

CHARTER REVISION COMMISSION

PUBLIC HEARING

BRONX COMMUNITY COLLEGE

NICHOLS HALL

2155 UNIVERSITY AVENUE

BRONX, NEW YORK

6:26 P.M.

CHAIR: DR. MATTHEW GOLDSTEIN

COMMISSION MEMBERS:

JOHN H. BANKS, VICE CHAIR

ANTHONY PEREZ CASSINO

BETTY Y. CHEN

DAVID CHEN

HOPE COHEN

ANTHONY W. CROWELL

STEPHEN FIALA

ANGELA MARIANA FREYRE, SECRETARY

ERNEST HART

REV. JOSEPH M. McSHANE, S.J.

KENNETH M. MOLTNER

KATHERYN PATTERSON

CARLO A. SCISSURA

BISHOP MITCHELL G. TAYLOR

1 CHAIRMAN GOLDSTEIN: Good evening, ladies and
2 gentlemen. I'm Matthew Goldstein, the Chair of
3 the Charter Revision Commission. I welcome you to
4 Bronx Community College. I'm told that this
5 building that we're in is a former high school
6 that was occupied on the Bronx Community College
7 campus, and I guess I should know what we're
8 going to do with this building but frankly I
9 don't. But it's wonderful to have all of you
10 here tonight.

11 I'd like to start by just having all of the
12 members of this wonderful Commission to introduce
13 themselves. I'll start all the way on my left.
14 Ernie?

15 COMMISSIONER HART: Ernie Hart.

16 COMMISSIONER TAYLOR: Bishop Taylor.

17 COMMISSIONER PATTERSON: Katheryn Patterson.

18 COMMISSIONER MOLTNER: Good evening, I'm Ken
19 Moltner.

20 COMMISSIONER CHEN: Hi, good evening, I'm
21 Betty Chen.

22 COMMISSIONER FREYRE: Angela Mariana Freyre.

23 COMMISSIONER BANKS: I'm John Banks.

24 COMMISSIONER COHEN: Hi, I'm Hope Cohen.

25 COMMISSIONER CASSINO: Good evening, Tony

1 Perez Cassino.

2 CHAIRMAN GOLDSTEIN: Let me just review some
3 ministerial matters and then the Commission will
4 engage in a conversation about many of the issues
5 that are very much on our mind, and we'll take as
6 long as we need to do that, and in the time
7 remaining we will open the microphones to all of
8 the people who wish to testify tonight.

9 This is the third in a series of open
10 forums. To continue our topics about topics that
11 are under active consideration. We will be
12 having two more forums next week. They will occur
13 on July 26 at the Adam Clayton Powell, Jr., State
14 Office Building, that is in upper Manhattan. On
15 Wednesday of next week, July 28, we will have a
16 open forum at the Queens Borough Hall, and then
17 we will conclude this aspect of our work on
18 Monday, August 2, at Public School 58, which is
19 the Space Shuttle Columbia school in Staten
20 Island.

21 I would like to again thank our staff for
22 the very good work that they continue to do.
23 Lorna Goodman, our Executive Director, Rick
24 Schaffer, our General Counsel, Joe Viteritti, our
25 Director of Research, Matthew Gorton, who is our

1 Director of Communication, and to thank Matt
2 Gorton, Jay Hershenson, Bob Isaacson of CUNY TV,
3 for all of the talent and outreach using the
4 latest technologies. One of the things that this
5 Commission will be known for was the
6 unprecedented amount of the use of technologies
7 to expand the opportunities for people to be very
8 much a part of these deliberations.

9 I'd like to talk very briefly with the
10 members of the Commission to talk about schedule
11 and where I believe we need to go in terms of
12 time. As soon as we finish with the last open
13 forum on August 2, very shortly after that we
14 need to schedule another hearing. And that
15 hearing will be exclusively for the purpose of
16 deciding amongst ourselves what areas and
17 specificity we would like to bring to voters in
18 November of this year. We will have had
19 sufficient time, I believe, to have done our due
20 diligence. Again, the operating principles that
21 we continue to enunciate as a basis for the work
22 that we do is that anything that we intend to
23 bring to the voters will be items that we believe
24 if enacted, will make for a more efficient
25 government, better government. I think that is so

1 very fundamental. The second principle is that we
2 won't bring anything to the voters unless we
3 believe we have had sufficient time to really
4 understand the issues deeply and that we have the
5 confidence that we have done the kind of due
6 diligence that is needed in order to bring
7 something forward that we are confident that we
8 have understood as best we possibly can.

9 Third, we want to make sure that whatever
10 questions which bring forward we need to educate
11 the public. And the education of the public is
12 obviously through these forums that we've had.
13 We're working with the editorial boards of all of
14 the newspapers to talk about why we are
15 proceeding the way that we are, and using that as
16 a way to communicate through the media. We also
17 will have a public campaign after we finish our
18 work to work with the media, both newspapers,
19 television, radio, certainly using the Internet,
20 to talk about why the Commission has decided to
21 move forward with the items that we have; and
22 lastly, we are not going to bring something that
23 we think has very low probability of success.
24 This is not about polling or taking the pulse of
25 the public. This is a group of independently

1 well-informed members that comprise this
2 Commission that believe that whatever we bring
3 forward are the ripe things, and that they need
4 to have a very good chance of being embraced by
5 the voters. So I think that those four principles
6 are so fundamental to what it is that we do. But
7 in addition to coming forward shortly after the
8 August 2nd meeting, we need quickly around that
9 period of time, doesn't have to be exactly that
10 period of time, but around that period of time to
11 develop our report. Our report is really the work
12 of this Commission, its history, how it was
13 established, the forums that we had, the areas
14 that we think were very fundamental, the experts
15 that helped inform our ideas. The items that we
16 are going to bring to the voters. And lastly,
17 what we have been calling a roadmap for the
18 future. It's I think critically important, and I
19 think all of us agree that our work is not just
20 about bringing something to the voters in
21 November but to set the stage for future
22 commissions to understand what we thought was
23 critically important but we were not able to in
24 the amount of time that we had since we were
25 established have the opportunity to understand

1 the issues sufficiently to bring them forward to
2 a ballot question, but that they were so
3 fundamental, and even went back to previous
4 commissions, that we think that this is the
5 roadmap for future commissions. And I think that
6 is critically important. I think all of us agree
7 on that as well. So, if we are able to stick to
8 the schedule I imagine that all of what I have
9 just said should be able to be completed by about
10 the second to third week, at the most, in August,
11 and I think at the end we will have something
12 that we are very proud of.

