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Transcript of the Meeting of the
CHARTER REVISION COMMISSION
held on Wednesday, June 15, 2005
44 West 4th Street
Borough of MANHATTAN

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|---------------------------------|---------------------|
| TANKOOS REPORTING COMPANY, INC. | |
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1 Meeting convened at 6:22 p.m.

2 P R E S E N T

3 DR. ESTER FUCHS, Chair

4 DALL FORSYTHE, Vice Chair

5 STEPHEN FIALA, Secretary

6

COMMISSIONERS:

7

ROBERT ABRAMS

8

CURTIS ARCHER

9

ANTHONY CROWELL

10

MARY McCORMICK

11

STEPHANIE PALMER

12

13 Also Present:

14 TERRI MATTHEWS, Executive director

15 BRIAN GELLER, Analyst

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1 CHAIRMAN FUCHS: Okay, I'd like to call this
2 session of the Charter Revision Commission to order.
3 This is a public hearing. It's June 15th, 2005. I want
4 to thank everybody for coming out for this public
5 hearing and I want to especially thank New York
6 University for hosting us this evening with a special
7 thank you to President John Sexton; Lynne Brown, the
8 Senior Vice President for University Relations and
9 Public Affairs.

10 Last week the Charter Commission voted
11 eleven to zero to release the Preliminary Recommendation
12 for Charter Revision. These are, as I said, preliminary
13 recommendations, and this is our opportunity now to hear
14 from the public as to what they think of these
15 recommendations and if they still have other
16 recommendations to make to the Commission. We have
17 copies of the report for the Commissioners and copies of
18 the Executive Summary for anyone else and if anyone here
19 would like a full copy of the report you can access it
20 on our website or you can sign up on our mailing list,
21 which is in the back of the room and we will mail you a
22 report directly.

23 Before we begin, there is some general
24 information that I'd like to tell everybody about.
25 First, I want to introduce the members of the

1 Commission, again, so that everybody can be familiar
2 with those of the Commission who are here this evening.

3 Commissioner Anthony Crowell on our left,
4 who is special counsel to the Mayor and a former
5 Executive Director and General Counsel to several
6 Charter Revision Commissions and an adjunct professor at
7 Brooklyn and New York Law Schools.

8 Commissioner Robert Abrams, who is currently
9 a partner at Stroock, Stroock & Lavan. As all of you
10 know, he was formerly the New York State Attorney
11 General and he also served as Borough President of the
12 Bronx and was a member of the New York State Assembly.

13 On my left is Dall Forsythe. Dall Forsythe
14 is the vice Chair of the Commission and he is currently
15 the Chief Administrative Officer of the Episcopal
16 Diocese of New York and a former budget director for New
17 York State and the New York City Board of Education.

18 On my right is Stephen Fiala. Stephen Fiala
19 is the Secretary of the Charter Commission and is
20 currently the County Clerk and Commissioner of Jurors
21 for Richmond County and a former member of the New York
22 City City Council.

23 Next to Stephen Fiala is Stephanie Palmer.
24 Stephen is the Executive Director of the New York City
25 Mission Society, and former Executive Director of the

1 Human Services Council.

2 Next to Stephanie is Mary McCormick,
3 currently President of the Fund for the City of New
4 York, and former Special Assistant to the New York City
5 Deputy Mayor for Labor Relations and a professor at
6 Columbia University.

7 We will be joined by several other members
8 of the Commission, but we will proceed now because we do
9 have a quorum.

10 Just for everybody's information, we do
11 welcome comments from the public and you can contact us
12 by calling either (212) 676-2060 or you can take a walk
13 to 2 Lafayette Street on the 14th floor or you can go on
14 to the web and find us at www.nyc.gov/charter. Future
15 meetings and hearings are scheduled and listed on our
16 website.

17 For your information, we will be holding a
18 second public hearing for this phase of the Charter
19 Commission on June 20th in the Queens Public Library in
20 Flushing at 41-17 Main Street. On June 22nd we will be
21 holding a third public hearing in the Brooklyn Law
22 School at 240 Joralemon Street, between Court and Boerum
23 Place in Brooklyn Heights. On June 27th we will have
24 another public meeting at 110 William Street on the

25 corner of John Street in lower Manhattan and if we need

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1 it, we have a public meeting tentatively scheduled on
2 June 30th at 22 Reade Street.

3 If you need any more directions, please
4 visit our website and you can get better directions than
5 we had today finding these locations. Some of us met on
6 the street out there and got lost together, so that was
7 actually quite fun.

8 At this public hearing, members of the
9 public may testify to the Commissioners on any topic
10 related to the New York City Charter, and for those of
11 you who haven't already, there is a signup sheet in the
12 back of the room.

13 Those who wish to speak have to sign up and
14 should do so now. If any elected officials are here and
15 I note that Councilman Jackson is here, we extend the
16 courtesy of moving them towards the front of the list
17 when they choose to speak.

18 Each person will testify for approximately
19 three minutes, although, of course, our elected
20 officials have an extended period for their testimony.
21 We also encourage you to submit any written testimony to
22 the Commission. We will let you know when there is

23 30 seconds left for your testimony and a bell will ring
24 at the conclusion of three minutes, courtesy of one of
25 our staff members. Brian, would you like to show the

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1 clock? Thank you.

2 When those of you are finished testifying
3 with your oral testimony, please stay at the microphone
4 in case any of the Commissioners have questions for you.

5 So on behalf of the entire Commission, I
6 want to thank everybody for coming this evening and I'd
7 like to begin the public testimony part of our hearing
8 today. I'd like to call Melanie Schoen. Please
9 identify your affiliation and thank you.

10 Come up to the microphone.

11 MS. SCHOEN: Hi.

12 CHAIRMAN FUCHS: Hi, good evening.

13 MS. SCHOEN: My name is Melanie Schoen. I
14 am a community liaison at the Municipal Art Society
15 Planning Center. The Planning Center is pleased to take
16 part in the Charter Revision Commission hearing.

17 Improving the ability of communities to
18 effectively create and implement plans has been the
19 mission of the Planning Center for over fifteen years,

20 ever since the '89 revisions to the Charter brought
21 197(a) planning into focus.

