

REPORT AND RECOMMENDATIONS
OF THE
CITY CHARTER REVIEW TASK FORCE

CITY OF ALBUQUERQUE, NEW MEXICO

MAY 1, 2009

Task Force Members

Wendy York, Chair
David Campbell
Diana Dorn-Jones
Martin Esquivel
Steve Gallegos
Chuck Gara
Laura Horton
Herb Hughes
Susan Jones
Eli Il Yong Lee
Michael Passi
Vickie Perea
Dan Silva
David Standridge
Gloria Valencia-Weber

Staff

Laura Mason, Director, Office of Council Services
Crystal Ortega, Clerk of the Council
Luz Carreon, Administrative Assistant
Elizabeth Shields, Policy Analyst

Ed Adams, Chief Administrative Officer
Tony Pedroncelli, Boards & Commissions/Constituent Services Coordinator

Robert White, City Attorney
Randy Autio, Acting City Clerk
Robert Kidd, Assistant City Attorney

TABLE OF CONTENTS

Letter of Transmittal	A-1
Review and Recommendations.....	1
A - Article I – Incorporation and Powers.....	1
B - Article II – Elections.....	1
C - Article III – Recall Elections, Referenda and Direct Legislation	2
D - Article IV – Council	2
E - Article V – Mayor	2
F - Article VI – Charter Amendments	4
G - Article VII – The Annual Operating Budget.....	6
H - Article VIII – Human Rights	8
I - Article IX – Environmental Protection	8
J - Article X – Merit System.....	8
K - Article XI – Ordinances.....	8
L - Article XII – Code of Ethics	8
M - Article XIII – Election Code.....	9
N - Article XIV – Severability.....	10
O - Article XV – Competitive Bidding for Electrical Franchises.....	10
P - Article XVI – Open and Ethical Elections Code.....	10
Q - Article XVII – Planning.....	10
R - Article XVIII – Citizens’ Independent Salary Commission	11
S - Article XIX – Violations of the Charter.....	12
T - Additional Matters Considered by the Task Force	13

APPENDIX

Ordinance 08-42 (Creating the Charter Task Force)

Red Line Version of Charter with Proposed Changes

May 1, 2009

The Honorable Martin Chavez
Mayor, City of Albuquerque
The Honorable City Councilors
One Civic Plaza
Albuquerque, NM 87102

Dear Mayor Chavez and Councilors:

This is the final report of the City of Albuquerque Charter Review Task Force. This Task Force was created by Ordinance 08-42 which was passed on August 4, 2008 and enacted on August 22, 2008. The Task Force consisted of 15 members with one member selected by each of the Councilors, five members appointed by the Mayor and the Chair of the Task Force selected by the Council. The Task Force has held eighteen (18) meetings since August 2008, three (3) of which were televised. The time and place of each meeting, the minutes of each, as well as the meeting agenda, were available on the City of Albuquerque's website. The Task Force allowed public comment whenever requested and the public was also invited to send suggestions or comments to the Task Force electronically.

I was fortunate to Chair a very accomplished group and we had many spirited, yet collegial, debates over the last several months. The Task Force scrutinized the Charter as a whole and also discussed each topic which you requested we consider. We are pleased to present our recommendations and have provided a red-lined version of the proposed amendments for your convenience.

We want to express our thanks to the dedicated and hardworking City Staff who assisted us every step of the way. This project would not have been possible without their assistance.

I believe I speak for the entire Charter Review Task Force when I say that we want to thank you for giving us the opportunity to discuss and offer recommendations concerning our City's Charter. The Task Force was honored to be a part of examining what is, in essence, our City's Constitution and to have the opportunity to consider the delicate balance between the branches of City Government. We hope that our recommendations help improve, in some small measure, the work that you are able to do on behalf of the citizens of Albuquerque.

Sincerely,

Wendy York, Chair

REVIEW AND RECOMMENDATIONS

A. ARTICLE I. INCORPORATION AND POWERS

Reviewed with no changes recommended.

B. ARTICLE II. ELECTIONS

1. The Task Force is recommending adding the following paragraph as Section 1:

Section 1. CHARTER ELECTION LAWS.