13 I would like with the indulgence of my
14 colleagues on the Commission to start developing
15 a consensus. I'd like to really get a sense of
16 what all of you are thinking about with some
17 specificity. Because we have talked about a
18 number of issues, and I think we do have a fair
19 amount of agreement amongst ourselves on a number
20 of areas, but we're not voting tonight, but I
21 just want to get a sense of the body so that we
22 get some kind of parameterization of the issues
23 in ways that I think will help inform what we
24 ultimately are going to bring for our final
25 report and to the voters in November.

1 And I would like to start with term limits.
2 We have all agreed that term limits will be an
3 action that we will bring to the voters in
4 November. We have agreed, I believe, and there
5 may be some disagreement, but we believe that
6 what we would like to bring is either to stay the
7 course, which right now is as a result of what
8 happened in 2008, that all elected officials,
9 Citywide elected officials, and members of the
10 City Council, either will have three terms and
11 the -- all of them having three terms. Three
12 terms and three terms, each of four years'
13 duration; or two and two, which is just a
14 shorthand way of saying two four-year terms for
15 all of the elected officials. We also have, I
16 believe, agreed in principle that we wanted to
17 protect the Charter by indicating that we believe
18 it is in the best interest of good government
19 that at any time in the future sitting members of
20 the City Council cannot opine on changing the
21 term limits that would be instituted if it
22 affects them and they are certainly sitting at
23 the time. So, we're using the term
24 "prospectivity." That this would be a new
25 approach for a Commission as it relates to term

1 limits; that whatever it is that we decide,
2 whether it's two terms each, three terms each,
3 there are some that may believe three terms for
4 the City Council, two for the Mayor, whatever
5 that is, that anybody on the Council who
6 presently serves cannot be heard if it affects
7 them in terms of changing the terms of members of
8 government.

9 We also have to decide if we go in that
10 direction when it takes effect. Would it take
11 effect immediately? Would it -- people be
12 grandfathered in? I mean, these are things, these
13 are the levels of specificity that I think we
14 need to determine. There is also the issue of
15 whether we should have something to say about
16 whether term limits should be in place or not. I
17 mean, I'm just assuming in what I've just said
18 that we will move forward with term limits, but
19 there are views that say perhaps we ought to
20 bring to the voters an action that says term
21 limits ought to be taken off the table and that
22 if one is dissatisfied with incumbents, vote them
23 out. And there are people who have that view as
24 well. So as that is an introduction, I wondered
25 if we could just engage in a conversation, and we

1 could do it sequentially starting at that side of
2 the table. Ernie, if you would like to begin. If
3 you don't, you could pass it to someone else and
4 they can begin. But I'd like you to really talk
5 about what you think if we were to bring term
6 limits -- not if we, we are going to bring -- how
7 you think that should be structured.

8 COMMISSIONER HART: Well, I do think that
9 just considering all the testimony that was given
10 by basically members of the public, most of the
11 concern was the way it was done, not the
12 necessarily the number of terms. So I would think
13 that a serious consideration should be to revert
14 back to the term limit, term limits that was in
15 place before the 2008 change, or consider no term
16 limits at all. I know we did have some testimony
17 by some of the experts that said maybe two terms
18 for the Mayor, three terms for the City Council,
19 and the various reasons for that, balance of
20 power, et cetera. But I do think as far as the
21 public is concerned, I think that the main issue
22 was for them to consider reverting back to the
23 two terms for the Mayor and the City Council, and
24 not have the City Council be in the position to
25 change that in the future. Certainly -- whether

1 or not that's legal is another story -- but
2 certainly, in a way that would not affect them,
3 affect incumbents. So I think that when we do
4 consider term limits I think that is probably
5 what the public, in my view, is most interested
6 in. Not necessarily raising it to two -- I mean,
7 giving the Mayor two terms and giving the
8 Legislature three terms. I don't think that was
9 the central issue as far as the public is
10 concerned.

11 The testimony from some of the experts I do
12 think is certainly is valid: Balance of power,
13 balance of the Mayor versus the City Council.
14 That's a valid consideration and certainly
15 something that we should consider. But I do think
16 that the public, as far as I'm concerned, they
17 were pretty, pretty standard in their view of
18 that issue. So.

19 COMMISSIONER FREYRE: Just a point of
20 clarification from my fellow Commissioner. Are
21 you saying that you feel we should give the
22 public a choice of three?

23 COMMISSIONER HART: No. I said --

24 COMMISSIONER FREYRE: I think I was asking --
25 let me just finish the question. Asking the

1 public whether they want term limits or not?
2 Whether they want to keep three or revert to two?

3 COMMISSIONER HART: I think that my
4 recollection is that a lot of the public did
5 testify that they didn't like term limits. But
6 since we did have term limits, it was voted on by
7 the public, it should stay that way unless the
8 public changed it. So that would, that would open
9 the question about whether or not we should have
10 a question that says OK, two terms for each or no
11 terms limits at all. I said and then as far as
12 the other testimony -- mostly from experts -- I
13 think, that considered the balance of power
14 between the Mayoralty and the City Council, I
15 believe most of the testimony as far as raising
16 or having different term limits for the Mayor and
17 the City Council, I think that's where that came
18 from. I think that's a valid consideration, not
19 for one way or the other. But I do think that's
20 a different, that's a different approach.

21 Something that was not put to the public in the
22 past and something that might be worthwhile
23 talking about in the future. And see if we could
24 get a consensus. So I don't really think the
25 public had an opportunity to actually consider

1 that, because really the focus was the way the
2 term limit issue was presented. Does that...