22 Several years ago, we joined other groups to
23 form the Community-Based Planning Task Force, a
24 coalition dedicated to raising public awareness of
25 community-based planning, both the obstacles of the

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1 process and the potential of the process to galvanize
2 and transform communities.

3 Our work has focused on increasing public
4 awareness of Community Boards and community-based
5 planning; encouraging participation by under-represented
6 communities and diversifying representation on Community
7 Boards, increasing resources and training for community
8 planning and seeking out and implementing measures to
9 strengthen 197(a) planning. Many of our policy
10 recommendations are compiled in a new report entitled
11 "Liveable Neighborhoods for a Liveable City," which I
12 brought some copies here for any of the Commissioners
13 that are interested in looking at that.

14 We'd like to use today's opportunities to
15 address ways in which the City Charter can be made more
16 effective in implementing these goals, which we believe
17 will make the City better and more liveable for

18 everyone.

19 There are no provisions in the Charter
20 mandating the City to promote participation in Community
21 Boards. The percentage of New Yorkers who do not know
22 that Community Boards exist is probably greater than
23 those, that percentage of New Yorkers who do. There is
24 no systemized outreach campaign sponsored by the City.
25 Public schools rarely make civic engagement or awareness

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1 of the local political process part of the curriculum.
2 There are no public service announcements encouraging
3 application for membership.

4 There are no checks and balances laid out in
5 the Charter to insure that Community Boards are as
6 diverse as the populations they represent. As it now
7 stands, Community Boards are the only officially
8 recognized structure for public participation in
9 neighborhood planning, for everything from the City
10 budget to 197(a) planning. Despite the rapid influx of
11 new immigrants into many communities, changes in the
12 composition of the District's population are not subject
13 to regular reports that feed back into the appointment
14 process. Each of the five boroughs of New York City has

15 a different application form for new potential Community
16 Board members and no City Agency is responsible for
17 tracking Board membership demographics.

18 We need more accountability to insure fully
19 democratic participation.

20 The Charter specifies that Community Boards
21 must make plans for their districts, but there are no
22 provisions enabling them to take on this complex task.
23 The average community district has a population over
24 100,000, yet all responsibilities of the Board are
25 carried out by a very small staff, typically consisting

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1 of the district manager and two administrative
2 assistants. Any extra personnel, such as planning
3 experts, must be paid for out of the Board's budget.

4 Since 1975, however, Boards have also been
5 given the right to develop 197(a) plans. This has moved
6 them from a reactive role to a more proactive role,
7 requiring different skills and additional resources that
8 have not been matched by additional funding or staffing.

9 While the Charter authorizes Community
10 Boards to hire planners, no Community Board currently
11 employs a full time planner. As it now stands,
12 Community Boards receive just a few hours training, and

13 only when they are first appointed.

14 We need to better identify and activate
15 existing resources for community-based planning, we need
16 to determine whether and how 197(a) planning can be more
17 effective.

18 The 1975 Charter introduced the possibility
19 of officially recognized community-initiated local
20 planning under Section 197(a). Even though this
21 signaled the proactive role in neighborhood planning,
22 few communities avail themselves of the opportunity to
23 draft a plan.

24 Currently, only 13 of 59 Boards have written
25 197(a) plans and seven of these plans have been adopted

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1 by the City.

2 Can I continue?

3 CHAIRMAN FUCHS: Yes.

4 MS. SCHOEN: Okay. If we choose to explore
5 a new way to enable community-based planning in New York
6 City, what would be the critical elements? New York can
7 draw on the experiences of a host of other
8 municipalities in the U.S. to formulate new policy. The
9 cities have incorporated community-based planning into

10 the official planning and budget framework. Seattle,
11 Minneapolis, Baltimore, Rochester, for example,
12 generally begin with a set of guiding principles based
13 on the concept that liveable neighborhoods make a
14 liveable city. There is commitment to broad community
15 participation, development of collaborative partnerships
16 and strengthening of local capacities. Each city has a
17 unique process, but there are underlying similarities; a
18 link between neighborhood plans and a comprehensive city
19 plan, explicit support for the partnership with city
20 government and a clearly defined process, as well as
21 benchmarks and predictability of outcome, and commitment
22 to implementation.

23 New York City is arguably far more complex
24 in political organization and diverse in its
25 neighborhood than other U.S. cities which may make the

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1 creation of a new planning framework more of an
2 undertaking, but it is precisely for these reasons that
3 a decentralized, predictable and transparent planning
4 process is in order.

5 The Planning Center and the Community-Based
6 Planning Task Force are eager to work with the
7 Commission as it contemplates ways to rework the City's

8 Charter for the 21st century.

9 Thank you.

10 CHAIRMAN FUCHS: Thank you very much. Do we
11 have any questions or comments? Commissioner Fiala.

12 COMM. FIALA: Let me just thank you for your
13 eloquent testimony. You highlighted some problems that
14 exist in every democracy; that being participation, not
15 necessarily the responsibility -- it's not necessarily
16 because Government isn't there acting responsibly, but
17 rather citizens not availing themselves of the process.

18 You also outlined some laudable goals. Do
19 you have specific recommendations on what you would
20 change in the Charter relating to any of the topics that
21 you raised?

22 MS. SCHOEN: The Planning Center does and
23 the Task Force does, and we would be happy to submit
24 those to you.

25 COMM. FIALA: Could you have them submitted

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1 to the Chair, because I think we'd like to review.

2 MS. SCHOEN: We will. Thank you.

3 CHAIRMAN FUCHS: Any other comments or
4 questions? Commissioner Abrams.

5 COMM. ABRAMS: I served for nine years as
6 Borough President of the Bronx and had responsibility
7 for relationship and staffing of the Community Boards,
8 and the appointment power shared with the members of the
9 City Council delegation. And I know you were making
10 reference that there were no requirements about
11 diversity, and I know way back then there was a great
12 deal of sensitivity on the part of my office that we
13 just wanted to make sure that every Board was diverse,
14 was truly reflective of the neighborhoods and the
15 diverse populations within the community.