Article II, Elections, Article XIII, Election Code, and Article XVI, Open and Ethical Elections Code, all govern elections in Albuquerque. Article II sets forth candidate qualifications, governing law, and the non-partisan election process. Article XIII establishes campaign reporting requirements, contribution limitations, and the regulation of campaign practices by the Board of Ethics. Article XVI allows candidates to run for office with public financing. Candidates may choose to run for office with either public financing or private financing. Whether publicly or privately financed, a candidate must meet the Section 4 qualification requirement of petition signatures of 2% of registered voters.

The purpose of the paragraph is to notify potential candidates of all Charter provisions applicable to elections. Additionally, candidates recently expressed confusion regarding whether the petition signature requirements apply equally to publicly and privately funded candidates. This provision clarifies that the 2% requirement applies to all candidates, regardless of their financing.

2. The Task Force was asked to consider whether the current Article II, Section 1, Election Dates, should be changed. That provision states:

Section 4 2. ELECTION DATES.

The Councillors representing even-numbered Districts shall be elected by the voters to four-year terms at the regular municipal election held on October 7, 1975. The Mayor and the Councillors representing odd-numbered Districts shall be elected by the voters to four-year terms at the regular municipal election held on October 4, 1977. Thereafter, regular municipal elections shall be held on the first Tuesday after the first Monday in October of odd-numbered years, provided that a regular municipal election day may be set by election resolution on an alternate date when the first Tuesday after the first Monday in October falls on a recognized holiday or a recognized religious holiday or eve.

Under the Charter, then, Councilors of odd-numbered districts are required to run for re-election at the same time as the Mayor. Because they cannot run for both positions, Councilors representing odd-numbered districts must give up their council seat if they wish to run for Mayor. The Task Force voted to reject any changes believing that it is important for council terms to be staggered and not wishing to add a third municipal election in a four year period.

C. ARTICLE III. RECALL ELECTIONS, REFERENDA AND DIRECT LEGISLATION

Reviewed with no changes recommended.

D. ARTICLE IV. COUNCIL

The Task Force is recommending the following change to Section 6:

Section 6. COMPENSATION OF THE COUNCIL.

~~Councillors shall receive annual salaries equal to one-tenth of the annual salary received by the Mayor. The Council President shall receive double the annual salary received by other Councillors.~~ Councillors shall receive annual salaries as determined by a citizens' independent salary commission.

The nature of the Salary Commission is described in a proposed new Article XVIII which will be described more fully below.

E. ARTICLE V. MAYOR

1. The Task Force is recommending the following change to Section 2:

Section 2. MAYOR'S TERM AND SALARY.

The term of Mayor, unless sooner recalled or removed, shall begin on December 1st of the year of election and shall be for four years or until a successor is duly elected and qualified; ~~after having served two consecutive terms, the incumbent Mayor shall be ineligible to hold office for four years thereafter. The salary shall be thirty four thousand dollars per year. The Council may approve a percentage increase up to the average percentage increase provided for employees of the city.~~ The Mayor's salary shall be determined by a citizens' independent salary commission.

The nature of the salary commission is described in a proposed new Article XVIII which will be described more fully below.

2. The Task Force is recommending that Section 4 be amended as follows:

Section 4. DUTIES OF THE MAYOR.

The Mayor shall:

(a) Organize the executive branch of the city;

(b) Exercise administrative control and supervision over and appoint directors of all city departments, which appointments shall not require the advice or consent of the Council except as provided in (d) of this Section;

(c) Be responsible for the administration and protection of the merit system;

(d) With the advice and consent of the Council, ~~hire or~~ appoint the City Attorney, ~~an officer to administer the merit system, and all other senior administrative or cabinet level officers of the city, including without limitation any chief, assistant or deputy administrative officers, and specify the duties and responsibilities of those officers~~ the Chief Administrative Officer and deputy administrative officers. Appointees requiring the advice and consent of the Council shall be presented to the Council for confirmation within 45 days after the Mayor takes office or after a vacant appointed position is filled. When an appointee is presented to and not confirmed by the Council, the mayor shall, within 60 days thereafter, nominate another person to fill the position, and the Mayor may continue to nominate until confirmation;

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

1. 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.

2. The City Clerk's 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.

3. 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.