3 CHAIRMAN GOLDSTEIN: Ernie, I'm certainly not
4 putting anybody on the spot, but if we were to
5 come forward with an actual plan that would be
6 supported here, would you say that you would be
7 supportive of two and two? And prospectivity.

8 COMMISSIONER HART: I would be supportive.

9 CHAIRMAN GOLDSTEIN: You would be supportive
10 of that.

11 COMMISSIONER HART: Others have to go first.

12 CHAIRMAN GOLDSTEIN: And then we need to
13 debate further about how that would be
14 implemented, whether it would be done immediately
15 or would a consideration be given to a
16 grandfathering in? Because people, depending upon
17 when they were elected -- at least on the City
18 Council -- it would have different effects. Some
19 have expectations that they have three terms, but
20 they were elected when it was only two terms, and
21 then there are others that have the reverse.

22 COMMISSIONER HART: Well, I think Chancellor,
23 you're right. I think that may be a reason why
24 when we debate it may be worthwhile to consider
25 the three terms for the City Council. I mean, I

1 think I just think that's a valid -- I would
2 support two and two. But certainly I think the
3 question as far as three for City Council is an
4 open question.

5 CHAIRMAN GOLDSTEIN: Bishop Taylor.
6 Commissioner Bishop Taylor.

7 COMMISSIONER TAYLOR: Thank you, Chancellor,
8 Chair. The question was asked do I think that we
9 should be focussing on term limits? Of course, I
10 would say yes, because I think from the testimony
11 we've heard, as Ernie stated, everyone has
12 expressed their concern about the way it was
13 overturned. And so I think that the issue is not
14 again, the number of terms, the number of years,
15 but again the fact that it was changed over the
16 will of the voters. So I think that it should
17 probably be put to the voters to put back to what
18 they originally wanted. And to the question of
19 limiting the Council's power, I guess, you know,
20 I do see the point of them not being able to
21 overturn it. But prospectively I understand that.
22 But I'm concerned about how that affects their
23 power across the board legally. Diminishing that
24 power does it affect other areas, or can you just
25 pigeonhole it to that particular thing as it

1 relates to term limits? Or does that really
2 broad brush some other issues that may -- so that
3 was a concern. Then, if you're saying that these
4 changes are changes that do not take effect until
5 12 years later, I'm not sure if there is
6 something that could come up that would
7 necessitate a legislative change that maybe the
8 people may even want but can't do it because we
9 limited it for 12 years. So that's my response
10 to those two questions.

11 CHAIRMAN GOLDSTEIN: I think when we have
12 talked with our legal staff there are layers that
13 could be established to inoculate, my word,
14 inoculate the Charter. The one that has the least
15 dosage would be prospectivity. It would not
16 prevent the Council from acting. Prospectivity is
17 not going to affect them from acting at some
18 future time. But it certainly would be a way to
19 prevent people who have skin in the game to vote
20 on their, on their own ability to be elected
21 again. So I think that was really the reason
22 that I think so many of us thought that that was
23 the good compromise.

24 COMMISSIONER TAYLOR: Excuse me, Chancellor,
25 I felt the same way as we discussed it very

1 intelligently in the expanse of discussion. I'm
2 also concerned about how it affects the other
3 things that the Council has power.

4 CHAIRMAN GOLDSTEIN: It would have no effect.

5 COMMISSIONER TAYLOR: No effect at all?

6 CHAIRMAN GOLDSTEIN: It, from what I
7 understand, it would have no effect. It be would
8 limited specifically to term limits. This is not
9 a blanket. If you had a blanket it would say
10 basically the Council cannot change anything in
11 the Charter. That's not what we're saying here.
12 It's specific to term limits.

13 Commissioner Patterson.

14 COMMISSIONER PATTERSON: I think that we owe
15 it to the voting public to give them a choice of
16 whether to go back to two terms for every elected
17 official, City Council, Borough Presidents, and
18 the citywide offices. They voted on it twice.
19 Regardless of whether we personally think that
20 was a correct decision, there were a lot more of
21 them than there are of us, and I respect the
22 decision that they made. When I started thinking
23 about this, I really in theory disliked the
24 concept of term limits for all of the reasons
25 that the expert panels were raising, that it

1 results in turnover, it results in legislators
2 looking a little too eagerly at their next job,
3 not at their current job. But as I've thought
4 about it, I realize that New York City is what we
5 lawyers call sui generis. It's different. It's
6 different from all the other legislatures and
7 elected bodies that have been studied by the
8 various experts that have testified. And it's
9 different in a couple of ways. First of all, and
10 first and foremost, we have an absurdly low voter
11 turnout for City Council elections. It gets
12 worse and worse every year. And so the effect is
13 if you were to remove term limits completely, the
14 effect would in essence be an incumbent permanent
15 employment job. I think that was one of the
16 concerns initially when term limits were
17 proposed. I don't think that that is necessarily
18 a concern in some of the legislatures that the
19 experts have studied. And I haven't really heard
20 it raised by anybody here. But it did concern
21 me, because at some point turnover is a good
22 thing. The other thing that as I've thought about
23 it and thought about what I had seen in six years
24 on the Campaign Finance Board, as I said at the
25 last gathering, is that the people who get

1 elected to City Council, and certainly to people
2 who get elected to the Borough-wide or Citywide
3 offices, are seasoned politicians. Even if they've
4 been never been elected to anything before,
5 they're staffers, they've run campaigns, they are
6 related to some people who were term-limited, or
7 who are in other legislative bodies. In other
8 words, we have an educated and informed group of
9 elected officials regardless of whether they are
10 limited to two terms or three terms. So I think
11 the argument that we were hearing from some of
12 the experts that the shorter the term the harder
13 it is or the weaker the Legislature will be is
14 probably not very relevant in New York City. As
15 much as it may be relevant in other legislatures
16 around the country. So where I come out on what I
17 think I would like to see put to the voters is to
18 give them the choice of to go back to two term
19 limits for all elected officials. If they reject
20 that choice by operation of current law, we will
21 end up with the three terms that we have now. I
22 would not want to put to the voters the option
23 getting rid of all term limits. And I see no
24 reason to give them the choice of three, because
25 if they reject two we're stuck with the three we

1 have at the moment by the operation of the City
2 Council's decision.