16 I think as an elected official, without even
17 a Charter revision or a legal provision, sensitivity was
18 there because you wanted to show political
19 responsiveness, you wanted to be sure you wouldn't be
20 attacked by any component of your constituency that you
21 were neglecting them and not being sensitive to their
22 needs, their unique needs, and I know that efforts were
23 made then about training for service on the Community
24 Board and being knowledgeable about Government decision-
25 making, but I want to join Commissioner Fiala in

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1 congratulating you and the organization for focussing on
2 what I think is something very important in New York

3 City, because it is unique in terms of its size, the
4 vastness of its population, the tremendous centralized
5 power that this City has in its Mayor, whoever he or she
6 may be at any point in time; a central delivery being in
7 downtown City Hall and the need and opportunity for
8 local communities to have some voice in the planning
9 process, in the service delivery system, in the
10 accountability system.

11 So the Community board is a very, very
12 important instrument in trying to make sure that the
13 City is properly governed. So I congratulate the
14 Municipal Art Society for focussing on that issue.

15 MS. SCHOEN: Thank you.

16 CHAIRMAN FUCHS: Any other comment?

17 Thank you very much, we look forward to
18 seeing your proposals.

19 MS. SCHOEN: Okay, great, thank you very
20 much.

21 CHAIRMAN FUCHS: I'd like to call Tom
22 Lowenhaupt.

23 MR. LOWENHAUPT: Good evening. My name is
24 Tom Lowenhaupt. While I'm a member of Queens Community
25 Board 3, my comments are mine and not my fellow members.

1 As a Community Board member for twelve
2 years, I've had the honor of seeing our Government
3 function up close and I've had contact with thousands of
4 my neighbors when they have approached the Board for
5 help. While I'm proud of what we've been able to
6 accomplish, I've decided to search out innovative ways
7 that we can better identify and address local needs.

8 Recently I created a space for this
9 exploration on the Internet. It's called the Beyond
10 Voting Wiki. If you're not familiar with a wiki, it's a
11 new type of web page that's great for a complex
12 collaboration project, like discussing City governance
13 and coming up with an improvement plan.

14 The Beyond Voting wiki's focus is on
15 Community Boards. You might think of our wiki as a
16 convention of sorts, where people gather research,
17 discuss, ponder and propose ways to improve community
18 governance.

19 I'm here today to invite you to participate
20 on Beyond Voting. Your expertise would be greatly
21 appreciated, but I would also like to suggest the
22 Charter Revision Commission incorporate a wiki as part
23 of your current or future efforts. You'll find it a
24 great way to engage the public to gather and provide
25 information and provide residents with a stake in the

1 Charter revision process. It requires some oversight,
2 but at Beyond Voting, we found it to be well worth the
3 effort.

4 For instance, I don't know how familiar you
5 are with wikis. It's just a really simple Internet
6 feature to use. For instance, tonight I noticed on page
7 106 your report you discuss a Commission on Public
8 Reporting and Data Access, which possibly is a great
9 idea. There's a similar city agency, Commission on
10 Public Information and Communication, and I haven't had
11 an opportunity to read this tonight, but if there was a
12 wiki it would be such a simple task for me to go back
13 home tonight, to read this on the train, to go in there
14 and post it directly under the thing, my comment. It's
15 such a great way to organize information. I don't know
16 if you have time within your current schedule to
17 implement one, but it's really a delightful thing. It's
18 the nicest thing I've seen on the Internet and I've been
19 involved with it for some years, so I encourage you to
20 look into, look at mine, ours, I should say, since
21 anybody who participates can use it; the Beyond Voting
22 wiki.

23 The address is on there, and I've told
24 people, and I haven't failed yet, that if you want to
25 know how to use it, you can call me. My number is

1 (718) 639-4222. In a few minutes, if you have it on the
2 screen, you'll know how to operate that. If it takes
3 more than two minutes, I'll give you a dollar.

4 CHAIRMAN FUCHS: Thank you.

5 MR. LOWENHAUPT: It's easy.

6 CHAIRMAN FUCHS: Any questions or comments
7 for Mr. Lowenhaupt?

8 COMM. ABRAMS: What again is wiki?

9 MR. LOWENHAUPT: It's a Hawaiian term.
10 Apparently, if you get off the plane in Honolulu and you
11 have to go from one terminal to another they'll put you
12 on a little bus called wiki-wiki, and it's very quick.
13 This is a very quick way to modify the Internet.

14 CHAIRMAN FUCHS: I was going to ask what the
15 difference between a wiki and a listserv is.

16 MR. LOWENHAUPT: It's right there. If you
17 look at the Beyond Voting wiki, you can go on there and
18 make a change. You go to the little edit box, you make
19 a change and you publish it and it's done for everybody
20 to see. So your neighbor then can go two seconds later
21 and see that it's done, it's rather than a person to
22 person, it's a one to many. So the best one out there
23 or the biggest one out there, I should say, is the

24 Wikipedia, which is this thing that was put together
25 starting two and a half years ago and it has like

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1 545,000 different subjects covered on it at this point,
2 as contrasted with the Encyclopedia Britannica, which
3 has been around 278 years, and has about 150,000
4 thousand items on it. That's in English, it has over
5 500,000 items on it, plus it's in 60 other languages.

6 So people all over the world, you have an
7 expertise or an interest in a particular area, you go on
8 the Wikipedia, and you work on that spot.

9 The management works. I was concerned about
10 it, because when people come in with graffiti -- what is
11 it, there's a wiki graffiti word that eludes me. It's
12 easy to manage, it's really not difficult to manage, so
13 it's worth looking at.

14 CHAIRMAN FUCHS: Commissioner Forsythe?

15 COMM. FORSYTHE: I'm fine, thanks.

16 CHAIRMAN FUCHS: Commissioner Fiala?

17 COMM. FIALA: I was going to say if you have
18 a packet or anything, maybe we can refer this to the
19 Department of Information Technology, their experts, let
20 them review, because I know they've done an

21 extraordinary job, nyc.gov, that and 311 has become a
22 tool that millions of people use every year and I'm sure
23 that if there were, and I'm not technologically
24 advanced, I'm barely literate, I'm sure if there were an
25 add-on or feature that would improve on that, they would

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1 be the first ones to jump on it.

