manner in which he has chaired the Charter Review Commission and its meetings. It is an honor to be able to serve on such a Commission with such a distinguished jurist. There are many fine proposals being submitted for consideration by the Governing Body, such as an independent redistricting committee; the requirements for a campaign finance campaign ordinance and an ordinance banning or limiting campaign contributions from contractors or business entities doing business with the city; the requirement of an audit committee ordinance; a tax and bond timetable

disclosure; the addition of a water protection and conservation statement in section 2.03 of the Charter and an amendment to Section 2.04, specifically including neighborhoods. These proposed amendments should be approved and submitted to the electorate.

Though it will take considerable time, I recommend to the Governing Body and the public to take the time to read and consider the minutes from the Charter Review Commission meetings, particularly those meetings where issues of Elections, Governance and Policy Statements were discussed and then later the meetings of June 13, 2013, June 19, 2013 and June 27, 2013 where there were important votes.

3. Objection to the “Strong Mayor Proposal”

I submit this report primarily to express my strong opposition to the proposal being presented by the majority of the Charter Review Commission members and that is commonly referred to as the “strong Mayor proposal”. In my opinion, this deeply flawed proposal radically restructures City of Santa Fe Government. It is no exaggeration to state that the potential for an autocrat, an autocratic form of government, and political patronage are made possible through the proposed consolidation of such enormous power in the office of the Mayor.

This “strong Mayor proposal” requires amendments to five (5) separate sections of the Santa Fe Home Rule Charter and specifically to nine (9) subsections of Section 5.01. The proponents of this proposal, and the majority of the Commission, lumped all of these changes into one proposal rather than have individual changes to the provisions be recommended for the ballot. As such, this conglomerate proposal for the “strong Mayor proposal” will create a confusing ballot. A

As I understand it from communications from an Assistant City Attorney each provision of the Charter that is being proposed for Amendment will need to be voted on separately by section. As per the April 10, 2013 email messages of Assistant City Attorney Barkley regarding the form of the ballot:

Last night after the meeting, Commissioner Romero-Wirth asked me about how the commission's proposed charter amendments that are approved by the governing body will be voted on by the electorate.

What has happened in the past has been that all amendments to a given charter section are treated as one ballot question, with a "yes" vote adopting all amendments to that section and a "no" vote leaving the section as is.

....

The voters will be asked whether to accept all proposed revisions *to a given charter section* together.

According to the Assistant City Attorney, the voters would be given the choice of accepting or rejecting in Toto the changes to the amendments to the nine (9) subsections of Charter provision 5.01, and there would also be separate ballot questions for each of Sections 6.01, 8.01, and 8.03, and 8.04. Thus, there will be five separate ballot questions regarding the "strong Mayor proposal". And, it is not at all clear that these ballot questions would be clustered together.

It is all the more ironic that the majority should have favored this approach and created a complicated ballot issue when consistently during the Commission process members of the Charter Review Commission stated to the public and other members of the Charter Review Commission concerned with various policy statements and amendments to specific charter provisions that proposed amendments to the Home Rule Charter should be short and not be complicated. See, e.g., 7/1/13, minutes, pp. 3-4, 5-6, 9-10, 11-13, 17. There was never a vote by the Charter Review Commission that proposals for amendments should be short or truncated but that impression was certainly understood by those citizens and Commissioners attending the Commission meetings wanting to offer policy statements or proposed amendments.

As I frequently stated throughout this Commission process with regard to the issue of proposed policy statements and amendments to Charter provisions, some issues are more complicated than others are and required a detailed statement for a Charter Amendment. As the Commission minutes reveal, proposals offered of more than several sentences were often challenged, criticized and picked at by

various Commissioners. But, this was not the case by the same proponents of the “strong Mayor proposal”. It appears to me that in this context there was a double standard applied because this “strong Mayor proposal” is complex, convoluted, and controversial.

