

**EXECUTIVE
COMMITTEE**

Lucas Peerman
President

Rashad Mahmood
Vice President

Kristelle Siarza
Treasurer

Mary Lynn Roper
At-Large Member

Daniel Yohalem
At-Large Member

Jessica Onsurez
*Immediate Past
President*

May 28, 2026

Las Cruces City Clerk
700 N. Main St
Las Cruces, NM 88001

Sent via email: cityclerk@lascruces.gov

RE: Violations of the Las Cruces Municipal Code and Open Meetings Act

Dear U.S. Rep. Gabriel Vasquez, former Mayor Ken Miyagishima, former City Councilor Kasandra Gandara, and former City Councilor Tessa Abeyta:

I write to provide notice of multiple violations of the Las Cruces Municipal Code and the New Mexico Open Meetings Act (“OMA”), NMSA 1978, § 10-15-1 et seq., which occurred between 2020 and 2023 while you served on the City of Las Cruces Public Safety Select Committee (PSSC).

The violations include, but are not limited to, the following:

1. Violation of Las Cruces City Code § 2-IV-7, Sec. 2-1101(B);
2. Violation of Las Cruces City Code § 2-IV-7, Sec. 2-1101(A), and Section 10-15-1(B) of the Open Meetings Act by Operating as an Exempt Committee
3. Violation of Section 10-15-1(A) of the Open Meetings Act by Conducting Public Business Through Closed-Door Votes;
4. Violation of the Open Meetings Act Through the Use of a Closed Committee to Control Public Policy Discussions;
5. Violation of Section 10-15-1(B) Through the Use of Committees to Circumvent OMA;
and
6. Failure to Provide Public Notice and Permit Public Attendance.

Background

On January 6, 2020, the Las Cruces City Council unanimously amended Ordinance 2908 to revise the requirements governing “select committees,” which “may be established by the mayor or city council to provide the mayor and city council with information and advice on the goals and objectives stated in the city charter or the city's strategic plan.” [LCC § 2-IV-7, Sec. 2-1101].

On December 20, 2020, the City Council received written notice from Mayor Ken Miyagishima establishing the Public Safety Select Committee. The notice stated that the committee would include Mayor Miyagishima, Mayor Pro Tem Kasandra Gandara, Councilor Gabriel Vasquez, the city manager, and the city attorney. Additional participants included the Chief of Police, the Fire Chief, and other city staff. In 2022, Councilor Vasquez was replaced by Councilor Tessa Abeyta.

According to PSSC agendas, the final meeting of the committee was November 10, 2023.

Violation of Las Cruces City Code § 2-IV-7, Sec. 2-1101(B)

Under the Select Committee Ordinance, the mayor was required to provide written notice to the City Council upon establishment of the PSSC. The ordinance expressly states: “if the mayor establishes a select committee, the city council shall be given written notice of the establishment.” [LCC § 2-IV-7, Sec. 2-1101(B)].

Substantial evidence indicates, however, that the PSSC existed and operated months — and possibly years — before such notice was provided to the City Council, and that it was previously referred to as the “Community Mitigation Committee” or “Public Safety Committee.”

During the twelve months preceding the committee’s formal establishment:

- Mayor Miyagishima, City Attorney Jennifer Vega-Brown, and Mayor Pro Tem Gandara referenced the PSSC by name on ten occasions during four separate City Council meetings and indicated that the committee was already operational;
- City staff, Mayor Miyagishima, Mayor Pro Tem Gandara, and Councilor Gabriel Vasquez participated in thirteen email chains referencing the PSSC; and
- City Attorney Vega-Brown included in a PowerPoint presentation to the City Council the statement: “allow Public Safety Select Committee the opportunity to vet options.”

These references occurred despite the fact that the PSSC had not yet been formally created.

Further, campaign materials published in 2023 by mayoral candidate Kasandra Gandara stated: “The City of Las Cruces established its Public Safety Select Committee in December 2015 to address issues related to safety and well-being in our community.” If accurate, this would

mean the committee had been operating for approximately six years before either the City Council or the public received formal notice of its existence.

Violation of Las Cruces City Code § 2-IV-7, Sec. 2-1101(A), and Section 10-15-1(B) of the Open Meetings Act by Operating as an Exempt Committee

The Select Committee Ordinance authorizes select committees solely “to provide the mayor and city council with information and advice.”