~~(e)(f)~~ Except as otherwise provided for by ordinance, with the prior advice and final consent of the Council appoint the members of city committees, commissions and boards;

~~(f)(g)~~ Formulate the budgets of the city consistent with the city's goals and objectives, as provided in this Charter;

~~(g)(h)~~ Establish and maintain a procedure for investigation and resolution of citizen complaints;

~~(h)(i)~~ Prepare a written state of the city report annually, within thirty days after final approval of the operating budget of the city, which report shall be filed with the City Clerk, made a part of the permanent records of the city and available to the public;

(i)(j) Perform other duties not inconsistent with or as provided in this Charter; and

(j)(k) Faithfully execute and comply with all laws, ordinances, regulations and resolutions of the city and all laws of the State of New Mexico and the United States of America which apply to the city.

The Task Force believes that advice and consent should continue to apply to the City Attorney, the Chief Administrative Officer and Deputy Administrative Officers and that the Mayor should continue to be able to appoint directors without the advice and consent of Council as set forth in Section 4(b). The Task Force is concerned that as Section 4(d) currently reads, requiring the advice and consent of “all other senior administrative or cabinet level officers of the City” could be read to include directors. This reading would be in direct conflict with Section 4(d). Therefore, the deletion of that phrase makes no substantive change in the directors’ current appointment process but simply clarifies that directors are not subject to advice and consent. The Task Force is also recommending a time requirement for the advice and consent process.

Additionally, the Task Force is proposing a new provision relating to the City Clerk. The Task Force believes that the City Clerk is the lynchpin for fair and impartial elections in the City of Albuquerque. The City Clerk must sometimes make difficult and controversial decisions regarding election practices. Additionally, the City Clerk is oftentimes required to monitor elections in which an incumbent mayor and incumbent city councilors are running for Mayor. For that reason, the Task Force believed that the City Clerk should be hired by the Mayor after a competitive hiring process, and that 2/3 of the Council approve the hire. Additionally, the Task Force believes that it is appropriate to give the City Clerk some measure of job protection and is recommending that the City Clerk only be terminated for cause by the Mayor with approval by a significant majority of the Council.

While the Task Force discussed whether the City Attorney should be afforded the same or a greater measure of protection, a consensus to amend the Charter could not be reached.

F. ARTICLE VI. CHARTER AMENDMENTS

The Task Force is recommending the following changes to Article VI:

ARTICLE VI. CHARTER AMENDMENTS

Section 1. [PROCEDURE].

Amendments to this Charter may be proposed by the Council or by ~~the following procedure:~~ Petition.

Section 2. [PETITION PROCESS]

(a) Notice of intent to circulate a petition proposing any amendment to this Charter must be signed by five qualified voters and filed with the City Clerk;

(b) Concurrently with the filing of the notice of intent, the proposed amendment shall be filed with the City Clerk;

(c) The number of qualified voters required to sign the petition shall be a number more than 20% of the average number of voters who voted at the four regular municipal elections prior to filing the notice of intent ~~or more than 20% of the number of voters who voted at the regular municipal election prior to filing the notice of intent, whichever is greater;~~

(d) Before any signatures are affixed thereon, the form of such petition must be reviewed by the City Attorney and approved by the City Clerk as provided by law, and the date of filing the notice of intent shown thereon;

(e) ~~No such petition, or any part thereof, may be filed more than~~ The petition, and any part thereof, must be filed with the City Clerk within sixty days after the date of filing the notice of intent.

Section 3. [COUNCIL PROCESS FOR ARTICLES OTHER THAN XII AND XIII]

(a) An amendment to the Charter proposed by the Council must be approved by a vote of a majority of all Councilors plus two;

(b) The Council shall hold at least two public hearings prior to its vote on the proposed Charter amendment. The Council may revise the proposed amendment as a result of suggestions and recommendations made at the first public hearing, but if such a revision is made at the second of the two public hearings, the Council shall hold a third public meeting on the proposed Charter amendment. Any revisions made shall be posted along with the notice of the next meeting after a review by the City Attorney to ensure the summary is still accurate after the revision.

Section 2 4. [ELECTION].

The election must be held within ninety days after the date of the Council filing the proposed amendment with the City Clerk or from the time of filing the petition with the City Clerk.

Section 3 5. [BALLOT].

At such election the ballot shall contain a summary, title and the complete text of the proposed amendment and below the same the phrases "For the Above Amendment" and "Against the Above Amendment" followed by spaces for marking with a cross or a check the phrase desired. The summary of a proposed amendment to the Charter may differ from its title and shall be a clear, concise statement describing the substance of the proposed amendment without argument or prejudice. The City Attorney must review the form of the summary to determine that the summary accurately reflects the text of the proposed amendment.