2 COMM. FORSYTHE: The dilemma is that the
3 wiki is more communitarian and much less authoritarian.
4 The Encyclopedia Britannica is written by the experts,
5 it stands as written. The idea of a wiki, the people
6 that look things up, can add things, change things,
7 develop things on their own. Doesn't strike me that
8 nyc.gov would find that an attractive feature.

9 COMM. CROWELL: How many such wikis are
10 there?

11 MR. LOWENHAUPT: Got to be thousands at this
12 point.

13 CHAIRMAN FUCHS: Is this an advanced version
14 of a bulletin board?

15 MR. LOWENHAUPT: What I'm doing now is I'm
16 trying to wrap an old bulletin board around a wiki to
17 make it more friendly. There are certain things you
18 can't do. The great report done by the Task Force for

19 Community-Based Planning, which I happen to be on now,
20 is on the wiki, but we don't want people to edit that
21 because that's the report. I'm making this BBS sort of
22 in a column to the side, if you can think of it as that,
23 so people can comment on it without modifying it.
24 That's a report, you don't want them to modify it.

25 It's just being developed. It will be part

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1 of a BBS.

2 CHAIRMAN FUCHS: Well, it is an exciting
3 feature of democracy. I think now that we have the
4 opportunity to communicate with each other on the Web in
5 a variety of exciting ways. I have to admit I never
6 heard of the wiki, but this is intriguing, I think.

7 I think Commissioner Forsythe points to a
8 problem for Government, it would be hard for us to do
9 oversight on something like that, because you can't
10 control content. That's the whole idea. I think the
11 Law Department would advise me that we would get sued if
12 we couldn't control content on some level, but the value
13 of this I think is extraordinary.

14 MR. LOWENHAUPT: I mean, it's easy for
15 someone to go in. I heard that on the Wikipedia there's

16 an average of a minute and 25 seconds when someone makes
17 a wikifiti, or what you call it, someone puts in a four
18 letter word or something like that. An e-mail
19 immediately goes out to the person who wrote it
20 originally and they'll go back and they'll correct it.
21 I realize that with this Government being what it is,
22 they couldn't stand a minute and 45 seconds, so you
23 know, you'd have to do it as a separate organization.
24 You'd have to get the Fund for the City of New York to
25 support -- someone like an organization --

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1 CHAIRMAN FUCHS: Why did I think you were
2 going to say that?

3 MR. LOWENHAUPT: Or an organization like
4 that to run it parallel to your operation. They would
5 have a link there and they could stand a minute and
6 45 seconds of criticism.

7 CHAIRMAN FUCHS: Commissioner McCormick, I'm
8 going to put you on the spot, because I think you have
9 had some very interesting technological innovations that
10 have to do with improving communication among those of
11 us who are trying to live better in a democracy, and you
12 might want to just comment briefly, not on the wiki, but
13 on the general principle that we're all very glad that

14 you brought up.

15 COMM. McCORMICK: I'd be very happy to and
16 we've had a pleasure at the Fund to know Mr. Lowenhaupt
17 and his work over a number of years now. He's been very
18 innovative in Queens and in a lot of other ways and all
19 of it is to increase understanding and communication in
20 a way that's responsible and allows us to understand
21 different perspectives and then come to a common place,
22 and I think I know I'm very excited about the
23 possibilities of a wiki and other things that we've been
24 exploring for doing this. If used well, and that's not
25 inevitable, but if used well, it's a really quite an

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1 amazing potential.

2 CHAIRMAN FUCHS: Thank you. Thank you very
3 much.

4 MR. LOWENHAUPT: Thank you.

5 CHAIRMAN FUCHS: We're not sharing our good
6 jokes with the audience over here, Commissioner
7 Forsythe.

8 Okay, Mr. Barry Popik.

9 MR. POPIK: I'd like to distribute my card,
10 first. Hello. My name is Barry Popik, P-o-p-i-k. I'm

11 an Administrative Law Judge with Parking Violations, I
12 work mostly in the Bronx. Perhaps someone in the Bronx
13 is here.

14 I solved the Big Apple, that's what I'm
15 known for. I have a popular website which is quoted in
16 the Wikipedia. You have a few things wrong, they
17 include my work without any pay or credit. But anyway,
18 I'm trying to honor the Big Apple. Actually, I
19 dedicated Big Apple Corner, it comes from a sports
20 writer, but he heard it from an African-American in New
21 Orleans. It's very well documented, African-American
22 has never been honored, Big Apple means the pinnacle in
23 sports, which actually would be helpful to the Mayor,
24 and again, this is not a joke, my work is in the New
25 York City Encyclopedia and I'm all over, that's one of

23

1 the things I'm doing.

2 I'm also running for Manhattan Borough
3 President as a Republican. I'm the only Republican
4 running, they didn't have anybody, I decided to run. I
5 don't know if you know the Manhattan Borough President's
6 race, but there are a lot of people running, a whole lot
7 of people. There are about ten, eleven people who filed
8 on the Democratic side and it's a very, very big race,

9 very, very important race, race that could decide the
10 history of our City, because, obviously, Manhattan is
11 very, very important.

12 The thing is, what do Borough Presidents do,
13 what does the Public Advocate do? There are suggestions
14 they should revise the Charter to abolish our Public
15 Advocate, that's one of the things I was thinking of
16 running for Public Advocate just to abolish it. People
17 said you should abolish the Borough President's Office.
18 Again, you were a Borough President, you should know
19 about it.

20 The thing is that Virginia Fields on her
21 website said she distributed 13.7 million in capital
22 budget. Well, her budget is four to \$5 million. The
23 people running right now, they get matching funds four
24 to one. You look at what they're running for and then
25 what, they're spending millions of dollars for an office

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1 that's only about four million, the whole thing doesn't
2 make sense.

3 Ever since the Charter revision in 1989,
4 again you have to either give the Borough Presidents
5 more power or just eliminate it. Again, I'm running for

6 it, I'll run under the rules, but I suggest you change
7 it.