In summary, the majority of the Charter Review Commission proposes that there be amendments to change the Santa Fe Home Rule Charter: 1) to have the Mayor be a full time position and who shall not be otherwise employed; 2) to have the Mayor have power to hire the City Manager, City Attorney, and City Clerk and appoint advisory committee members subject to the consent of the City Council; 3) to have the Mayor have the sole power to fire the City Manager, City Attorney, and City Clerk; 4) to have the Mayor have the sole power to hire and fire all the various Department Directors of the City of Santa Fe. ¹

There was also a recommendation that I agree with to have the Mayor vote on all matters that come before the Governing Body.

Further, the role of the Governing Body being the chief policy maker for the City of Santa Fe as stated in Section 6.02 of the Home Rule Charter is eliminated. The Governing Body’s role that currently exists to provide for extra or special duties to be fulfilled by the Mayor as currently allowed per Section 5.01 J is eliminated. The independent right of the Governing Body allowed under both State law and the current charter provisions to terminate the City Manager is eliminated by amending Section 8.04. The roles of a full time Mayor as the Chief Executive Officer and a City Manager as the Chief Administrative Officer are now completely ambiguous and confusing. There is no specification regarding the manner of the coordination of the position of a full time Mayor in the structure of city government and the role of the City Manager in the structure of city government as per the Santa Fe Charter and relevant state statutes.

In my view, the majority’s complicated amendments to the Santa Fe Home Rule Charter to implement these dramatic changes to increase the Mayor’s powers will eliminate the system of checks and balances that currently exists in the city’s governing structure. These amendments will decrease the role and importance of the City Council in city government structure. In my opinion, these amendments

¹ It was reported that there were approximately ten Department Directors.

will allow the substantial possibility of pay to play and political patronage and favoritism to flourish in city government because of the enormous hiring and firing power being given to the Mayor. Rather than be concerned, as a justification for these amendments Commissioner Werwath stated that the changes supported in the proposal regarding giving the sole hiring power to the Mayor for Department heads was happening now anyway given the influence of Mayors and the practices that he has observed at City Hall. See, e.g., 6/27/13, Minutes, pp. 26-27.

My opposition to these changes is structural and not a liberal or conservative issue. In my judgment, these proposed amendments potentially affect the integrity and non-partisan nature of municipal elections in Santa Fe. Indeed, it is my opinion that these changes will only increase partisan politics in our municipal elections (and not just of the traditional Democratic or Republican divide or the many intra-Democratic party politics and power plays). In this age of the Citizens United decision, these proposed amendments will also promote and increase the infusion of large sums of money into the political and electoral process and they will increase special interest monetary pressure and political patronage into city government.

The majority glosses over its recommended removal of the checks and balances against the potential of an arbitrary and/or inappropriate use of power. The corrective power of the voters and the Governing Body is diluted. Mayoral elections only happen every four years. The power of recall in the Charter is not able to be used in the first or last year of a Mayor's term of office as per Section 3.03 C. And, under the majority's recommendation, there would be absolutely no power of removal of a City Manager except by the act of a Mayor. The power of recall would only apply to the Mayor, and not a City Manager, and the Mayor is insulated from a recall in the first and last years of the term of office. If a Mayor and City Manager were improperly colluding and/or engaging in mismanagement or impropriety there would be no effective means of removal of a City Manager. The sole power for the removal of an underperforming or derelict Department Director would be limited to the Mayor since the City Manager's role in the hiring and firing decision regarding Department Directors is eliminated. And, there would be no proper checks and balances oversight by the Governing Body regarding the City Manager and the proper functioning of municipal government.

There was no substantial evidence or data presented to the Charter Review Commission that supports these radical revisions and changes. There was no management study presented to the Charter Review Commission that supports these changes. There was no comparison of other governmental systems by the Charter Review Commission based on input received from other municipalities around the state. The Charter Review Commission did not take the time as a group to compile and study other municipal governmental operations in New Mexico relating to this change in the structure of the city's government. The Commission was provided copies of various Charters from other municipalities but it did not seek any organized follow up input from those municipalities about what actually works and does not work in municipal government structure.