Section 4 6. [VOTE].

If a majority of the votes cast are against the amendment, it shall be of no effect. If a majority of the votes cast are for the amendment, it shall be adopted.

Section 7. [AUTHORITY OF CITY CLERK TO CORRECT]

Subject to review of the City Attorney and approval of a majority of the Council, the City Clerk shall have authority to rearrange, renumber, reletter, capitalize, punctuate and divide provisions of this Charter, and to correct clerical errors and omissions and insert captions in accordance with the meaning and intent of the provisions of this Charter, from time to time, and may delete provisions which have become inoperative or any provision ruled invalid by a court of competent jurisdiction. The City Clerk may substitute any current title of an official or department in lieu of the title originally appearing in the Charter provision, in accordance with the changes of title or duties subsequently made by law.

The Task Force believes that the current Charter provision on Charter amendments needs to be clarified. The confusion arises, in part, because there are two separate procedures to seek amendment of the Charter: by citizen petition or by the City Council. Therefore, the Task Force recommends delineation of these two procedures.

The Task Force is also recommending that the process be changed for determining how many qualified voters are needed to sign the petition. Currently, the number of voters necessary varies depending on when the petition drive occurs. The Task Force recommendation of 20% of the average number of voters voting in the last four regular municipal elections yields a more consistent number and for each petition drive would cover two mayoral elections and two council-only elections.

The Task Force is further recommending that the required Council votes for placing a Charter amendment on the ballot be changed from a simple majority to a super majority. Additionally, the Task Force was advised that in the past the Council made amendments to a Charter proposal that did not get reflected in the adopted summary of the proposal that went on the ballot. The Task Force is recommending that the Council hold at least two hearings prior to voting on a proposed Charter amendment and if a revision is made at the second hearing, a third hearing be held. Prior to the third hearing, the Task Force recommends that the proposed revision be posted with notice of the next meeting. The Task Force believes that this procedure will ensure that the ballot summary accurately reflects the proposed amendment.

The provision to allow the City Clerk, subject to approval of the City Attorney and a majority of the Council, to correct clerical errors or delete provisions which have been declared by a court of competent jurisdiction to be illegal, was language taken from other charters across the country. It serves two useful purposes: it will allow clerical corrections so as to avoid costly elections on mere ministerial matters and it will allow the Charter to be amended if the courts have deemed certain portions of the Charter invalid.

G. ARTICLE VII. THE ANNUAL OPERATING BUDGET

The Task Force recommends the following changes:

ARTICLE VII. THE ANNUAL OPERATING BUDGET AND THE CAPITAL IMPROVEMENT PROGRAM

Section 1. [MAYOR TO FORMULATE].

~~The annual operating budget of the city should be formulated by the Mayor, in consultation with the Council and consistent with the goals and objectives of the city, as provided in this Charter and by city ordinance.~~ The Mayor shall formulate the City's operating budget and the biennial capital improvement budget in consultation with the Council. The budgets shall be consistent with this Charter, the City's adopted goals and objectives, City legislation, and the Comprehensive Plan.

Section 2. [COUNCIL REPRESENTATIVE TO PARTICIPATE].

A representative of the Council shall be allowed to participate in all meetings and have access to all information relating to the formulation of the budget.

Section 3. [PROPOSAL AND APPROVAL DATE].

The Mayor shall propose the operating budget to the Council by April 1 ~~of each year~~. The Council shall approve the operating budget as proposed or amend and approve it ~~within sixty days~~ by May 31 after it is proposed by the Mayor.

Section 4. [PUBLIC HEARINGS].

During the ~~sixty days of~~ deliberation by the Council, the Council shall hold at least three public hearings on the proposed budget. The Mayor, or the Mayor's representative, shall be present at the hearings on the proposed budget to answer questions about the budget.

Section 5. [FAILURE OF COUNCIL TO APPROVE].

If the Council fails to approve a budget ~~within sixty days~~ by May 31 after it is proposed to the Council by the Mayor, then the budget as proposed by the Mayor is deemed approved by the Council.

Section 6. [PROCEDURE ORDINANCE].

