



**City of Albuquerque
Charter Review Task Force**

Thursday, January 29, 2009

5:30 p.m.

**Albuquerque/Bernalillo County Government Center
Council Committee Room
9th Floor, Suite 9081**

SUMMARY MINUTES

Members Present:

David Campbell
Chuck Gara
Susan Jones
Eli Il Yong Lee
Gloria Valencia-Weber
Herb Hughes
Laura Horton
David Standridge
Michael Passi

Council/Administration Staff Present:

Laura Mason
Randy Autio
Robert Kidd
Crystal Ortega
Elizabeth Shields
Luz Carreon
Tony Pedroncelli

Excused:

Wendy York, Chair
Vickie Perea
Diana Dorn-Jones
Dan Silva
Marty Esquivel
Steve Gallegos

Mr. Campbell, acting chair, called the meeting to order at 5:41 p.m.

1. Approval of Summary Minutes – January 15, 2009

Ms. Jones moved approval of the January 15, 2009 summary minutes and Mr. Passi seconded the motion. The motion passed unanimously on a 9-0 vote, with Chair York, Ms. Perea, Ms. Dorn-Jones, Mr. Silva, Mr. Esquivel and Mr. Gallegos excused.

2. Finish Discussion of Article V. Mayor

a. Section 4

(1) Report by subcommittee (Randy Autio, Chuck Gara, Eli Il Yong Lee, Herb Hughes) on the Ethical Public Service Act and recommendations to the Task Force regarding the position the Task Force should take on the Act;

(2) Process for removal of the City Clerk;

Mr. Hughes gave a brief summary and read the subcommittee's Recommendation of Revision to Article V Section 4.

Mr. Campbell asked how the subcommittee developed the recommendation.

Mr. Gara stated that the subcommittee wanted to keep the process simple as well as create more independence for the City Clerk. The subcommittee believed that by adding the super majority requirement and the language requiring the Director of the Office of Internal Audit and Investigations to determine "cause" for removal, the City Clerk would have more independence.

Ms. Jones suggested that the Task Force include the following language in the first sentence of the subcommittee's proposal: after "through", insert "an open and". The subcommittee members concurred with the recommended change.

Mr. Standridge requested more information regarding how the subcommittee decided on a "super majority" in the proposal.

Mr. Lee stated that they first thought of using "majority" in the suggested language but the subcommittee wanted to give the City Clerk more independence, therefore they decided to require that approval and removal of the Clerk be approved by a "super majority" of the Council.

There were some questions among the Task Force regarding what a super majority is. Ms. Mason stated that a super majority is usually six Councilors.

Mr. Hughes stated that perhaps "super majority" should be defined since there appear to be differences of opinion about how many Councilors are considered to be a super majority.

Ms. Mason stated that the Council often uses the language "two-thirds". She also reminded the Task Force that on a previous Article, the Task Force had approved the language "a majority plus two" (7 Councilors).

After discussion among the Task Force and staff, the consensus was to change "super majority" to "two-thirds of the entire membership of the Council".

Mr. Campbell stated that the City Clerk has always been an unclassified employee that serves at the will of the Mayor, and the proposal would now take the City Clerk out of

that status, yet does not put him in the classified status, thereby creating a type of hybrid position.

Mr. Autio recommended that it be stated that the City Clerk would not become a classified employee.

Ms. Jones stated that the Task Force should also address or identify the position of Director of Internal Audit and Investigations within the Charter because that position is mentioned in the process for removing the City Clerk.

Mr. Campbell asked if we currently have a section in the Charter that addresses the Office of Internal Audit and Investigations, and Mr. Autio stated that there is not such a section in the Charter. Mr. Campbell asked where that section could be placed in the Charter.

After discussion, Mr. Gara moved approval of the following subcommittee proposal, as amended, and Mr Hughes seconded:

“(e) Select and remove the City Clerk only as follows:

The City Clerk shall be selected and appointed through an open and competitive hiring process conducted by the Mayor with the advice and consent of two-thirds of the entire membership of the Council. The City Clerk may only be removed from office for cause by the Mayor with the concurrence of two-thirds of the entire membership of the Council, after cause has been determined by the Director of the Office of Internal Audit and Investigations.”

The motion passed on a 9-0 vote, with Mr. Gallegos, Ms. Perea, Ms. York, Mr. Esquivel, Mr. Silva and Ms. Dorn-Jones excused.

(3) Language for tracking the term of “advice and consent positions” with the term of the Mayor;

Ms. Mason addressed “Terms Coinciding with Term of the Mayor” handout and explained each option.

Mr. Campbell raised the issue of whether the language just approved by the Task Force created tenure for the City Clerk, and whether that was intended.

Mr. Autio stated that on the Ethics Coalition’s original draft stated that the City Clerk remain in office unless removed, but an amendment had been drafted that will be presented to Council stating that the Clerk’s term will coincide with the term of the Mayor. Mr. Autio added that if the Clerk can reapply so if he or she is doing a good job, can remain as Clerk as long as he or she continues to be selected and approved.

Mr. Hughes stated that he does not know why the term of the Clerk has to coincide with the Mayor, and that his intent was for the Clerk to continue until removed.

Ms. Jones asked if the Charter is silent, is it understood that the term of the Clerk would

end with the Mayor's term.

The Task Force members suggested that the "term" language be placed within the paragraph that was just passed by the Task Force.

Mr. Pedroncelli stated that if the Task Force does not include language that the Clerk's term end with the Mayor's term, it would be more difficult to remove the City Clerk than any City employee

After discussion, Mr. Gara moved approval of the following, and Ms. Jones seconded:

"(e) Select and remove the City Clerk only as follows:

The City Clerk shall be selected and appointed through an open and competitive hiring process conducted by the Mayor with the advice and consent of two-thirds of the entire membership of the Council. The City Clerks appointment shall be for a term that coincides and terminates with the term of the Mayor making the appointment unless sooner removed as provided herein. The City Clerk may only be removed from office for cause by the Mayor with the concurrence of two-thirds of the entire membership of the Council, after cause has been determined by the Director of the Office of Internal Audit and Investigations."