The Charter Review Commission had no independent staff and no budget to seek out the assistance of professionals or consultants for analysis. See, e.g., 6/19/13, Minutes, p. 28. The Charter Review Commission did not reach out to the Municipal League for input, advice, or assistance in analyzing these proposed changes. The Charter Review Commission only had the input from Mayor Coss at the April 23, 2013 meeting, pp. 17-25, and then Councilors Ives and Wurzbarger advocated at the June 19, 2013 meeting for this "strong Mayor proposal" insisting that these changes were necessary. After the proposed amendments were presented, these amendments were pushed without the proponents providing substantive backup or independent research demonstrating the necessity of making these radical revisions to the current Charter provisions.

Prior to making its recommendation or voting on the "strong Mayor proposal" the Charter Review Commission did not find it necessary to invite to its meetings former Mayors, former City Councilors, and former City Managers, among other interested and informed residents, to hear their views on the subject nor did it request and receive written input from them regarding their insights and opinions about the proposed changes.

The specific wording of the "strong mayor proposal" was submitted so late in the Charter Review Commission process that various civic and neighborhood groups, such as the League of Women Voters, were not even notified of these proposed changes until the day the proposal was submitted at the start of June 19, 2013 meeting thus limiting their opportunity for review of the proposal and

interfering with their ability to provide informed comment and detailed input. See e.g., 6/19/2013, Minutes, p. 2.

The process that was followed in pushing this strong Mayor proposal forward in my opinion undermined all the hard work that the Charter Review Commission, under the leadership of Justice Serna, had previously done to have an open and transparent process. The presentation of the “strong Mayor proposal” red lined version to the community at large at the June 19, 2013 Charter Review Commission meeting by Vice Chair Long and Councilor Ives and Councilor Wurzburger did not afford this community ample opportunity for review and input regarding this fundamental change. To state that there was complete surprise about the scope of this proposal by a number of citizens in attendance at that meeting would be an understatement. See e.g., 6/19/2013, Minutes, pp. 2, 15-16.

Though the topics of a strong mayor and taking away the powers of the Governing Body to terminate a City Manager and other related topics had been listed on Charter Review Commission agendas it is important to note that no specific language regarding any of these proposals had been previously submitted for review and consideration. The Charter Review Commission had set a deadline for the submission of topic and initial proposal language to the Charter Review Commission by the May 22, 2013 meeting. This practice was not followed regarding the “strong Mayor proposal”.

At the June 19, 2013 meeting Councilor Ives, the proponent making a presentation in favor of these amendments had absolutely no information regarding the scope and manner of any fiscal impact of having a full time Mayor and a full time City Manager. After being pressed for some information on the fiscal impact Councilor Ives and being advised about Mayor Coss’ prior statements, Councilor Ives took the position that Mayor Coss’ comments regarding a \$100,000 range for a salary should be considered presumptively correct. See, e.g., 6/19/13, Minutes, p. 5. Commissioner Werwath opined that his research based upon Albuquerque was that the monetary cost would be less than \$150,000. See, 6/19/13, Minutes, p. 6. The Assistant City Attorney Martinez opined that the costs would likely be the same as the costs for a City Manager. See, 6/19/13, Minutes, p. 20.

Neither Councilor Ives nor Councilor Wurzburger nor Vice Chair Long, or any other proponents of this proposal, provided specific information regarding the coordination of the roles and functions of the Mayor and City Manager under this full time and “strong Mayor proposal”. See, e.g., 6/19/13, Minutes, pp. 4-23.