3 On prospectivity, I strongly support the
4 concept that members of the legislative body
5 should not be able to vote for something that
6 benefits themselves. So I have no problem with
7 prospectivity. I am as concerned as many other
8 people on this panel, including Bishop Taylor,
9 with what has been referred to as the risk of
10 "Californicating" New York. It's a popular TV
11 show. And government by popular referendum
12 generally does not work. California is case in
13 point. And so I would not want to put anything
14 more restrictive on the power of our elected
15 officials than something that would say they
16 simply could not benefit themselves by virtue of
17 increasing term limits. And I don't think that
18 those two -- I think that you could phrase those
19 two completely separate referenda.

20 CHAIRMAN GOLDSTEIN: Yes.

21 COMMISSIONER PATTERSON: I mean, you could
22 say to the voters: Do you support a resolution
23 that the City Council cannot amend any term limit
24 prospectively? And they can say: Yes, I support
25 that, and they might still reject two term limits

1 and stay with three. The formula works if you
2 phrase it as two separate questions.

3 The other thing that I was talking with
4 Commissioner Moltner about, and thinking long and
5 hard about, was how we implement any restriction
6 that cuts back on the terms of current elected
7 officials. And I read back to the appendices to
8 the Preliminary Staff Report. And I just wanted
9 to give you some data on it only because I
10 haven't fully -- this is page A35 of the appendix
11 of the Staff Report. And it breaks down the
12 number of members of the City Council by when
13 their terms would end. And as far as I can tell,
14 it's a little hard to read this quickly, but it
15 looks like there are 21 members of the City
16 Council who are already in their third term. So
17 regardless of what happens, they will not be
18 affected by any referendum or any failure of a
19 referendum. There are 17 members who are in
20 their first term. There are 13 in their second
21 term. If the voters say term limits go back to
22 two terms right now, you will have, let's see, 34
23 members of the City Council whose terms will
24 expire in 2014. And you'll only have 17. So
25 one-third of the City Council who will stay, who

1 will be able to run again. Now, that's not
2 necessarily a bad thing. I just point that out.
3 That's not dissimilar to what happened when term
4 limits were initially introduced, which I think
5 Commissioner Fiala knows the math on that better
6 than anybody. And I'm not saying that that's a
7 bad thing precisely, because those 17 members of
8 the City Council, they are not political
9 newbie's. I'm sure they will be quite effective
10 leaders quite quickly. But it is something to
11 take into consideration. I haven't really -- I
12 mean, I could, frankly, I could go either way on
13 whether to allow currently elected officials to
14 continue for a total of 12 years, or whether to
15 cut short the terms of 30 members of the City
16 Council, plus the Borough Presidents who are in
17 their second term, plus -- well, I guess the two
18 citywide elected officers are in their first
19 term. So that other than the Mayor who is in his
20 third term. But I think that is an issue that is
21 worthy of discussion, because it does raise a
22 question about leadership in the City Council,
23 leadership at the Borough President's level. I
24 think it's important for us to discuss. I think
25 that there are merits on both sides of the

1 argument.

2 CHAIRMAN GOLDSTEIN: And I thank you for
3 bringing that up, because that is the one piece
4 of this puzzle that we really haven't discussed.

5 COMMISSIONER PATTERSON: At the moment, in
6 spite of the initial, in spite of the initial
7 term limit decision way back when, we have a
8 pretty evenly staggered City Council, and I
9 believe we have a relatively evenly staggered
10 allocation of Borough Presidents, so that's a
11 little distinguishable because each Borough
12 President handles his or her Borough. And if it
13 would change the staggering, if we made the two-
14 term limit applicable to every elected official
15 right now.

16 CHAIRMAN GOLDSTEIN: As opposed to
17 grandfathering?

18 COMMISSIONER PATTERSON: As opposed to
19 grandfathering the ones that are currently in
20 office, yes.

21 CHAIRMAN GOLDSTEIN: Thank you very much,
22 Commissioner Patterson.

23 Commissioner Moltner.

24 COMMISSIONER MOLTNER: Thank you,
25 Mr. Chairman. I join in the eloquent comments of

1 my fellow Commissioners who have spoken thus far
2 and agree that what we're calling two-two, are
3 the opportunity to go back to two-two, should be
4 put before the voters. As I've said previously, I
5 do not reach personally the issues of whether
6 three-two are better, because we have heard from
7 the public loudly, clearly, not only at this
8 Commission, at these Commission hearings, but
9 prior to the Commission hearings -- when I say
10 "we" I think the public -- there's been a lot of
11 press, and there was a lot of public concern, if
12 not outrage, at the process by which the three-
13 three was instituted. As Commissioner Patterson
14 pointed out, if we, the voters, reject the two,
15 two by default or operation of law, we'll be back
16 to three-three. I also do not believe that the
17 question of whether there should be term results
18 at all should be put before the voters at this
19 time. I believe that is a separate debate. I
20 believe that is an issue that in fact has not the
21 been the subject of much testimony at all. The
22 Staff Report indicates percentage-wise it's 2
23 percent of the people who had spoken about a
24 abolishing term limits. But I think most
25 importantly has been central to the public debate

1 is the process. So whether one agrees with term
2 limits or does not agree with term limits I don't
3 believe that's the foremost issue at the moment.

4 In terms of the prospectivity and the
5 intriguing question as to whether or not it
6 should be retroactive or the effect of it, I lean
7 towards putting to the voters the question of
8 retroactivity with what I will readily
9 acknowledge is a rudimentary or basic
10 understanding of the law to be. I do think
11 retroactivity should or may well pass muster. And
12 I think the public should have an opportunity to
13 decide whether or not it should be effectively
14 based, I mean, putting on the ballot the question
15 of retroactivity.