8 Another thing is I work as an Administrative
9 Law Judge. They could hire me or fire me for no reason
10 whatsoever. I do what I'm told, but they could tell me
11 whatever they want to do. Recently there's been changes
12 in Parking and I have to follow it. I can't say yes, I
13 can't say no. If you're a plaintiff or a defendant, you
14 don't tell the judge, "This is what you do or you're
15 fired." You wouldn't give it to a plaintiff or a
16 defendant, but the City does that. They tell me things,
17 some of them are right, some of them are wrong. They
18 say you can't reduce this, you can't reduce sidewalks,
19 even though you've already reduced them. Now they have
20 settlement procedures that have been introduced in the
21 last year where people go before it and say, "You want a
22 settlement on this; yes or no?" And they told me that I
23 can't reduce any ticket where the person rejected a
24 settlement beforehand.

25 Now, here you have the City who is not a

25

1 party. I mean, the City who is supposedly not my
2 employer, telling me what to do. So again you're
3 talking about Administrative Law Judges, again, we're

4 supposed to be independent, but we're really not, and
5 that's something I e-mailed to you and that's something
6 very important, so I got a lot of issues here; the
7 Borough President's Office, the Public Advocate's office
8 and me as an Administrative Law Judge.

9 I worked for a very long time. I'm one of
10 the longest standing, if not the most productive Law
11 Judges in Parking Violations history, actually, because
12 they fire a lot of people for no reason whatsoever;
13 because they don't like them, they're too old.
14 Actually, that happened, some people said "you're too
15 old," they fired some people. So again, you might want
16 to consider that if you're discussing Administrative Law
17 Judges and thank you very much for your time.

18 And go to my website, it's very nice.

19 CHAIRMAN FUCHS: Thank you very much.
20 Commissioner Crowell.

21 COMM. CROWELL: I'll defer to Commissioner
22 Abrams first.

23 CHAIRMAN FUCHS: Okay, Commissioner Abrams.

24 COMM. ABRAMS: I think the Commission would
25 be interested in focussing on your experience as an

1 Administrative Law Judge, because one of the proposed
2 referenda will deal in that arena.

3 Are you a full time Administrative Law
4 Judge?

5 MR. POPIK: We're lawyers. I do my writing
6 on the side, research on New York State history, I
7 publish books on American food and drink. Some other
8 people, we do it part time, although we could do it full
9 time and I used to do it seven days a week, fourteen
10 hours a day, but that's another story.

11 COMM. ABRAMS: Administrative Law Judges
12 work on Saturdays and Sundays?

13 MR. POPIK: At the time, whenever they
14 needed me, they said, "I need you," and I would say,
15 "Well, all right."

16 COMM. CROWELL: On Sundays, though?

17 MR. POPIK: I worked from 8:30 or 9 until 7
18 or 8 at night and I did hearings by mail after that,
19 until 11:00 at night. That's a long story.

20 But yeah, I could work part time. We're
21 supposed to be part time, we're not supposed to be full
22 time. But they hire us at full time. We have no
23 benefits, no vacation days, we're employees without the
24 employee. They can hire us and fire us without any
25 reason and they tell us what to do and we have to do it.

1 COMM. CROWELL: You're per diem, then?

2 MR. POPIK: Per diem.

3 COMM. CROWELL: By its terms, you don't get
4 full time benefits, it's by the day.

5 MR. POPIK: Yes, I know. The thing again,
6 they tell us what to do --

7 COMM. ABRAMS: What does that mean, "They
8 tell us what to do?" Are you saying if you're an
9 Administrative Law Judge, you're reviewing a matter,
10 you're supposed to have discretion to decide that
11 matter.

12 MR. POPIK: Absolutely.

13 COMM. ABRAMS: Are you saying you don't have
14 discretion, you're told how to decide that matter?

15 MR. POPIK: For example, I'll give you one
16 example. A lot of judges made stupid adjournments.
17 Adjournments means come back for photos, take pictures
18 of the sign, they would take pictures of the sign, it's
19 really not relevant, whatever. So they said you can't
20 adjourn a case. If you're going to adjourn a case, you
21 have to stop, go out of the room, explain your case
22 before a Senior Administrative Law Judge, not a party to
23 the hearing, get approval of the Senior Administrative
24 Law Judge, have the Senior Law Judge say okay and then
25 you get the adjournment.

1 So what are people saying? "I'm not going
2 to do this, we're not going to adjourn the hearing.
3 We're either going to dismiss it or find him guilty and
4 that's it. We're not going to adjourn the case."

5 So adjournments went down, just because of
6 that. In my opinion, that's not proper.

7 You have a Senior Administrative Law Judge
8 making the call and I'm supposed to be the judge, that's
9 why I was hired. Just something like that, totally
10 unfair, but that's the rules, that's what you play by.

11 COMM. ABRAMS: What's your salary on a per
12 diem basis?

13 MR. POPIK: We get paid about \$35 an hour
14 without any benefits whatever. We're the lowest paid
15 lawyers in perhaps the City. It's not very good.
16 Again, I took it because it's a part-time job and I can
17 do my writing and research on New York City history and
18 other things. I've written books and I'm a consultant
19 to the Oxford English Dictionary and some other
20 dictionaries.

21 COMM. ABRAMS: What's the level of training?

22 MR. POPIK: Four days or so and that's it.
23 You start the job. They start you at hearing by mail,
24 then you do hearing by mail, whatever, they look over

25 your work and then supposedly you get approved by other

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1 people. You have to get approved by Administrative Law
2 Judges, the Senior Administrative Law Judges. They
3 check your work and finally you get quote-unquote
4 "certified" as I was many, many years ago, and then you
5 do hearings.

6 COMM. ABRAMS: What do you think of the
7 Charter Revision Commission's thoughts concerning a
8 recommendation to add to the Charter the requirement
9 that the Mayor designate -- that the Mayor or a designee
10 as well as the Chief Administrative Law Judge consult
11 with the Conflicts of Interest Board, the Department of
12 Investigation, heads of agencies and then establish
13 uniform code of conduct or ethics for the Administrative
14 Law Judge for their hearings?