At the June 19, 2013 meeting, the Chair and other members of the Charter Review Commission apparently recognized the importance of this issue to the community and the concerns being expressed by the public, as well as the fact that Councilor Ives’ and Councilor Wurzburger’s and Vice Chair Long’s proposal had not been submitted to the public previously for input and consideration, and agreed with other Charter Review Commission members to postpone further consideration of the proposal to the June 27, 2013 meeting.

During the Charter Review meeting process there were public and media appearances by the Chair and other Charter Committee members. There were notices and minutes on the City’s website. However, the posting of minutes was necessarily delayed after each meeting due to the labor-intensive nature of preparing the minutes and the workload of the stenographer. For instance, the minutes from the very important meetings of June 19, 2013 (when the wording for the “strong Mayor proposal” was first introduced and discussed) and June 27, 2013 (when there was continuing debate and a vote on the amendments for the ‘strong Mayor proposal’) were not even received by the Charter Review Commission members until respectively June 25, 2013 and July 15, 2013. The minutes from the July 1, 2013 meeting were only received the afternoon of July 16, 2013, the day before the last scheduled meeting of the Charter Review Commission.

There was an attempt to use social media. Near the beginning of the process Commissioner Werwath was appointed the Chair of the outreach committee. But, the results of feedback from social media were rarely reported to the Commission by the Chair of the outreach committee. The outreach committee Chair did not follow through with the process as had been explained at the outset to provide full and complete information to the community regarding proposed changes to the Charter. Apparently, the Charter Review Commission Facebook page was never updated after April 23, 2013 and thus failed to provide the public with notice of

proposed amendments to the Charter.² This omission is particularly important regarding the controversial “strong Mayor proposal” that was essentially presented at the last moments of the Charter Review Commission’s process. The Charter Review Commission was not provided by its outreach committee with community input and feedback through any credible survey results or other credible compilation of public reaction to these amendment proposals as had been stated would be attempted at the outset of this process.

It seemed to me throughout this Charter Review Commission process from the commentary of certain Commissioners that seemed to have the support of the majority of the Charter Review Commission, that it was more important to meet an arbitrary timetable to have the work of the Charter Review Commission done and completed and a report submitted to the Governing Body. This was declared to be necessary by a deadline set for the end of July 2013 so that amendments could be forwarded to the Governing Body for review so that they would be considered at the March 2014 municipal election.

This focus on a deadline for an election vote on proposed changes rather than a meaningful attempt to gather all relevant information and a meaningful debate on the substance of this “strong Mayor proposal” was detrimental to the work of the Commission. For that reason alone, the Governing Body should reject for consideration at the next municipal election the issue of the “strong Mayor proposal” because it was not fully researched, analyzed and debated. There should be due consideration of these important ideas without any hovering deadline. I understand that there is cost in having a separate Home Rule Charter Amendment election for a “strong Mayor proposal”, but it seems to me that this issue is of such import to the city that additional time should have been, and should be, taken to carefully study the many facets of this particular proposal.

I completely agree that a Mayor is the head of our municipal government and should have an agenda and set a course for this city. The Mayor should be able to communicate this agenda and gather support to implement these policies. We do need to be mindful that without any runoff provisions or any minimum percentage of the vote required to win an election stated in the Home Rule Charter

² It has been reported that a Draft of the Charter Review Commission Report appeared on the Facebook page on July 16, 2013.

that a weak candidate in a crowded field with only a small plurality of the vote could be granted a very generous salary and enormous powers to govern this city.

I strongly agree, honored to have been elected in District 2 to serve as a City Councilor, that City Councilors should not be involved in any micromanagement of the government or city employees. Therefore, from an informed position, I state that the role of the City Council being the main policy maker for the City as exists under the current Home Rule Charter should be maintained. The role of the City Council to maintain checks and balances is crucial and should be retained. The City Council should not be made bystanders and powerless as a Governing Body in the face of potential misconduct or overreaching by a Mayor and City Manager.

