

Santa Clara violates open meetings law

Written by [Stewart McClintic](#) on December 10, 2016

A \$15,000 cut to the Santa Clara Municipal Court caused quite a stir during the village Board of Trustees meeting Thursday evening among the judge, his clerk and the public in attendance.

Judge Andrew Gomez, who was elected in March over incumbent Reynaldo Maynes, said he felt the \$15,000 budget cut was unfair and believed it was based on his performance. However, he said the cut will only affect Court Administrator Edith Gutierrez's salary and would make the court part time.

Mayor Richard Bauch said it was not based on his performance, although he didn't agree with some of the judge's decisions. He said the village is in financial distress and cuts have been made to many departments.

"To me it feels like it's not justifiable to have a full-time court," Bauch said.

He said the village must make more than \$70,000 in cuts this year to deal with decreased funding from the state, and this was one of the ways to cut costs. Bauch said that back in May, when the village was forming its budget, he told Gomez that there might be some cuts made to the Municipal Court. He added that at the beginning of the fiscal year in July, the Municipal Court was the only department that didn't receive a budget cut.

"I realize \$15,000 is a hard thing to deal with," Bauch said.

Gomez said Bauch didn't tell him about the cut in a professional manner most recently. Gomez said that the mayor could have approached him personally to discuss the budget cut instead of leaving a letter in his mailbox at the administration building in November.

"I could have told you," Bauch said. "I apologize for not telling you this time of year, but we had discussed it previously."

Gomez also said the decision to cut funding to the court was not handled properly since they discussed the cut in an executive session during the Nov. 10 meeting and he alleged the village violated the New Mexico Open Meetings Act.

Bauch said they discussed it in closed session because it would mainly affect Gutierrez's salary. He said because it was related to a personnel decision it had to be discussed in executive session, according to the Open Meetings Act. He said they voted to cut the budget in open session.

However, according to the New Mexico Open Meetings Act, a public body may go into executive session to discuss "limited personnel matters," which "means the discussion of hiring, promotion, demotion, dismissal, assignment or resignation of or the investigation or consideration of complaints or charges against any individual public employee."

A public body may also close a meeting "for matters that are closely related to those specifically listed in the exception, such as performance appraisals and interviews with job candidates."

However, the act specifically states: "The exception does not permit a public policymaking body to retreat into executive session to discuss personnel policies, procedures, budget items, and other issues not concerning the qualifications or performance of specific individuals."

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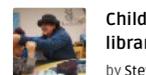
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Susan Boe, executive director of the New Mexico Foundation for Open Government, said that the village may have violated the Open Meetings Act.

"The personnel exception allows closed meetings so the public body can address performance issues of an employee," she said. "If it's a budgetary issue, it should be done in open session."

For example, Boe said if a government organization needs to slash its budget and it might affect an entire department and its employees, then that discussion needs to happen in open session.

"I don't know if this decision was driven by opinions about the need for this employee or the job he or she was doing," Boe said.

Gutierrez said that it is up to the judge, not the municipality, to make staffing decisions.

She said that in comparison to the former judge, Reynaldo "Rene" Maynes, Gomez had only \$1,200 less in court income over the same time period from July through November – and he questioned why the cut is coming now when the performances of both judges have been fairly equal.

Bauch said the issue wasn't that the court wasn't bringing in money, just that the village is facing a \$200,000 shortfall. He said that there was some carryover money from last year that helped mitigate costs for the court and other departments, but now the village has to look to cut costs for impending shortfalls next year.

Gomez said the \$15,000 will directly affect his clerk and he asked the village to reconsider the cut, but the board voted to not change their decision from last month.

The current budget for the Municipal Court is about \$64,000, which would put their budget just below \$50,000 for the year after the \$15,000 cut.

Village Clerk Sheila Hudman said the village's \$200,000 deficit this year was because of decreases to the Small Cities Assistance Fund Distribution from the New Mexico Taxation and Revenue Department – which has previously provided about half of the municipality's funding each year, with the rest coming from local taxes, fines and gross receipts tax distribution. However, she said the village carried over around \$422,000 from previous years' funding. In fiscal year 2013, the village received around \$135,000. In 2014, they got about \$372,000 and in 2015 they received around \$393,000. This year, fiscal year 2016, they only received about \$185,000.

Hudman said they have been saving money each year to prepare for times where the funding may be at a minimum. She said the minimum funding they can receive in one year is \$90,000 and the village needs to prepare in case that's all they get next year.

She said the village is looking to save about \$70,000 for next year because if they operate on the same budget, then they will be that much short. The total revenue for this year was around \$643,000 and expenditures are about \$613,000. However, she said revenues for fiscal year 2017-18 are about \$371,000 and the estimated expenses are around \$618,000 with a beginning balance of about \$176,000. With the revenues and beginning balance added up, the budget would fall short of its expenses by about \$70,000.

Hudman said cuts are not only being made to the Municipal Court. Other proposed cuts include \$10,000 from the Police Department, \$10,000 to Hudman's salary and \$5,000 to the animal control office salaries and other smaller cuts throughout the entire village.

The next Santa Clara Board of Trustees meeting will be at 6 p.m. Thursday, Jan. 12.

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