15 MR. POPIK: I think that would be good, but
16 with Parking violations, again, the system has to be
17 different. Parking Violations, it's a little different
18 than the other Administrative Law Judges, because the
19 other Administrative Law Judges, we're contracted sort
20 of by State law as well not to be employees, so we can't
21 be employees, we can't even unionize. The other judges

22 perhaps can unionize, we can't. So we can't unionize,
23 we have to accept what they tell us and that's
24 something, I don't know if you addressed it at all, and
25 I'd like to address it.

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1 Again, I really haven't been in the prior
2 hearings of this Commission, but it's just something I
3 wanted to tell you and you should be aware of.

4 COMM. ABRAMS: How long have you served as
5 an Administrative Law Judge?

6 MR. POPIK: I got a parking ticket in 1988
7 and I went to Parking and I said I want to join it to
8 make this better. I joined in 1990, there was a Parking
9 Violations scandal, they were hiring new judges. They
10 hired me and I've been there ever since. I probably
11 should have quit a long time ago, but whatever, I'm
12 still there, I do it part time and I've been -- that's
13 one of the longest we have.

14 I'm number 0821 and now we're in the two
15 thousands or three thousands.

16 COMM. ABRAMS: What's your opinion of the
17 quality of person who serves as an ALJ?

18 MR. POPIK: I think the quality is high. My
19 colleagues are all good. We're not out to get anybody.

20 They tell us you're not here to raise money, you're not
21 here to find people guilty, you're here to dispense
22 justice and that's good, that's what I try to do, but
23 again, I do what I'm told. Some things I agree with and
24 some things I don't, but you do whatever you can.

25 CHAIRMAN FUCHS: Any other comments?

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1 Well, thank you very much for enlightening
2 us about your run for Borough President, as well as your
3 experience as an ALJ.

4 MR. POPIK: Thank you very much and go to my
5 website. By the way, we have no air conditioning in our
6 office in the Bronx for the last few days. I mean, it's
7 not your fault --

8 (Laughter.)

9 COMM. CROWELL: I have a question. How do
10 you become a consultant for the Oxford English
11 Dictionary?

12 MR. POPIK: I'm a member of the American
13 Dialect Society, the American Name Society, and I do my
14 research actually at NYU and I use the computer
15 databases now and that's where I did a lot of my
16 research on New York City history. But I traveled

17 around the world and I traveled around the United States
18 with American foods and I did the origin of the hot dog,
19 which supposedly came from New York and some other
20 things.

21 I did so many things and they said okay,
22 we'll put your name on our list as one of the
23 contributors to the Oxford English Dictionary. I did
24 the Historical Dictionary of American Slang and American
25 Regional English, things like that. So I got involved

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1 in a lot of projects and things like that in my spare
2 time from the Parking Violations, which I assure you is
3 not much.

4 Thank you very much.

5 CHAIRMAN FUCHS: I'd like to recognize now
6 in attendance, Commissioner Curtis Archer, and because
7 it is a special day for Commissioner Curtis Archer, he
8 knew we would need him here tonight, he did forgo a
9 birthday celebration, so we're all here tonight to wish
10 Commissioner Archer a happy birthday.

11 I wish I had a match, but I'm sure that
12 would violate some law.

13 COMM. ARCHER: Thank you very much.

14 CHAIRMAN FUCHS: Thank you for coming.

15 We also have next, we'd like to call up
16 Councilman Robert Jackson.

17 COUNCIL MEMBER JACKSON: Well, this is nice.
18 Good evening, everyone.

19 COMM. FORSYTHE: It's a very friendly
20 Commission.

21 COUNCIL MEMBER JACKSON: First I want to
22 thank Madam Chair for giving me the opportunity to come
23 in front of you. I'm happy to see all the distinguished
24 Commissioners and thank you for volunteering your time
25 to try to make our City better. So.

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1 Many times your work goes unappreciated,
2 but, obviously, you've been doing this for a while and
3 you've come up with your preliminary recommendations for
4 Charter revision, so I just want to thank you for doing
5 that.

6 I have not had the opportunity to thoroughly
7 review this preliminary report recommendations, but my
8 staff is trying to work its way through it.
9 Unfortunately, the timing of its coming out and the
10 first hearing, which is today, is only a couple of days
11 ago, and as you know, we're heavily involved in the

12 budget process and then if you've been following the
13 news, with the solid waste management plan, we're pretty
14 busy down at City Hall, so I would like to just finish
15 reading the entire document in order to give you some
16 more specific feedback as to your recommendations.

17 As you indicated, Madam Chair, coming in the
18 building, first of all, I was looking for 44 West Fourth
19 Street several blocks to the west of here.

20 CHAIRMAN FUCHS: Me too.

21 COMM. ARCHER: Me too.

22 COUNCIL MEMBER JACKSON: Along with a lot of
23 us. I think whenever you have a hearing, you have to
24 try to check it out to make sure that the average person
25 that is not as savvy as we are will be able to find the

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1 place. But when we walked in here, there were quite a
2 number of people here, so obviously they found their way
3 and we eventually found our way.

4 I understand also that this is the only
5 hearing in Manhattan, and even though --

6 CHAIRMAN FUCHS: We've had several other
7 public hearings in Manhattan already.

8 COUNCIL MEMBER JACKSON: Oh, okay, but this
9 is the first one concerning the actual full

10 recommendations, report that has come out.

11 CHAIRMAN FUCHS: Yes.

12 COUNCIL MEMBER JACKSON: So I don't know if
13 you're going to have another one, but you may want to
14 consider, may want to consider that situation as far as
15 trying to get here.

16 CHAIRMAN FUCHS: We will.

17 COUNCIL MEMBER JACKSON: And the fact that
18 this is the preliminary recommendations that you come
19 out with is dated June 10th and today is the 15th.