This limitation mirrors longstanding guidance from the New Mexico Attorney General regarding committees exempt from OMA. According to the Attorney General, an exempt committee is one that:

1. Engages solely in fact-finding
2. Simply executes the policy decisions or final actions of the public body; and
3. Does not otherwise act as a policymaking body.

[The Inspection of Public Records Act: A Compliance Guide on Government Transparency for New Mexicans and Their Public Officials, N.M. Department of Justice 2024, pg 8]

There is no evidence that the PSSC functioned in this limited advisory capacity.

A review of agendas and minutes from 252 City Council meetings between 2019 and 2025 revealed that the PSSC was mentioned only three times, and never in connection with providing facts, information, or recommendations to the City Council. Likewise, a review of City Council transcripts and communications between city officials produced no evidence that the committee ever submitted formal or informal recommendations to the Council.

Instead, available records demonstrate that the PSSC actively formulated, discussed, and controlled public policy matters, including but not limited to:

- rewriting ordinances concerning domestic violence and civilian police oversight;
- drafting RFPs for police auditing services and crisis response units;
- discussing police policies, including use-of-force standards, officer mental health evaluations, and crisis intervention procedures; and
- deliberating issues relating to homelessness, speed enforcement, fentanyl, gun safety, police case closures, and pending litigation.

The committee’s policymaking role was expressly acknowledged by city staff. In a November 13, 2023, email, Sergio Ruiz, policy analyst for the city manager’s office, described the Public Safety Committees as “an integral part of the policy-making process.”

Violation of Section 10-15-1(A) of the Open Meetings Act by Conducting Public Business Through Closed-Door Votes

Section 10-15-1(A) of OMA provides: “The formation of public policy or the conduct of business by vote shall not be conducted in closed meetings.”

Nevertheless, the PSSC made substantive policy determinations in closed meetings and, in at least one instance, prevented rejected policy proposals from reaching the full City Council for public consideration.

At a November 10, 2022, PSSC meeting, Mayor Miyagishima and Councilors Abeyta and Gandara considered a proposal concerning a citizen police review committee. Each expressed opposition to the proposal, and the matter was not forwarded to the City Council.

At the subsequent December 5, 2022, City Council meeting, another councilor attempted to place the matter on the agenda. Mayor Miyagishima refused to permit the issue to proceed, and PSSC members actively discouraged further discussion.

Violation of the Open Meetings Act Through the Use of a Closed Committee to Control Public Policy Discussions

Section 10-15-1(B) of OMA requires meetings to be open to the public when held for “formulating public policy” or “discussing public business.”

The record demonstrates that the PSSC operated as a policymaking body and further acted to prevent public discussion of public safety policy matters by the full City Council.

For example, during a November 23, 2020, City Council work session concerning police accountability, City Attorney Vega-Brown advised that proposed policy changes “would be vetted through ... the Public Safety Select Committee.” Mayor Miyagishima repeatedly instructed councilors who wanted to discuss policy to “follow procedure” and allow matters to proceed through the PSSC first.

A similar pattern occurred during City Council meetings on April 3 and April 17, 2023, when four councilors requested a special public safety work session. Despite having sufficient votes to call such a session, Mayor Miyagishima stated that any proposal for a work session first needed approval from the PSSC before reaching the City Council.

These statements and actions demonstrate that the PSSC functioned not as a limited advisory body, but as a gatekeeping body, controlling which public safety issues could be publicly discussed by elected officials.

If we reconsider the Attorney General’s definition of a committee that is exempt from OMA, it is clear that the PSSC:

1. Did not solely do fact finding
2. Did act as a policymaking body

Thus, the committee was required to follow OMA.

The PSSC's actions as described above rebut the findings of the Attorney General's Office in its October 20, 2025, disposition letter, where it reasoned that "in the absence of evidence to the contrary"... "that that the PSSC made decisions on behalf of, formulated recommendations that were binding in any legal or practical way on, or otherwise established policy for the City Council"... "our office finds that the PSSC's meetings were not subject to the provisions of OMA." Since we have evidence to the contrary, we will be asking the Attorney General's Office to reconsider their findings.

Violation of Section 10-15-1(B) Through the Use of Committees to Circumvent OMA

The final sentence of Section 10-15-1(B) states: "No public meeting ... shall be closed or dissolved into small groups or committees for the purpose of permitting the closing of the meeting."