This “strong Mayor proposal” essentially emasculates the existing powers of the City Council. The City Council necessarily plays an appropriate and strong role in the advocacy for neighborhoods and community concerns. These proposed amendments make that role difficult to perform in any kind of meaningful manner, particularly if the Governing Body, which includes the Mayor, is removed from being the “principal policy maker of the city.”

The argument that the Mayor needs these consolidated powers to carry out a mandate of election is spurious. As exists today, under Home Rule Section 5.01 the Mayor has substantial input into the policies and procedures of government. A City Manager appointed by the Mayor with demonstrated administrative expertise should have the skill to direct city government in support of programs and policies that the Mayor is presenting to the Governing Body. The City Manager should also be sensitive to the articulated policy positions of the Mayor as the Chief Executive Officer of the City as well as to the positions of the Governing Body as the primary policy maker for the City. The City Manager should not be placed in a position to serve as an assistant Mayor or chief of staff.

It has been stated that a reason for the need for this change is that there have been too many personnel changes in the City Manager position. But this general statement does not take into account the information that the Charter Review Commission members also received, individually or collectively, that there were many reasons why various City Managers resigned. There was no substantial or credible information presented that the City Managers were forced to resign as a

part of a pattern and practice of meddling by majority factions of the City Council rather than for many other legitimate or personal reasons. The push to make these changes seems to stem more from subjective opinion than objective evidence warranting these changes.

In communications to the Charter Review Commission, I consistently stated my view that the Charter Review Commission should engage in a deliberate and detailed review of the issues even if this made the Charter Review Commission process longer. See, e.g., 6/19/13, Minutes, pp. 16 and 18. I felt and still feel that we owe it to the public to fully study, analyze, and consider the substance and consequence of these issues. Prior to the June 27, 2013 Charter Review Commission meeting, the only other articulated input the Charter Review Commission received on this proposal was the dissemination of interesting, but generally irrelevant for a city the size of Santa Fe, chapters on government structure and powers from a text book from a government class that had been attended by a son of one of the Charter Review Commission's members. The information presented to the Charter Review Commission was inadequate to use as justification for these fundamental changes to our governmental structure.

These proposed changes to the structure of city government should have been thoroughly vetted, researched, reviewed, and been the subject of more public hearings prior to any vote on the proposal. And, the proposal was made more complex by the decision by Councilor Ives at the end of the process prior to the June 27, 2013 meeting to add even more sections of the Charter to be amended to carry out this "strong Mayor proposal". These supplemental amendments were received by the Charter Review Commission members between the June 19, 2013 meeting and the June 27, 2013 meeting. And, it is not at all clear when members of the public were furnished with the supplemental amendments that were prepared and submitted by Councilor Ives.

From the public hearings, it did not appear that there is serious or substantial support in the community at large, via petition or otherwise, for this proposal. At the time he presented the proposal, Councilor Ives admitted that he had received no citizen's petition seeking these changes. See, e.g. 6/19/13, Minutes, p. 6-7.

4. The Charter Review Commission and Policy Statements Not Recommended

Various Policy Statements were submitted for Charter Review Commission action and they were either not acted upon or defeated at the July 1, 2013 Charter Review Meeting. There had been a number of meetings where the various Policy Statements were on the Agenda and information was presented regarding the substance to the Policy Statements. In my opinion, there is no substance to the Policy Statements and the Governing Body should give due consideration to placing the ordinances that would implement these on the Ballot or enacting.



The following are the particular Policy Statements that were presented at the July 1, 2013 Charter Review Commission meeting but not recommended.

A. Gun Violence Prevention Ordinances:

The June 26, 2013 meeting of the Governing Body was long and difficult. The subject was a proposed ordinance that would ban excess capacity ammunition magazines within the City of Santa Fe. That ordinance failed. But, there appeared to be unanimity from the audience and the Governing Body that as a society we must do all that we can to prevent gun violence and that the dialogue and conversation regarding gun violence prevention should continue. Thus, it is surprising that a proposal that the Charter include a provision requiring the City to adopt "gun violence prevention ordinances" did not even obtain the support of a second at the July 1, 2013 Charter Review Commission meeting. See, 7/1/13, Minutes, pp. 3-5.