A procedure for formulation of the annual operating budget shall be established by ordinance adopted by the Council, after consultation with the Mayor, consistent with this provision of the Charter. The ordinance shall establish a conference committee comprised of six members, three of whom shall be designated by the Mayor and three of whom shall be designated by the Council, for the resolution of any disagreements between the Mayor and the Council that arise concerning the budget during the ~~sixty day~~ period ~~starting~~ between April 1 and May 31.

These proposed amendments add the Capital Improvement Program (CIP) to the title and first section of the Article. The amendments also insert specific dates by which the operating budget must be approved to avoid problems caused by the term "60 days." Finally, the amendments tie the operating and capital budget proposals to the Charter, adopted goals and objectives of the City, legislation and the Comprehensive Plan.

H. ARTICLE VIII. HUMAN RIGHTS

The Task Force is proposing to amend this section as follows to prohibit disability, sexual orientation or gender identity discrimination, and to clarify that the City, and not the Council, as is currently stated in the Charter, may not discriminate on the grounds set forth in the Article. The remaining proposed changes simply enhance the readability of the section.

ARTICLE VIII. [HUMAN RIGHTS]

The ~~Council~~ City shall preserve, protect and promote human rights and human dignity, shall promote and encourage the recognition and exercise of human responsibility and shall prohibit discrimination on the basis of race, color, religion, sex, national origin or ancestry, age, ~~or physical handicap~~ disability, sexual orientation or gender identity. To effect these ends the ~~Council (City Commission)~~ City shall take whatever action is necessary ~~and shall enact, including the enactment of~~ ordinances and ~~shall establish the establishment of~~ appropriate Commissions, Boards or Committees with jurisdiction, authority and staff, sufficient to effectively administer city policy in this area.

I. ARTICLE IX. ENVIRONMENTAL PROTECTION

Consistent with the changes in Article VIII, the Task Force is recommending “The Council” be changed to “The City” to emphasize that environmental protection is not limited to the Council but is an important value and goal of the City. The remaining changes enhance readability.

J. ARTICLE X. MERIT SYSTEM

Reviewed with no changes recommended.

K. ARTICLE XI. ORDINANCES

Reviewed with no changes recommended.

L. ARTICLE XII. CODE OF ETHICS

The Task Force is proposing some limited changes to this Article. These changes are:

(1) Delete unnecessary phrases and make definitions more consistent with other definitions in other parts of the Charter;

(2) Clarify that the Board of Ethics members may not serve more than two consecutive terms;

(3) Make the Board of Ethics subpoena power consistent with other language in the Charter;

(4) Change the Board of Ethics hearing process slightly to allow a member to continue to sit on a case if his or her term expired only if the Board has already voted on a matter in the case. The existing language allows a member with an expired term to continue to sit on a case if the Board has “accepted evidence” in the case. That language was deleted;

(5) Make reference to the Whistleblower Ordinance which also prohibits retaliation against an employee who reports to the Board of Ethics a violation under the “Misuse of City Employees in Campaigns” section of the Ethics Code; and

(6) Require that suspension or removal of an employee or official by the Council after a recommendation from the Board of Ethics be done in accordance with rules and regulations.

M. ARTICLE XIII. ELECTION CODE

The Task Force is recommending the following changes to Section 4(f):

Section 4. CAMPAIGN FINANCING.

(f) Ban on Contributions from Business Entities and City Contractors. No candidate shall accept a contribution in support of the candidate's campaign from any corporation, limited liability company, firm, partnership, joint stock company or similar business entity or any agent making a contribution on behalf of such a business entity. No candidate shall accept a contribution in support of the candidate's campaign from any person, other than a City employee, who at the time of the contribution ~~is in a contractual relationship with the City to provide goods or services to~~ has business dealings or a contract with the City. The remedy for an unknowing violation of this subsection shall be the return of the contribution.

The phrase “in a contractual relationship with the City to provide goods or services to the City” is not defined. By contrast, the Code of Ethics has two definitions involving prohibitions on actions by certain business entities. These include §2(b) and (e) which state as follows:

(b) “Business Dealings” or “Business Dealings With the Governmental Body” includes circumstances where a person is (1) presently a party to a contract with the city, (2) presently a subcontractor under a subcontract with a party under contract with the city, (3) bidding, proposing, or applying for contracts with the city, (4) a party in litigation with the city,

(5) a party before a quasi-judicial administrative proceeding conducted by a city board, commission, committee or hearing officer or (6) a party to an appeal of a decision of a city department, quasi-judicial administrative board, commission committee or hearing officer.