20 Let me make a couple of comments, if you
21 don't mind. I understand that one of your
22 recommendations is to try to look at the fiscal
23 integrity of the City and make recommendations in order
24 to try to make sure that it remains fiscally solvent
25 when the Financial Control Board goes out in 2008 and I

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1 looked at some of your recommendations briefly and I
2 would concur that we need to insure that our great City
3 remains stable and secure for all New Yorkers, so I
4 think that in looking at preliminarily the
5 recommendations, I would concur that the action to
6 insure that some of the things that are in there to

7 insure that we stay stable as a City fiscally, that that
8 definitely should happen. Because I can see as a member
9 of the City Council looking at the 2006 budget, seven
10 and eight, we're in the red, and quite frankly, I don't
11 know if we're going to get out pretty soon, and I say to
12 people in my community about how we're going to be in
13 the red the next couple of years, and that, God forbid,
14 if we have another terrorist act, then we're really
15 going to go into a tailspin and we'll really be in a
16 deep mess, quite frankly.

17 So I think that we have to look at how we
18 raise money and diversify our income as a City. As you
19 know, we depend primarily on Wall Street and tourism for
20 our income. I as a member of the City Council from
21 Manhattan, if you've been following the whole west side
22 stadium situation, I supported the stadium because I
23 wanted to see the Olympics here in New York City. I do
24 understand that New York City is approximately 18th in
25 the country as far as convention centers and I think

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1 that New York has so much to offer the people of our
2 great country, I would like to see it number one as far
3 as conventions.

4 Obviously, the impact on people coming into

5 our City is very, very important as far as making sure
6 that there's crowd control and what have you and so
7 forth, but the hotel industry and the tourism industry
8 definitely needs to have more in New York City. I think
9 if we look at the impact that tourism brings to our
10 City, I think, from my perspective, I sit on the Finance
11 Committee to the New York City City Council, I felt that
12 the stadium was important to the health and longevity of
13 New York City.

14 So some of your recommendations I'm going to
15 look at those, but overall preliminarily I would concur
16 with some of those recommendations as far as the
17 financial integrity of our City.

18 As far as a coordinator for administrative
19 justice, I believe that's what you're recommending, in
20 listening to the Administrative Law Judge there and as
21 someone that has gotten parking tickets and going in
22 front of Administrative Law Judges and just overall with
23 different agencies and departments, not necessarily with
24 the City of New York, but with the State of New York --
25 I used to be a labor relations director for a statewide

1 union, the New York Public Employees Federation. I

2 would concur there needs to be some uniformity as far as
3 rules and regulations, as far as administrative
4 tribunals, so I would like to see that happen over all.

5 One of the things I must say that I think
6 that the gentleman spoke as far as that you follow the
7 directions what they tell you to do, if not, you won't
8 be around, and I think that that's not the ideal
9 situation. I've not only heard it here tonight, but
10 I've heard it from other people that are per diem
11 Administrative Law Judges, so I think that that needs to
12 be considered, where we can't make an Administrative Law
13 Judge who has certain discretion, we cannot lock them in
14 where they're basically robots just up there doing a
15 job. That's not what an Administrative Law Judge duties
16 and responsibilities are.

17 So I think he made some valid points and I'd
18 like this Commission to consider that.

19 As far as the creation of a Commission on
20 Public Reporting and Data Access, I think that overall,
21 I'm in agreement, that may be good, but my concern is
22 that if this Commission is going to recommend and/or
23 have power that will circumvent the power and authority
24 of the City Council, if it does, I have a concern about
25 that. If it doesn't and they're making recommendations,

1 one of the things that my experience as a member of the
2 City Council, sometimes accessing information even as a
3 member of the City Council in hearings it's not as easy
4 as we wish it to be, and here we are, we are elected
5 officials and are representing our communities and it's
6 not as easy as we would like.

7 So I would be cautious of a Commission
8 saying that certain reports are not necessary and we
9 don't have to make them available, or as the Court of
10 Appeals did when they came out with the decision on the
11 CFE Education lawsuit versus the State of New York, it
12 came out on June 26, 2003 and the only way you could
13 have accessed it is if you had a computer, you went on
14 line, because that's how they issued their decision.
15 And I know that many people have computers in New York
16 City, but many people don't and we must be able to have
17 reports and documents readily available for all New
18 Yorkers, not only those New Yorkers that can afford to
19 have computers or have access to computers or that are
20 computer literate.

21 So I just caution you on that overall.

22 I would just ask you to consider the
23 possibility, as I said before, of maybe if necessary
24 having another hearing in Manhattan. I would love to
25 sit down with staff after we do this, in detail with my

1 staff to talk some more about it. But my primary
2 concern is if you're going to step on the rights and
3 duties of the City Council, then I have concern with
4 that.

5 As you know, I think it was two years ago,
6 there was some Charter revision proposals that were put
7 forward and I spoke on many of those and I was glad that
8 the public defeated a lot of them. I don't see anything
9 in my opinion as critical as there was two years ago,
10 but I have not had a thorough opportunity, so I just
11 wanted to thank you for giving me the opportunity.

12 What's important in the process for me is
13 sometimes when you come and you sit and you listen, you
14 learn, and I learned tonight that the Municipal Art
15 Society has put through a proposal for Community Boards
16 and I wholeheartedly, not having the opportunity to talk
17 to them, I wholeheartedly endorse what they had to say
18 tonight and the statement that they read on the record,
19 because as a member of the City Council, I have
20 advocated about getting involved in Community Boards,
21 explaining what being a member of the Community Board
22 is, explaining what Community Boards do, at town hall
23 meetings, in my newsletters. I think we're going to be
24 profiling Community Board District Managers in our next
25 issue, and I communicate to people that Community boards

1 are our local government body of our communities. There
2 are 50 members that are appointed by the Borough
3 President half of them recommended by members of the
4 City Council and they play a role in carrying out the
5 government of New York City, a very important role.

6 So I second the motion of the Municipal Art
7 Society that you should consider that, even though that
8 may not have been what the Mayor asked you to do as one
9 of his charges, but let me say that's extremely
10 important. I think that the Government has to move away
11 from being so centralized as it is and move to being
12 decentralized, so people can go to their local
13 communities and local bodies and communicate with them
14 and talk to them and not have to come down to City Hall
15 or not have to come down to this body here to
16 communicate.

17 As you know, communication are by several
18 ways; by the Internet, coming down in front of you and
19 giving testimony, but the local communities is where
20 it's at, and New York City is a large city made up of a
21 lot of local communities.