All this provision would have done would be to place on the ballot for a public vote this simple requirement. It would be up to the Governing Body to determine the nature and substance of any such ordinances. The public conversation started at the June 26, 2013 Governing Body meeting should continue. This Policy Statement is a way to make that conversation continue and to implement gun violence prevention ordinances for the health, safety, and welfare of the city. This Policy Statement should be adopted and placed on the ballot for consideration by the voters. There would be nothing stopping the

Governing Body from independently moving forward to enact whatever gun violence prevention ordinances it deems appropriate.

B. Proposal Regarding Children's Issues and Concerns:

Santa Fe United Way submitted the following proposal for inclusion in the Charter as a separate provision:

“Our children are Santa Fe’s most valuable asset. In order to nurture and protect our children, and to enhance our children’s ability to thrive and to grow into productive members of society, the Governing Body shall take into account, the effects of any action on our children, and shall take action to support and protect our children. To effect these ends, the Governing Body may take whatever action is necessary and may enact ordinances and may establish appropriate commissions with jurisdiction authority and steps sufficient to effectively administer this policy.”

Though most everyone professed their love for children, the Motion to pass this important Policy Statement to be included in the Charter failed when only Commissioner Gutierrez and I voted for its passage and approval. Commissioners Long, Hiatt, Johansen, and Romero-Wirth voted against this Policy Statement for inclusion in the Charter. See, 7/1/13, Minutes, pp. 5-7.

This is an important statement about the fabric and values of this city. For the health, safety, and welfare of the city this Policy Statement should be adopted and placed on the ballot for consideration by the voters.

C. Proposal Regarding Immigration Policies and Enforcement:

The City’s Immigration Committee appeared at meetings and presented language for a Policy Statement that exists in a City Resolution that:

No municipal resources will be used to identify or apprehend any non-citizen resident on the sole basis of immigration status unless otherwise required by law to do so.

At the time of the consideration of this Policy Statement for a vote no one from the City’s Immigration Committee was present to advocate for the inclusion of this Policy Statement in the Charter. There was no second to my Motion that

would have allowed further consideration of this Policy Statement. See, 7/1/13, Minutes, p. 11. If the City's Immigration Committee wants to support the adoption of this Policy Statement language in the Charter then it should make its views known to the Governing Body.

D. Proposal for Preservation of Neighborhoods and Neighborhood Integrity:

The Neighborhood Network was among the civic groups actively involved in the Charter Review Process by attending meetings and making public comment. The Neighborhood Network submitted the following proposal which was not approved because the recommended amendments to Section 2.04 were adopted instead. See, 7/1/13, Minutes, pp. 11-15.

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.

The recognition of Neighborhoods and Neighborhood integrity is important. And while it is significant that there is recognition that neighborhoods should be explicitly recognized by the amendments to Section 2.04, the inclusion of the Policy Statement Submitted by the Neighborhood Network as a separate provision is more inclusive and substantial than just the inclusion of the word "Neighborhood" in Section 2.04. The Governing Body should give due consideration to including this Policy Statement submitted by the Neighborhood Network for adoption and placement on the ballot for consideration by the voters.

E. Proposal Regarding Prevention and Protection From Adverse Impacts of Electromagnetic Radiation (WARN proposed language)

The Charter Review Commission heard from health care practitioner, Dr. Felecia Trujillo, and a neuro-toxicologist, Raymond Singer, Ph.D., regarding the science and findings of adverse health impacts from electromagnetic radiation and studies that were being done in Europe and other countries that were showing concerning findings regarding adverse health impacts from electromagnetic

radiation. WARN, a coalition of health care providers, submitted voluminous data and information regarding this issue. The Charter Review Commission did not provide a second to my Motion to adopt the revised Policy Statement language submitted by WARN and for an alternative Motion. See, 7/1/13, Minutes, p. 15-19. The Governing Body should continue to closely monitor and take all appropriate action regarding the health, safety, and aesthetic issues that are presented by the issues of the transmission of electromagnetic radiation.