Additionally, our state appellate courts have held that, "[i]t is patently contrary to the OMA's purpose to permit a public body to avoid the OMA's requirements simply by delegating its responsibilities to a [committee]." [*N.M. State Inv. Council v. Weinstein, 2016-NMCA-069, ¶ 75, 382 P.3d 923, 10 N.M. 287*]

The legislative history surrounding the amendment of the Select Committee Ordinance strongly suggests that avoiding public scrutiny was a motivating factor behind creation of the PSSC.

During the January 6, 2020, City Council meeting where changes to the select committee ordinance were approved, City Attorney Vega-Brown stated that select committees were needed because "there are instances in which we have to discuss potential litigation ... that would be better kept in a more confidential setting."

Similarly, at a February 27, 2023, City Council meeting, City Clerk Christine Rivera stated that select committee meetings "are not subject to OMA" and that discussions included attorney-client privileged matters and unreleased audit reports.

These statements indicate an intent to utilize select committees as a mechanism for conducting public business outside public oversight.

Failure to Provide Public Notice and Permit Public Attendance

The Select Committee Ordinance requires that “[t]he membership, purpose, duties, and duration of the select committees ... shall be made available to the public.” [LCC § 2-IV-7, Sec. 2-1101(A)].

Likewise, OMA provides that “[a]ll meetings of any public body ... shall be public meetings, and all persons desiring shall be permitted to attend and listen to the deliberations and proceedings.” [Section 10-15-1(A)].

The available evidence demonstrates that the City actively resisted public disclosure concerning the PSSC’s existence and activities.

In response to a June 25, 2023, Inspection of Public Records Act request submitted by Michael Hays seeking records related to the PSSC, the City initially produced only thirteen documents, declared the request excessively burdensome, and later released heavily redacted records. Following litigation, the City ultimately produced the requested records after incurring approximately \$95,000 in legal costs. [See *Hays v. City of Las Cruces*, D-307-CV-2023-02167 (N.M. Dist. Ct. 2023)]

The public repeatedly requested transparency regarding the PSSC during City Council meetings, including requests for agendas, minutes, and public access to meetings. Those requests were consistently denied or ignored.

Even City Council members who did not serve on the committee were denied access to meeting notices, agendas, and minutes, prompting them to repeatedly lodge complaints regarding the committee’s secrecy and lack of accountability.

For example, On Feb. 27, 2023, Councilor Yvonne Flores stated: “I just want to share with everybody in this room that ... I know as much about [the public safety committee] as you do. ... nothing gets reported to us, so I want the public to know that.”

Conclusion

The factual record establishes the following:

1. The Select Committee Ordinance was amended to facilitate discussions of public policy in a confidential setting;
2. The PSSC operated before the City Council and public received formal notice of its existence;
3. The PSSC formulated and controlled public policy outside public view;

4. The committee acted to prevent broader City Council discussion of certain policy matters; and
5. The City repeatedly withheld information regarding the committee's activities from both the public and non-member councilors.

Taken together, these facts support the conclusion that the Public Safety Select Committee was intentionally structured and operated in a manner designed to permit the formulation, discussion, and control of public safety policy outside the view of the public and outside the requirements imposed by the Open Meetings Act.

In effect, the PSSC functioned as a secret policymaking committee.

Such conduct is a violation of both the letter and spirit of New Mexico's transparency laws, which exist to ensure that public policy is debated openly and that governmental decision-making remains accountable to the public.

Rectifying the harm done to the public

Given the substantial harm caused to the public by denying its fundamental democratic right to observe elected officials discuss and make decisions on matters of public policy, we believe the City Council should take immediate corrective action.

One meaningful step toward restoring public trust would be to repeal the Select Committee Ordinance from the Las Cruces Municipal Code. The ordinance's practical effect was to facilitate the creation and operation of committees that conducted public business outside public view. Repealing the ordinance would demonstrate to the public that the City Council recognizes the seriousness of these violations and is committed to ensuring that similar conduct does not occur again.

We have been informed that no current committees operate under the Select Committee Ordinance. If that is true, repealing the ordinance would impose little to no operational burden on the City Council while serving as an important first step toward restoring transparency, accountability, and public confidence in local government.

Sincerely,



Christine Barber
Executive director
New Mexico Foundation for Open Government