(e) “Contract with the City” means a written contract to (1) purchase real property from the city, (2) sell real property to the city (3) rent real or personal property to or from the city, or (4) provide services and/or goods to the city. A contract with the city shall also include all subdivision improvement agreements for the private development of public infrastructure and associated easements and revocable permits.

By replacing “the contractual relationship with the City” with “has business dealings or a contract with the City,” the Task Force is bringing the Election Code definitions in line with the Code of Ethics definitions, thereby reducing confusion and inconsistent interpretations of the Charter. In addition, the new Election Code language is more restrictive than the previous language. It prohibits candidates from accepting contributions from those businesses who have contracts with the City as well as those who are a party in litigation with the City or bidding on City contracts.

N. ARTICLE XIV. SEVERABILITY

Reviewed with no changes recommended.

O. ARTICLE XV. COMPETITIVE BIDDING FOR ELECTRICAL FRANCHISES

No changes recommended. The Task Force considered amending, updating or deleting this Article but concluded that it should remain unchanged.

P. ARTICLE XVI. OPEN AND ETHICAL ELECTIONS CODE

The Task Force is recommending the following changes:

Section 21. PENALTIES – ENFORCEMENT.

~~(A) Each and every violation of the Open and Ethical Elections Code is a criminal violation subject to the provisions of Section 1-1-99 ROA 1994.~~

~~(B) The City Attorney~~ Board of Ethics and Campaign Practices shall enforce the Open and Ethical Elections Code pursuant to Articles XII and XIII of the City Charter.

Violations of Article XIII, Elections Code, are enforced by the Board of Ethics. The Board of Ethics has the authority to issue fines and other penalties. Violations of Article XVI are enforced by the City Attorney. The only enforcement mechanism granted to the City Attorney is to file a criminal complaint for petty misdemeanors in the

Metropolitan Court which is not an effective or efficient means of enforcing violations that occur under this Code. The Task Force is recommending that one entity, the Board of Ethics and Campaign Practices, enforce violations of both the Election Code and the Open and Ethical Elections Code.

Q. ARTICLE XVII. PLANNING

The Task Force is recommending the following new Charter Article:

ARTICLE XVII. [PLANNING] New Material

Section 1. The Council is the City's ultimate planning and zoning authority, including the adoption and interpretation of the Comprehensive Plan and the Capital Improvement Plan. The Council is also the City's ultimate authority with respect to interpretation of adopted plans, ordinances, and individual cases.

Section 2. The Mayor or his designee shall formulate and submit to the Council the Capital Improvement Plan and shall oversee the development, implementation, enforcement, and administration of land use plans.

Section 3. The Mayor and City Council, in their effort to achieve quality service for City residents, shall strive to cooperate formally and communicate with the communities and governmental entities which are part of, or adjacent to, the Albuquerque Metropolitan Area.

The Task Force was asked to consider the Council's role as the City's zoning authority and its relationship to the Planning Department. The Task Force elected to draft an entirely new provision on planning to clarify the respective roles of the Mayor and Council and to emphasize that both local and regional planning is critical to our future. The Task Force's emphasis on planning is also seen in its proposed modification of the budget process. The Task Force believed that the planning process, including the Capital Improvement Program and the Comprehensive Plan, should be a driving force in formulating the operating budget.

The Task Force voted to affirm that the City Council is the ultimate planning and zoning authority which includes the power to adopt and interpret the Comprehensive Plan, the Capital Improvement Plan and any other adopted plans. At the same time, the Mayor develops and submits the Capital Improvement Plan to the Council and oversees the "development, implementation, enforcement, and administration" of land use plans.

R. ARTICLE XVIII. CITIZENS' INDEPENDENT SALARY COMMISSION

The Task Force is recommending the following new provision:

ARTICLE XVIII. [CITIZENS' INDEPENDENT SALARY COMMISSION] New Material

A Citizens' Independent Salary Commission is created with the authority to set the salaries of the Mayor and Councillors. The Commission has the authority to evaluate the annual salaries and determine whether they should be increased or decreased. The Commission has authority to consider all factors relevant to the salaries.