22 So I thank you for the opportunity to come

23 in front of you and I look forward to having more
24 information for you about your recommendations as soon
25 as possible.

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1 CHAIRMAN FUCHS: Thank you very much,
2 Council Member Jackson, for coming this evening and
3 sharing in the Charter revision process, and thank you
4 very much for your very thoughtful remarks.

5 I can't imagine that you haven't read a lot
6 of what we've written thoroughly already. You must read
7 very quickly and absorb it very quickly, because I think
8 you got to the heart of most of these proposals.

9 One thing I can assure you on, these
10 proposals are very much a work in progress. We plan to
11 take into consideration your remarks. It's critical to
12 us that this proposal does not circumvent any of the
13 powers of the Council and after you have a chance to go
14 over it with your counsel, we hope to be meeting with
15 you and members of your staff to make sure that if this
16 proposal moves forward, that it works for all the
17 elected officials in the City of New York. Otherwise
18 it's not worth doing, frankly.

19 COUNCIL MEMBER JACKSON: I do think that,
20 you know, my colleagues on the Council, right now

21 they're focused on the budget and the solid waste
22 management plan and all of us, including myself, are
23 running for reelection or for higher office, so between
24 that and their family obligations, even though this may
25 be very important, and I know this is your charge, I

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1 don't think that's at the top of the list of most
2 members of the City Council.

3 CHAIRMAN FUCHS: That's another reason that
4 we appreciate that you came this evening, because I
5 think you pointed out very clearly, particularly on the
6 fiscal stability issues, this is about the future of the
7 City of New York and it's critical that we focus
8 actually the way you suggested, which is making sure
9 that we have the economy to support the needs of the
10 communities, the diverse communities of the city.

11 So we very much appreciate you coming this
12 evening.

13 I want to give the opportunity to other
14 members of the Commission to address any questions to
15 you.

16 Commissioner Archer?

17 COMM. ARCHER: Maybe just a comment, Council

18 Member Jackson, echoing what he said. I know the
19 Commission has had hearings prior to the release of this
20 in lower Manhattan and of course mid-Manhattan, so maybe
21 upper Manhattan, maybe the Audubon or even the Harlem
22 State Office Building might be a good venue to bring out
23 the community.

24 COUNCIL MEMBER JACKSON: I think that the
25 Commission this time around compared to the last one,

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1 the last one was like, everyone was involved. I mean, I
2 went to a meeting up at the Harlem State Office
3 Building, it was jam packed. So I don't know if the
4 issues that you're raising are as dicey or juicy.

5 In my committee, I Chair the Contracts
6 Committee. The Contracts Committee is, you know,
7 dealings with law and contracts and what have you and so
8 forth, and a lot of people don't feel that's juicy, like
9 the Health Committee or Government Operations, but New
10 York City, as I asked the Budget Director, Mark Page at
11 the executive budget hearings, I've been throwing out a
12 figure, how much did we contract out for goods and
13 services, and I was thrown out the figure of 9 billion
14 and he said really it's 11 billion. That's just for
15 goods and services. When you're adding construction,

16 you're talking about 20 something billion dollars. It's
17 a lot of money, so it's huge.

18 CHAIRMAN FUCHS: I think your observation is
19 very, very astute. Contracts Committee is probably one
20 of the most important things you regulate and we think
21 we're doing important work on the Charter, but some
22 things don't capture the imagination of the media the
23 way other things do. So maybe we're lucky, maybe we'll
24 get a lot of good work done, maybe because of that.

25 But we appreciate everybody who comes to

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1 testify, that's an important part of the process, and I
2 think we will try to get to upper Manhattan.
3 Commissioner Archer's suggestion and your suggestion, of
4 course, is really welcome.

5 COMM. ABRAMS: Could I ask the Councilman
6 what neighborhoods constitute your District?

7 COUNCIL MEMBER JACKSON: I represent Council
8 District number 7, which includes geographical areas of
9 the most northern part of Morningside Heights, right
10 north of Columbia from 123rd Street. Morningside
11 heights runs basically to 128th, 29th Street. All of
12 Hamilton Heights, the Sugar Hill area, that's a historic

13 district; West Harlem, part of Washington Heights and
14 Inwood. So basically from 123rd Street and Broadway to
15 St. Nicholas Avenue, takes in Seventh, Eighth,
16 Bradhurst, Convent, Riverside Drive, all the way up to
17 the end of Manhattan.

18 It's a very diverse district, which based on
19 the 2000 census, 50 percent Hispanic, 33 percent black,
20 14 percent white and about 2 to 3 percent Asian, with an
21 average family income of \$34,000. In my district we
22 have several hundred home owners, about five to six
23 co-op and condo owners and the rest are rental. For
24 example, in Castle Village you got 3 bedroom co-ops
25 going for a million dollars, so it's a very diverse

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1 district overall.

2 CHAIRMAN FUCHS: Any other questions or
3 comments for the City Council member?

4 COUNCIL MEMBER JACKSON: Thank you very
5 much.

6 CHAIRMAN FUCHS: I want to thank you again
7 for coming this evening.

8 COMM. ARCHER: We appreciate it.

9 CHAIRMAN FUCHS: Is there anyone who hasn't
10 signed up who would like to testify before the

11 Commission?

12 If not, is there any new business that the
13 Commissioners would like to bring before the Commission
14 this evening? Well, then, I thank everybody for
15 attending. I move to adjourn.

16 COMM. FORSYTHE: Second.

17 CHAIRMAN FUCHS: All in favor of
18 adjournment?

19 (Chorus of "Ayes.")

20 CHAIRMAN FUCHS: We have a unanimous.

21 Thank you very much for coming this evening.

22 (Time noted: 7:30 p.m.)

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1 C E R T I F I C A T I O N

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4 I, LINDA FISHER, a Shorthand Reporter and a
5 Notary Public, do hereby certify that the foregoing is a
6 true and accurate transcription of my stenographic
7 notes.

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I further certify that I am not employed by
nor related to any party to this action.

LINDA FISHER,
Shorthand Reporter