16 CHAIRMAN GOLDSTEIN: Thank you, Commissioner
17 Moltner.

18 Commissioner Chen.

19 COMMISSIONER BETTY CHEN: Thank you,
20 Mr. Chairman. I think that we'll never know how
21 well the various people who have come to testify
22 in person and online at all of these hearings
23 actually represent the greater public at large.
24 But I do have a lot of respect for the people who
25 showed up, who waited all these long hours to

1 speak, who took the time to be a part of this
2 process, to send us comments online, and I think
3 we've been taking that all in. And I think based
4 on that process and all the things that we've
5 heard, I agree that it's correct to put term
6 limits on the ballot this November. I think if
7 you were to ask me, as you had asked the other
8 Commissioners: Do you believe in two-two or two-
9 three? I might say I personally I don't believe
10 in term limits. But I have respect for the
11 process we're conducting and the discussions
12 we've heard. And I would support putting a
13 question on the ballot to give the voters the
14 decision of two- two or three-three regardless of
15 whatever personal views I might have.

16 I do have a problem, though, with trying to
17 perform social engineering through doing some
18 combination of two terms for some elected
19 officials, three terms for others, based on some
20 researcher says one thing, some researcher says
21 another, and we would sort of be trying to play
22 that role in offering that as an option. So I
23 would not be in support of that.

24 I am in support of prospectivity. I think
25 it's something that strengthens the integrity of

1 City government without crossing the line into
2 sort of overreaching and controlling the City
3 Council. So I am in support of that. And in
4 terms of how to structure the actual wording of
5 the questions on the ballot, I think we'll
6 probably dig down into greater levels of detail
7 dealing with the bigger issues first before
8 getting into that. One thing I would be
9 interested in knowing, maybe the staff could look
10 into, is regardless of what question is being
11 asked in a referendum, is there some human
12 tendency to want to vote "Yes" or want to vote
13 "No"? Or does it really depend on what people are
14 being asked? Is there some social psychology when
15 you're in a voting booth that you have a tendency
16 to be conservative and vote "No" or vote "Yes"?
17 There is research sort of supporting that I think
18 you have to be very careful in exactly how we
19 word the question. So is voting "Yes" opposing
20 three terms or is voting "Yes" reverting back to
21 two terms? I'm sure there are some legal
22 considerations. I would like to know that from a
23 social science perspective.

24 CHAIRMAN GOLDSTEIN: I think it's fair to
25 say -- I'm not a social scientist, but we have a

1 very fine Director of Research who is. He, I'm
2 sure, would agree that modality matters for sure.
3 And how you structure a question can certainly
4 push certain voters in one way as opposed to
5 another. And sometimes it's done by benevolence,
6 because you really want to get something done and
7 you really don't care how you get it done. And
8 sometimes it's done by sheer amateurism, that
9 you're really not the professional in how to
10 structure a question. And we said this right at
11 the very beginning, Commissioner Chen, that how
12 you structure a question really matters. And how
13 whether you bundle questions or do them
14 individually matters as well. And we will
15 certainly have to do that. And I'm sure that our
16 staff and the consultants that we have working
17 with us will help guide our thinking along those
18 rounds. Great.

19 Commissioner Freyre.

20 COMMISSIONER FREYRE: Thank you,
21 Mr. Chairman. As I have said before, I am in
22 principle against term limits. However, I think
23 that the New York City voters have voted for term
24 limits twice, and it is only fair to put term
25 limits back on the ballot. I do support asking

1 the voters if they wish to keep three or to
2 revert back to two. I think that's the right
3 question. For all officials. As to the limitation
4 on the ability of the New York City Council to
5 change the term limits law only prospectively, I
6 do support that, because I do believe we need to
7 take a position once and for all on whether the
8 public voice on this issue can be changed by the
9 New York City Council and on what terms it can be
10 changed. And this is a small limitation on the
11 power of the New York City Council. I'm not as
12 terribly concerned as others are about limiting
13 the power of the New York City Council in this
14 respect. This is very much like the limitation
15 that is on the New York City Council in other
16 matters, such as their salary, where they can
17 only act prospectively. This is something that
18 is in their interest and, therefore, it is
19 appropriate to limit to a prospective action.

20 I agree with Commissioners Patterson and
21 Moltner taking a look what effect the term limits
22 would have on those seated members of the New
23 York City Council today. I do believe we need to
24 hear what kind of disruption would occur. I am
25 against disruption in that area. And I would

1 argue for grandfathering if we feel that the
2 disruption would be against the best interests of
3 the City.

4 CHAIRMAN GOLDSTEIN: Thank you.

5 COMMISSIONER HART: Chairman, if I may make a
6 comment?

7 CHAIRMAN GOLDSTEIN: Sure.

8 COMMISSIONER HART: And guess I'm asking this
9 of staff, but when we initially had term limits,
10 when that was voted on and the City Council was
11 affected by that, my recollection is that most of
12 the City Council was term-limited. Very few were
13 able to stay in office. And I guess my point, my
14 point is that it was a change in leadership, it
15 was a change in the way they worked. But
16 basically, I don't think that if all the City
17 Council was term-limited out this go round I
18 don't see how that would have a huge effect on
19 governance. I think that as we heard testimony
20 from several experts, the staff of City Council,
21 everybody's been around for a long time. I don't
22 think it would have that big an effect on the way
23 City Council works. People will obviously change
24 chairs. But I'm just putting it out there,
25 because personally, I don't think that that is

1 necessarily a concern of mine about who stays in
2 office, who doesn't stay in office. I would
3 rather personally, if you are term-limited, if
4 the voters voted for term limits, then those
5 affected call it a day, call it a career,
6 whatever, or not. The staggering of terms, the
7 grandfathering in, I don't think that that's
8 something that the public in their testimony, in
9 its testimony, was supportive.

10 CHAIRMAN GOLDSTEIN: One way of looking at it
11 as a scientist would look at it is to look at the
12 extremes. What would happen if everybody left at
13 once? Or what would happen if everybody stayed in
14 and then sort of work in from those extremes
15 could see what the effect would be? I think this
16 is a serious question, it really needs a lot more
17 discussion, and I'm sure the staff will help us
18 unravel this in a better way. I appreciate your
19 comments, Commissioner Hart.