(A) The Commission shall consist of five members selected by the Accountability in Government Committee. All members shall be residents of the City of Albuquerque and shall not be an officer, official or employee of the City or an immediate family member of the same. The term of each member shall be for four years, unless a member is selected to fill a vacancy, and no member shall be appointed to more than two terms. The initial terms of members of the newly established Commission shall be staggered; the initial term for two members shall be two years and the initial term of three members shall be four years.

(B) At least one year prior to each regular municipal election, the Commission shall review the salaries paid by the City to the Mayor and Councillors. If after such review the Commission determines that the salary should be increased or decreased, the Commission shall file a written salary schedule with the City Clerk indicating the proposed salary.

(C) Changes to the salaries shall not be effective for the incumbent Mayor and Councillors, but shall be effective at the beginning of the next term.

(D) Any change to salaries recommended by the Commission shall be subject to the referendum procedures as provided for in Article III, Section 2 of this Charter.

(E) All meetings of the Commission shall be open to the public and subject to the Open Meetings Act, Sections 10-15-1 et seq. NMSA 1978.

The Task Force reviewed many charters from across the country. Many of these charters provided for an Independent Salary Commission to determine the salaries of both the Mayor and Council. The Task Force believes it has created a commission that is as independent as possible. Neither the Mayor nor Council select the commission members and the Mayor and Council have no authority to approve the salary increase or decrease.

The Task Force believes this approach will result in a fair and objective analysis of Mayor and Council salaries.

S. ARTICLE XIX. VIOLATIONS OF THE CHARTER

The Task Force is recommending the following new provision:

ARTICLE XIX. [VIOLATIONS OF THE CHARTER] New Material

A procedure for addressing violations of the Charter shall be established by ordinance adopted by the Council after consultation with the Mayor. The ordinance shall establish a conference committee for the resolution of alleged violations of the Charter which the Mayor or Council bring before the committee. The committee shall be comprised of three members. The Mayor shall appoint one member and the Council shall appoint one member. The two members so appointed shall select the third member to serve as the chairperson of the committee. The appointment of a committee member by one appointing authority shall not be approved or disapproved by the other two appointing authorities.

The Task Force was concerned that no enforcement mechanism exists for alleged violations of the Charter. The general view was that it was not necessarily desirable to the Mayor and Council to bring these alleged violations to court, yet the current Charter created no other option. While many different procedures were discussed, the Task Force ultimately concluded that the Council, in consultation with the Mayor, would be in the best position to design the mechanism through ordinance.

T. ADDITIONAL MATTERS CONSIDERED BY THE TASK FORCE

These recommendations were passed by a majority of the Task Force. Many other important issues were discussed by the Task Force over the last nine months. The Task Force could not reach a consensus on these matters but believed that some of these matters should be identified in the report to you.

1. Fairness of Public Financing. Many members of the Task Force expressed concern that viable mayoral candidates were not able to obtain the necessary \$5.00 contributions to place their names on the ballot. The Task Force believes that the City does not benefit when this occurs. At the same time, the Task Force believed it was premature to make recommendations before this election cycle, the first mayoral election with public financing, had run its course. The Task Force believes that after this election cycle, the City of Albuquerque would benefit from an analysis as to whether the contribution amount of \$5.00 should be reduced and whether the time frame for collecting seed money should be expanded.

After the election cycle, the Task Force believes it would be useful to study whether public financing increased public trust in elections and, if so, how, and whether public financing removed or reduced special interest influence. In other words, the Task Force believed it would be beneficial to step back and objectively evaluate how public financing worked.

2. The Task Force struggled with whether the Election Code should be modified to require a person as defined by Article XII of the Charter that distributes

communication within 120 days of any municipal election to register as a measure finance committee and, if so, how the Code could be modified in a constitutional manner that would not impermissibly restrict political speech. This debate garnered a great deal of interest from the public. The Task Force recommends further discussion at City Council regarding this issue. The Task Force emphasized that the Council is the proper body to make decisions about this issue because the Council can also amend the Election Code by a vote of seven Councilors.

3. We discussed all of the issues that the Council requested the Task Force to discuss. If there is not a recommendation, it means only that consensus for a Charter amendment could not be reached. It does not mean that the Task Force did not have lengthy and spirited discussion on these topics or that these topics are any less important than the topics for which consensus was reached.