The motion passed on a 7-1 vote.

For: Campbell, Passi, Gara, Horton, Jones, Valencia-Weber, Standridge

Against: Hughes

Excused: York, Gallegos, Perea, Esquivel, Silva Dorn-Jones, Lee

Mr. Lee indicated that he still has concerns about the independence of the City Attorney and he will again raise the issue when the Task Force discusses the Open and Ethical Elections Code.

b. Any other issues the Task Force wishes to discuss regarding Article V

It was pointed out that for consistency there needed to be a change to Article V Mayor, Section 4, Item (d) to delete reference to the City Clerk because the Clerk is addressed in a separate paragraph.

After discussion, Mr. Gara moved the following for Article V. Mayor, Section 4. Duties of the Mayor, Item (d), and Ms. Horton seconded:

"(d) With the advice and consent of the Council, appoint the City Attorney, the Chief Administrative Officer and deputy administrative officers;"

The motion passed on a 9-0 vote, with Chair York, Mr. Gallegos, Ms. Perea, Mr. Esquivel, Mr. Silva and Ms. Dorn-Jones excused.

3. Article IV. Council

a. Council asked that we consider "whether the City Councillors' annual

salaries should be equal to that paid to Bernalillo County Commissioners or increased by any amount?”

Mr. Campbell opened the floor for discussion.

Ms. Valencia-Weber asked what the salaries are now.

Mr. Campbell stated that pursuant to the Charter, Councilors' salaries are ten percent of the Mayor's salary. This issue was raised during the last municipal election, and the proposal to raise the Councilors' salary equal to the salary of the County Commissioners failed to pass.

Mr. Pedroncelli suggested that the Task Force look at a percentage change and not tie the change in salary to the County Commissioners' salaries.

Ms. Mason stated that in the election before last municipal election the proposed language stated that the City Councilors salaries be twenty percent of the Mayor's salary, and that ballot initiative also failed.

The consensus of the Task Force was that the Councilors should get some type of increase and it should be part of the Task Force's recommendations.

Ms. Jones suggested that the Task Force look at the Council salaries of other cities, including cities within New Mexico. She also requested any formulas used by those cities to calculate the salaries.

Ms. Shields stated that she will provide that information at the next meeting.

After discussion, Ms. Jones moved that “the Task Force wants to increase the Councilors' salary, but will figure out the amount at a later meeting”, and Mr. Gara seconded. The motion passed on an 8-0 vote, with Chair York, Mr. Gallegos, Ms. Perea, Mr. Esquivel, Mr. Silva, Ms. Dorn-Jones and Mr. Lee excused.

b. Council asked that we examine whether the Charter should be amended to "clarify the Council's role as Zoning Authority for the City and its relationship to the Planning Department."

Ms. Jones asked if Ms. Mason could describe the challenges of this issue.

Ms. Mason stated that this issue is something the Council wanted the Task Force to look at because the Charter does not address this Planning and the role of the Council which is set out by state statute as the City's planning and zoning authority.

Ms. Horton raised recent court decisions that had addressed planning issues and Council actions.

Ms. Jones stated that the Charter being silent on the Planning issue is worrisome.

Mr. Campbell suggested that the Planning subcommittee review this matter and make recommendations to the Task Force.

Ms. Weber stated that the State statute might give guidance on this matter. The Task Force could perhaps use that language and add language to say that the Council would put on different hats while dealing with legislative versus quasi-judicial issues.

The Task Force has asked for language from other Charters regarding Planning from similar cities as well as the state language.

c. Any other issues Task Force wishes to discuss on Article IV

Ms. Horton raised the issue about Open Meetings and how the Council handles floor amendments and substitutions. She believes there should be a 72 hour notice for amendments and substitutions if they are not non-technical in order for the public to view them before the Council votes on them.

Ms. Horton stated that there is too much being done “on the fly” and the public needs to see the proposed changes earlier.

Ms. Weber stated that perhaps language could be drafted to address Ms. Horton’s concerns.

Ms. Horton stated that there would be emergency provisions in case of deadline issues.

Mr. Campbell stated that the elected body must ultimately decide the issues, not the public.

The Task Force decided to revisit this issue at a later meeting due to time constraints.

4. Report by David Campbell on whether Article XII, XIII, and XVI are consistent or whether there are provisions within those articles that are inconsistent

Mr. Campbell passed out the memo he drafted regarding conflicts in the Charter articles on ethics and elections, and asked the Task Force to review the report for the next meeting on February 5, 2009.

5. Assignments

Council Staff distributed the Draft Work Assignments to the Task Force.

Ms. Mason asked the Task Force to look over the draft work assignments and to let staff know if they are correct or if any other members would like to be added or removed.

6. New Business

Mr. Campbell acknowledged those in the audience and thanked them for attending. They were Dee Watkins, Jan Bray and Lisa Frandsen, all members of the League of Women Voters of Central New Mexico.

7. Next Meeting – February 5, 2009

The next meeting will be on February 5, 2009 in the 9th Floor Council Committee Room, Suite 9081.

9. Adjourn

There being no further business, the meeting adjourned at 7:31 p.m.

Handouts distributed to Task Force members:

- Subcommittee Recommendation of Revision to Article V. Section 4
- Term Coinciding with Term of the Mayor
- Draft Work Assignments
- Revisions Approved by Task Force (Up to and Including Meeting of 1/15/09)
- D. Campbell Report on Review of Ethics Conflicts in City Charter