20 Commissioner Banks.

21 COMMISSIONER BANKS: Thank you, Mr. Chairman.
22 I'm going to be a bit all over the place here, so
23 please bear with me. I'm going to start with
24 Commissioner Hart's last comment. I was a staff
25 member when the Council went through term limits

1 the last time, and it's probably the first time
2 this is being publicly disclosed, but we on staff
3 had a saying: "Support term limits and empower
4 the staff." There would be a tremendous amount
5 of disruption that would occur if for whatever
6 reason the entire body were turned over at once.
7 Although there is well intention amongst the
8 professional staff of the body to ensure that it
9 continues, members just won't have any continuity
10 of issues, or how the process works, and so it
11 will be a stopping of the brakes that will take
12 months and months just to get going the normal
13 business. I mean, just setting up an office for
14 a new member requires a great deal of
15 coordination, action, timing, who determines who
16 gets what job. I mean, this is some of the
17 sausage part of a legislative body. So I would
18 suggest that there would be a tremendous amount
19 of upheaval by term limits that got rid of
20 everybody and in the extreme. So that's just the
21 first point.

22 I too am an opponent of term limits, and
23 like many of my colleagues, I do not hold
24 sacrosanct the public referendum on term limits.
25 And I mentioned this before, and I'll just

1 briefly talk about it again. We are not a true
2 Democracy. We are a representative government,
3 and we elect people to take positions, and then
4 we review those positions as they've been taken
5 over time, and we have an opportunity to vote
6 them out or to vote them in.

7 Term limits came about in the early '90s as
8 a result of a groundswell of anger with the
9 legislative body, not just here, but across the
10 country. It was a well-financed effort to change
11 the way terms in the City were structured. The
12 mere fact that a referendum is passed is not
13 necessarily the final, or should be the final,
14 word on any given item. There are plenty of
15 examples, and I used the example of segregation
16 in the past, and some people took me to task for
17 it, but I'll just make the point anyway. There
18 was a consensus in this country many years ago
19 that segregation was okay, that it didn't really
20 matter, and that there was no need to make any
21 changes. Fast forward 50 years, I think we would
22 have a difficult time finding a large group of
23 people who would support that position. But that
24 was overturned, or that position, contrary to
25 public opinion, was dealt with by the legislative

1 body. And to precluded the legislative body from
2 having an opportunity to make determinations
3 about public policy that could or could not be
4 swayed by influence within the media and a well-
5 financed campaign to move an agenda item, I think
6 we need to think very carefully about going
7 forward in saying: Well, the people voted for
8 something and, therefore, we have to go back and
9 give them an opportunity to vote for it again.
10 I'm not saying that I oppose putting it on the
11 agenda, but I think someone needs to say this on
12 the record that the mere fact there was a
13 referendum is not in and of itself the be all and
14 the end all in public policy. We in this country
15 have three basic ways to put public policy
16 together. We can do it through legislation, we
17 can do it through referendum, and we can do it
18 through the judiciary. There are many people now
19 who say that we shouldn't have judicial
20 activists. I would argue that the Supreme Court
21 most recently exercised some judicial activism
22 when they allowed corporations to use corporate
23 money to engage in political agenda. So again, we
24 need to be cautious as we proceed down this road.

25 With regard to two terms, or three terms, I

1 personally believe that if we are going to put an
2 item, and since we are seeking a consensus that
3 we will put an item on for term limits, that I
4 will recommend that we go for two terms for
5 Mayor, three terms for Council Member because of
6 the balance in power that exists in this city.
7 We are a strong mayoral government and that
8 works. However, if you do not allow the
9 legislative body to gain some expertise in the
10 particular field of interest, be it finance, or
11 land-use, or transportation, or whatever the
12 topic might be, you further empower the executive
13 to run roughshod over the legislative body, and
14 we need that counterbalance. And so I would
15 recommend that we put forward the to two-three
16 scenario.

17 What else did I want to say? Oh, with regard
18 to prospectivity. I also would be very careful in
19 recommending to my fellow Commissioners that we
20 think about and we discuss much, much more before
21 we make any decision the idea of saying to the
22 Council: You are bound to only implement
23 legislation that affects someone else and does
24 not affect you. And while I'll intellectually
25 agree that there is something desirable about

1 limiting the legislative body from benefitting
2 from their own actions, I am also very, very
3 concerned about, and Commissioner Taylor
4 mentioned this, while there may not be a legal
5 construct that prevents us from doing this, I
6 think that there are the issue of precedent that
7 we need to worry about almost as much as any
8 legal constraints that we have. Establishing a
9 precedent that says the legislative body, because
10 the public opinion which moves in any direction
11 at any given time, because public opinion says
12 that they should not have power to do X we
13 establish a precedent that says the referendum
14 can dictate that the legislative body is further
15 constrained going forward. Now, lest we forget
16 that there are two ways to put a referendum on in
17 the City of New York, right? There's this process
18 that we're engaged in, and then there is the
19 process of petitioning, so that again I worry
20 that a wealthy group that has the ability to
21 mount a public campaign to sway the issue would
22 be able to further limit the legislative
23 activities of our elected body. And if we truly
24 believe we have a representative form of
25 government, then we should think long and hard

1 about limiting the ability of our elected
2 officials to take positions on any issue. Thanks.

3 CHAIRMAN GOLDSTEIN: Thank you, Commissioner
4 Banks.

5 Let's move to Commissioner Cohen.

6 COMMISSIONER COHEN: Thank you, Mr. Chairman.
7 Like many of my colleagues, who I am in principle
8 opposed to term limits, like all of my
9 colleagues, I think so far, except for
10 Commissioner Banks, I think that we as a
11 Commission do need to respond to the outrage of
12 the public voice not voiced not only in our
13 hearings but for a good period before then due to
14 the way this change occurred in 2008. So I
15 absolutely think that we need to bring to the
16 voters the ability to go back to two terms for
17 all elected officials. Since I am in principle
18 opposed to term limits, and since we seldom have
19 the opportunity to engage in a real public
20 discussion about what those issues of philosophy
21 in governance are concerning having term limits
22 of whatever extent or not having them, I would
23 love to see that option brought forward as well.
24 I understand that there are issues of technical
25 feasibility and perhaps legal feasibility in

1 terms of bringing those options, and if it is not
2 feasible, I absolutely think that what needs to
3 be brought before the public is an action to go
4 back to what was approved by referendum twice,
5 namely two terms for all. But I do want to keep
6 raising this question of the very basis of term
7 limits and whether we are at a moment where we
8 can raise that fundamental issue and bring it
9 forward as well is technically and legally
10 feasible to do so on the ballot.

