

May 8, 2018

Dear Charter Review Commissioner:

Our SAMBA Coalition (San Antonio Making Bureaucracies Accountable) is pleased to support your Commission's transitional effectiveness by sharing two matters:

1. Consistent with Mayor Nirenberg's public finance focus, the attached May 27, 2017 letter to then-Chair Jeff Webster proposes a Charter amendment you may have missed during the recent transition. Are you aware of other citizen proposals that may support the Mayor's priorities?

2. Outlining the rationale for his decision to revamp the Commission, Mayor Nirenberg advised, "All 13 commissioners are **appointed by the mayor...**" pursuant to Ordinance 2014-09-11-0674 signed by Mayor Taylor and City Attorney Robert Greenblum. However, our Charter at Article V. Sec. 49 rules, "The members of any such advisory boards, commissions or committees shall be **appointed by the Council** of which the Mayor is one member. (Ord. No. 85965, § 1 (Prop. 1) 5-5-97). Reference pages 31-32 in the red bound Charter of the CoSA Amended as of May, 2015 that was given to you at your first CRC meeting on April 13, 2018.

Voters may conclude that Mayor Nirenberg exceeded his authority in unilaterally appointing you to this Commission based on an Ordinance which conflicts with our Charter. Your Commission may have been illegally constituted. We are confident you do not want to violate the Charter on your way to amending it.

Did City Attorney Segovia clarify for you the source of your authority?

More background is available at our website. Type www.samba911.org on the address line of your web access page. Press Enter, then click on "Charter Review Commission."

If SAMBA can be of service to you, please me know.

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1722 Eagle Point
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May 27, 2017

Mr. Jeff Webster, Chair
Charter Review Commission
c/o Office of the City Attorney
P. O. Box 839966
San Antonio, Texas 78283

RE: Proposed Charter Amendment — Financial Management

Dear Chair Webster:

The U. S. Constitution and Amendments limit the power of the federal government, thereby preserving citizens' rights and freedoms. San Antonio's Charter and Amendments must similarly protect our citizenry from the predations of unrestrained City bureaucracies. The purpose of this letter, the work of the San Antonio Making Bureaucracies Accountable (SAMBA) Coalition, is to make unelected bureaucracies — VIA, CPS, SAHA, SAWS, City staff — responsive to the citizens they serve. Since we seek to limit the power of “the establishment,” your Commission may expect hostile responses from current elected and appointed City officials who will oppose the imposition of effective disciplines, also known as “leadership.”

This parable, “Jeff Webster Buys a Car, or Does He?” introduces a current deceptive financial practice among our bureaucracies:

Jeff Webster: I like the car and \$25,000 is a good price. What are your terms to finance the deal — interest rate, number of years, monthly payments?

Salesman: Our dealership does not release financing details. To make your new car experience more enjoyable, we handle financial concerns for you and just send you a payment book, for your convenience.

Deal, or no deal?

This homely auto purchase example helps us recognize our City's failed stewardship of taxpayer funds in three instances, involving three bureaucracies:

1. The City's “\$850 Million Bond Program” — Enclosed at **A** is our February 13, 2017 Open Records Request of City CFO Ben Gorzell for the issuance and interest costs related to the City's advertised “**\$850 million**” Bond. The letter estimates, based on leaked details, that the Bond's total cost over its term will be **\$1.315 billion** (probably a conservative estimate) but we still do not know the total. Our Mayor/City Council “bought the car” (the Bond proposal) without knowing what the payments would be. Our electorate, sharing Jeff Webster's wisdom, will not accept an undisclosed obligation tied to a \$25,000 car purchase but, following Gorzell's manipulative lead, they ignored the financing costs of an “\$850 million Bond Program,” a

commitment 34,000 times the size of the car deal. We can walk away from an offending car dealer; the misrepresented Bond deal is imposed on us by the City, the only act in town. Such is the tyranny of an unelected bureaucracy.