F. Proposal for Marijuana Adult Personal Possession and Use to be the Lowest Law Enforcement Priority

This topic was proposed based on my 40 years of experience in the field of criminal justice. See, 7/1/13, Minutes, pp. 19-20 and the 4/9/13, Minutes, pp. 7-16. The Motion to approve this Policy Statement died for lack of a second.

There is a change happening in this country with regard to people's views about the medicinal qualities of cannabis, and cannabis (marijuana) in general. Scientific research and testing is occurring in Europe and in Israel and in other parts of the world showing the beneficial medicinal qualities of cannabis. Unfortunately, in this country that research is being restricted by federal authorities. States are taking it upon themselves to move forward, citizens of 17 states and the District of Columbia, including the State of New Mexico now have medical cannabis programs. Our sister State of Colorado has voted to legalize the personal possession of small amounts of marijuana for adult use, as has the State of Washington. Society has not fallen apart, all the doom and gloom from reefer madness has been seen to note be true. Prohibition does not work.

The Commission was told at our meeting on April 9, 2013 that minority members are disproportionately stopped and picked up and arrested for personal possession marijuana charges. From a law enforcement perspective it would be cheaper and easier to issue citations rather than make arrests for these offenses. The Commission was told by a New Mexico State Police Officer that Marijuana offenders rarely cause problems for police officers. Police Officers' time would be far better used in investigating and enforcing laws relating to violent crimes, property offenses, burglaries, DWI offenses, domestic violence, and offenses that truly breach the peace.

The City of Santa Fe has no power to legalize or decriminalize the adult or juvenile possession and use of marijuana. That was not the intent of this proposal. But what the city can do, and what the Governing Body should do, as has

happened in Seattle, New Orleans, Philadelphia, New York City, and many other cities around this country is to enact a policy that arresting individuals for small amounts of marijuana for their own personal use is a low law enforcement priority. We should be spending our time and our effort on other crime problems.

This is not a matter that is on the back page any more. On the front page of the June 30, 2013 Santa Fe New Mexican there was article explaining that states are having to deal with the reality of the change that is happening with attitudes about personal marijuana possession and use. There was recently an hour-long program on CNN attempting to show the reality of what is happening in America regarding medical cannabis and marijuana in general.

As a community we can and should set forth a value and Policy Statement that: The Santa Fe Police Department and the Santa Fe City Attorney's Office shall make the investigation, arrest and prosecution of marijuana offenses, where the marijuana was intended for adult personal use, the City's lowest law enforcement priority.

This proposed policy statement sets forth a policy which will stop young people and adults from being labeled as criminals for the rest of their lives because they had or used a substance which is basically benign. Marijuana is not without problems, but they can be dealt with through education to discourage juvenile and young adult use of marijuana.

We need to do what we can so that people can avoid the stigma of having to disclose, for the rest of their lives, that they were arrested because they had a small quantity of marijuana. There are many long term prejudicial impacts from having a criminal arrest record, even for such a minor offense.

Since the Motion did not receive a second it could not be considered further.

Commissioner Werwath expressed his support for these concerns but stated that he felt that the policy statement should not be in the Charter.