11 On the question of prospectivity, I have no
12 problem at all that if we're going to have term
13 limits that those who are affected by them should
14 not have the ability to change them for their own
15 benefit. I fear that I have to correct my
16 colleague, Commissioner Freyre, unfortunately is
17 not the case in the Charter that the City Council
18 is prevented from raising its own salaries, and I
19 think that is something that we should also take
20 an opportunity to address. That if we are to
21 bring forward this question of the City Council
22 not being able to make this change for themselves
23 but only for their successors, we're long overdue
24 to making that change in the Charter similarly
25 with regard to pay. It is a pretty unusual

1 circumstance. I quite understand why
2 Commissioner Freyre said it was, because most
3 legislatures are under that limitation. It is
4 actually a recommendation that was brought
5 forward in the Citizens Union report, and I think
6 we absolutely should be looking at that as well.

7 I have to say, though, the question of
8 grandfathering, on the question of the three
9 terms/two terms question, maybe I'm missing
10 something, but to me this seems to be the easiest
11 question of all, and that is absolutely it should
12 apply. The change in term limits should apply to
13 the current incumbents. It to me flies in the
14 face of the whole argument for prospectivity,
15 that we would argue for prospectivity, that in
16 the future that we look askance at the elected
17 officials changing something that would benefit
18 them and yet we stop and say: Oh gee, well, they
19 did it this time, and we're going to allow them
20 to go forward with it and live with that
21 additional term, because they had the expectation
22 of three terms after they made this change. It
23 seems to me that if they disregarded the public
24 in making this change for themselves in 2008 they
25 should have no such expectation for their own

1 futures.

2 In terms of the practical operations, I
3 think Commissioner Patterson already went through
4 the numbers. In fact, there are 18 members of the
5 Council that are currently in their first term,
6 so there is already a stagger. It's not like it
7 would be completely blank. There would be 18
8 experienced Council Members and the rest would be
9 renewed. That please remember all of the context
10 of I think term limits overall is a bad
11 philosophical idea in the first place; that we
12 should not be handcuffing ourselves as voters and
13 preventing ourselves as voters from voting for
14 whoever we want, but rather imposing arbitrary
15 limitations on our own ability to choose our own
16 elected officials.

17 CHAIRMAN GOLDSTEIN: Thank you, Commissioner
18 Cohen.

19 Let's turn to Commissioner Cassino.

20 COMMISSIONER CASSINO: Thank you, thank you,
21 Mr. Chairman. This is probably an easier area
22 for me than most of my fellow Commissioners,
23 because I am in the minority here. I'm a strong
24 proponent of term limits. So a lot of these
25 questions get answered much easier for me, it's

1 not as much of a struggle. And I appreciate all
2 the Commissioners here who are opposed to term
3 limits are really thoughtful about this question
4 and are really going outside of themselves in
5 looking at these issues, because it is easier if
6 you are in the other camp than I'm in. And I
7 think that one of the things that we have to
8 consider in all of these questions that we're
9 talking about what we offer, whether it's
10 prospective or not, and the implications, the one
11 thing that comes to mind, and we've said this
12 before about a relative Democracy, is that the
13 difference here between a civil rights matter, I
14 think the incredible difference is that a civil
15 rights matter goes to a wholly different issue.
16 This is about self-dealing. This is not in the
17 interest of the public. This is only in the
18 interest of those who are affected by the term
19 limits. It's not about whether this affects
20 society as a whole. So I think there's such a
21 huge difference --

22 COMMISSIONER BANKS: If I might. It --

23 COMMISSIONER CASSINO: -- civil rights and
24 term limits.

25 COMMISSIONER BANKS: It does affect New York

1 society as a whole. I am limited from having a
2 choice by having term limits.

3 COMMISSIONER CASSINO: That's a term limits
4 concept. And I understand that's you are limited
5 by choice --

6 COMMISSIONER BANKS: That's a societal
7 decision that has been made by the electorate
8 when they voted for term limits the first time.
9 So yes, it may not be as significant a societal
10 issue as civil rights --

11 COMMISSIONER CASSINO: That's all I'm saying.
12 It's hard just because the level of severity here
13 and the actual people who are affected the most
14 really are those who are term-limited out, even
15 though you are certainly diminished in your terms
16 in ability to vote. I'm just saying the level of
17 the scale is a little bit different. That's all
18 I'm saying.

19 COMMISSIONER BANKS: I'll stop. I just want
20 to say I agree with you that scale is what's
21 being discussed. I'm just nervous about who gets
22 to draw the line where that scale --

23 COMMISSIONER CASSINO: Let me speak to that,
24 because I do think that people were offended both
25 by how things were done. We also had a vote. The

1 second vote was about should we have three terms?
2 That question was asked and answered: Three
3 terms.

4 And by the way, Betty Chen, your question is
5 very relevant. The second time the answer was
6 "No" to get "Yes." Basically, you had to respond
7 "No." So it was tried. And I think many people
8 thought it was unfair how that was structured.
9 It was done on purpose. So it's an interesting
10 question that you raise, because it was tried.
11 And people still found their way to it.

12 CHAIRMAN GOLDSTEIN: We're going to be much
13 more careful going forward.

14 COMMISSIONER CASSINO: Yes. Great question.

15 So I am a strong proponent of giving the
16 opportunity, and this is for me I think is a fair
17 way to settle, it's very straightforward, of
18 course, if you give somebody the choice of two
19 and we can revert back to three. If we don't, if
20 they're not happy with the two or three. I can
21 live with that. Many of us think that is the
22 fairest thing we could do. I'm a strong
23 proponent of that.