There is precedent for disclosing the full bond issuance costs. The Dallas City Charter states at Chapter XXI. Sec. 2. GENERAL OBLIGATION BONDS (TAX SUPPORTED BONDS): “For bonds requiring voter approval, the city shall indicate on the ballot proposition the amount of bond issuance authorization, **estimated amount of repayment including principal and interest based on current market conditions,...**” By contrast, CFO Gorzell abrogated Dallas’ transparency and arrogated the power to share only the information that served his purpose. This is an abuse of power, fraud by omission by one of our employees.

- The Texas AG suggested to Mr. Gorzell in his August 28, 2017 letter enclosed at **B**, “The easiest way to resolve this open records complaint is to release the information that was requested...” But Gorzell still ignores our Open Records Request, even though the Texas Public Information Act assigns criminal penalties for failure of bureaucracies to provide timely ORR responses. Why would Gorzell take a large personal risk over such a small disclosure matter? Perhaps the issue is not “small.” “People hide things when they have something to hide.”

- Ben Gorzell is a CPA, a financial expert. He knowingly withheld from public view about \$465 million of Bond project expense (\$1.315 Billion estimated total cost - \$850 million Bond principal) because understated costs facilitate approvals to spend taxpayer funds. And, more importantly, this fraudulent exclusion of the cost of capital preserves a pattern of financial misrepresentation that is evidently City staff policy:

2. CPS Energy Smart Grid 20-Year Project Financials — The “Projected Smart Grid 20-Year Financials (\$000)” analysis enclosed at **C** contrasts the omission- and error-ridden “Gorzell” assessment in column a, with our “Coalition” completed/corrected column b version, developing the \$2.507 billion difference on page 2. Note the \$522.8 million “**Cost of Capital Employed**” omission at the bottom of page 1, a major contributor to this 20-Year Unreconciled Difference. And there is more:

3. VIA Modern Streetcar Proposal — As the “numbers guy” for the Coalition that defeated VIA’s Streetcar project, I am aware that the City-endorsed financials for this project excluded both depreciation and **interest (the cost of capital employed)**, when Gorzell presented City staff’s “due diligence” review of project financials to the City Council and recommended approval of the project. (VIA’s Streetcar project was subsequently terminated in response to a citizen petition containing 26,000 signatures and Mayor Taylor’s declaration that the project, which she had approved as a Council Member, was a “waste of money.”)

Charter Amendment Background

1. My MBA degree from Harvard Business School and extensive experience with a S&P 200 multinational U. S. corporation preparing, approving and reviewing major capital

expenditure projects, does not make me right, but suggests I should be acquainted with the subject matter here.

2. As a former consultant, I estimate I am providing at no charge to the Commission an accumulated \$250,000 of consulting services. All I request in return is (a) acknowledgement of your receipt of this letter and (2) the opportunity to personally respond to all of the establishment opponents of the discipline imposed by this simple Charter change. In 1926 President Calvin Coolidge described the bureaucracy as: "...the one element in our institutions that sets up the pretense of having authority over everybody and being responsible to nobody."

3. Investopedia (www.investopedia.com/dictionary) definitions:

- Capital Project: "...a lengthy investment used to add, improve on a project. It is any task that requires the use of significant capital, both financial and labor, to start and finish..."

- Cost of Capital: "the cost of funds used for financing a business...the cost of debt if (the business) is financed solely through debt..."

4. San Antonio's website pledges that Integrity is among the City's "Core Values" — "We make honesty and transparency the foundation for all actions. We are accountable at all levels. We avoid the appearance of impropriety." Charter Amendments should reduce the gap between reality and this lofty Core Value.

Proposed Charter Amendment Language

No Capital Project or bond proposal may be submitted to the Mayor/City Council or to a bureaucracy's supervisory body for consideration without a comprehensive disclosure of the project's anticipated Cost of Capital (which may add 25% to 100% to project costs). All assumptions and forecasts used in developing the Cost of Capital will be identified. Representations of the cost of a Capital Project or bond proposal to San Antonio citizens will always include the Cost of Capital.

As smart consumers we will not purchase a car without knowing the transaction's terms and conditions; we are obliged to extend the same protection to taxpayers' funds spent by the City's elected and unelected managerial employees.

Sincerely yours,

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enclosures