5. The Charter Review Commission Should Have Been Provided Supplemental Resources and a Budget to Assist the Review Process

The question of assistance for a Charter Review Commission is also of concern. By Home Rule Charter Section No. 10.02 and Section 7 of Resolution 2012-45 the office of the City Attorney is the advisor and liaison to the Charter

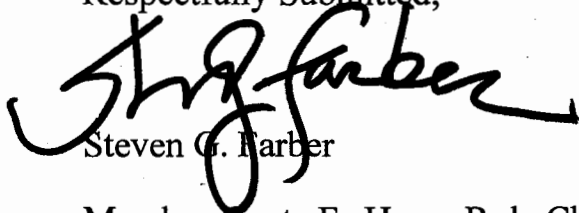
Review Commission. This is no criticism of any Member of the Office of the City Attorney, but I felt that we were hampered by the lack of continuity of assistance from the City Attorney's office. There were four different attorneys who at one time or another were present at our meetings. At times there was conflicting information being provided. There did not appear to be a seamless transfer of responsibility for legal advice and counsel. There were difficult legal issues that were presented for analysis and review.

There was no procedure for supplemental assistance when specialized expertise was needed for the work of the Charter Review Commission. Since there was no budget created independent outside experts could not be retained. Thus, in future Resolutions convening a Charter Review Commission it would appear to be wise for the Governing Body to provide for some budget to assist the work of a Charter Review Commission for independent research, analysis, and input. This is particularly significant if there is a conflict of interest or the appearance of a conflict of interest on the part of the office of the City Attorney.

6. The City Attorney's Office has a Conflict of Interest and/or the Appearance of a Conflict of Interest but Continued to Serve as the Liaison to the Charter Review Commission

In my opinion, in this Charter Review process there appeared to be a conflict of interest, or the appearance of a conflict of interest, in the Office of the City Attorney providing research and assistance regarding this issue since throughout the process the City Attorney was subject to removal by the Mayor and the City Attorney position is specifically mentioned in this "strong Mayor proposal" regarding the sole power of the Mayor to hire and fire the City Attorney.

Respectfully Submitted,



Steven G. Harber

Member, Santa Fe Home Rule Charter Review Commission

July 17, 2013

Dear City Councilors,

Thank you for the opportunity to serve on the City Charter Review Commission. We have finished our work and have several proposals for your consideration. I would draw your attention to two items that should be given further thought.

First, the Commission is proposing an Independent Redistricting Commission, which I support. The language, you should note would allow for re-districting "at least every decennial census." This is new language in the Charter that opens the door for re-districting more often than every ten years and I believe should be amended to say simply "every decennial census". As you are aware, redistricting, while critical to governing, requires enormous time and resources that subtract for a time from the ability to govern. Common Cause initially opposed the proposal to redistrict more than every ten years because of a fear of "political shenanigans". In the end, they changed their position to one of support. One only need look at the state of Texas to see they were correct in their initial position. What would trigger re-districting besides the census?

Second, I believe there is another way to address the concern that water issues be explicitly recognized in the Charter. It does seem that the current language can be read to include them implicitly. We must be very careful what language we add to the Charter, as it is very difficult to change the language, if it is interpreted in a way that is unintended. In this particular proposal, I am concerned about the phrase "tying development to water availability". As you are aware the city has very progressive rules around water use and development, requiring that new development purchase water rights in order to proceed. How will the term "water availability" be interpreted? How do we determine if it is "available"? The Council could consider instead amending Section 2.03 to read:

The natural beauty of Santa Fe, its historical heritage, and its unique architectural style are among the city's most valued and important assets. In order to enhance the beauty and quality of both the natural and built environment within and around the city, the governing body shall protect, preserve and enhances the city's natural endowments, including air and water, plan for and regulate land use and development, manage the city's growth, encourage source reduction, re-use and recycling of materials, and promote and maintain an aesthetic and humane urban environment. To effect these ends, the governing body may take whatever action is necessary and may enact ordinances and may establish appropriate commissions with jurisdiction, authority, and staff sufficient to effectively administer this policy.

It has been an honor to serve on this Commission; I look forward to your consideration of all that has been presented to you.

Respectfully Submitted, Carol Romero-Wirth, MPP, Esq. 

Exhibit "3"