24 Prospectivity I'm going to bite my tongue
25 and say I will support it because most people do.

1 But I can tell you this, I want to be on the
2 record, that that will get overturned. Even
3 though it relates to a future Council, because
4 the members of the Council who will all be
5 running in the future for Borough President,
6 they'll be running for Public Advocate, they'll
7 be running for other offices, for Mayor, and
8 they'll happily do that. And also remember much
9 of the Council is strongly influenced by the
10 county leaders, the bosses, and they will have an
11 influence on that. So if you give people an
12 opportunity to open something up they will open
13 it up. And my colleague Steve Fiala, who has
14 experience with that, he blocked the vote to
15 overturn term limits years ago. So I'll go with
16 that, because I think that I would have gone with
17 a more stringent measure. I think that I would
18 have locked that door as tight as I could lock it
19 and taken the risk on it. But I want to be on
20 record as saying I believe that it will get
21 tinkered with because they can. But I will
22 support that, because I think the majority of the
23 members here do support that. And let me say
24 this, the final thing is the issue about whether
25 it should be applied to the current Council

1 Members, and I'll go back to my chart that I
2 handed out before of where the Council members
3 stand on this issue in terms of term limits. So
4 we know that the new Council, 19 members, we have
5 their responses. 17 of them responded to the
6 Citizens Union questionnaire about the issue of
7 how term limits was done, and they ran on this
8 issue. It's almost unanimous, the new Council
9 members are unanimous in opposing the way it was
10 done, and requiring a Charter modification that
11 you could only overturn, you could only overturn
12 changes to the term limits law by another
13 referendum. We have their answer on this. So the
14 new members all answered in the affirmative,
15 every one of them. And they ran on the issue
16 of -- they actually used this as a strongest
17 basis for their campaigns. And I have their
18 quotes here about how offended they were about
19 how it was done. And let me go back to somebody
20 from '05. Inez Dickins, just because she
21 specifically commented on this. She said that
22 she voted in favor, but what she said was when
23 she voted in favor she says, "I thought it was in
24 the best interests of my constituents. I voted
25 my conscience, because I gained nothing

1 especially if the Charter Commission repeals this
2 decision." So she's fully anticipating that this
3 could be something that might happen. So I think
4 to give them the benefit of a deal, a deal that I
5 believe was wrong, to give them that benefit is
6 just wrong on our part. We're not part of any
7 deal. We didn't make any deal. They didn't make
8 it prospective, by the way, when they pushed this
9 through. It wasn't prospective, it was
10 immediate. So I think their words should come
11 back and play a role in here. And I think also
12 we didn't make any deal. They all knew -- it
13 wasn't like anybody in the Council today, whether
14 they're in the Class of '05 or in the Class of
15 '09, that they didn't know there was a
16 possibility that this could get rolled back when
17 they made that choice. They rolled the dice, the
18 ones who voted for it rolled the dice who might
19 be subject to it in the future. So I think to
20 give them the benefit of that deal is to
21 exacerbate what happened, and it is disingenuous
22 in a way.

23 I don't think the Council -- the sky's not
24 going to fall with 20 members there. It's
25 happened before. And they do find their way, it

1 takes a little time to get going, but I don't
2 think that's the worse thing in the world. When
3 they changed the term limits before everybody
4 said the skies going to fall and here with we
5 are.

6 So that's my opinion on those three items,
7 and I think you know I'm pretty clear about it.

8 CHAIRMAN GOLDSTEIN: Thank you Commissioner
9 Cassino.

10 Let's go to Commissioner David Chen.

11 COMMISSIONER TAYLOR: Commissioner Klein?

12 CHAIRMAN GOLDSTEIN: Chancellor Klein?

13 COMMISSIONER TAYLOR: I'm sorry.

14 CHAIRMAN GOLDSTEIN: He's got a tougher job.

15 COMMISSIONER TAYLOR: I'm thinking about
16 Woodside now, we grew up in the same area.

17 I just want to make a point of saying the
18 reason why I think there was focus on term limits
19 was to give non-politicos an opportunity to serve
20 in the City Council. That was the origin, I
21 think. So when you start talking about
22 experience and can they find the bathroom, or can
23 they outfit an office, oh my God, this shouldn't
24 even be in there, outfitting an office. So I
25 think the fact that term limits was looked at was

1 because somebody said: Well, we shouldn't have
2 professional elected's staying there for 25
3 years. Let's get more people involved. I just
4 want to make that as a point. So I'm on record
5 stating that.

6 CHAIRMAN GOLDSTEIN: Thank you.

7 Commissioner Chen.

8 COMMISSIONER DAVID CHEN: Every time we heard
9 about terms limits I'm learning a lot, but it's
10 getting more complicated as I hear more sides
11 explaining it. But I can't help but try to see
12 term limits as a single issue to the context
13 which I believe the whole Charter Revision is to
14 try to restore confidence in our electoral
15 system. Term limits, a single issue, to try to
16 make it better and concrete. And obviously, term
17 limits in the minds of the voters, they're not
18 happy about it, election overturned, whatever it
19 is, they want to see changes. Timely, this
20 opportunity to (inaudible) it November can put on
21 the ballot. It's urgent. Get it over with so
22 that people can move on and move on with some
23 sort of clarity.

24 I hope we learned from what happened.

25 That's why we talk about how we're going to do it

1 better. But in terms of framing it as a an issue
2 (inaudible) confidence level in terms of our
3 system and in the simple mind we have one vote
4 ourselves, myself, I see myself voting, I'm not
5 expert on Commission, I'm only one vote. In
6 principle I said, "WELL, people should run as
7 long as they're good. The voters will elect
8 them. Why should there be term limits?" That's
9 very general and abstract in some way. But then
10 I realize if you stay forever you don't give any
11 newcomer a chance. The people will be
12 marginalized, will never get a chance. So in
13 that sense from civil rights angle, it's very
14 important to (inaudible) how new ones to come in,
15 okay. Then I tell myself two terms, maybe not
16 enough. You know. Three terms is good. Four
17 terms may be a little too long. So that's why
18 personally I thought three terms okay. But then
19 as I heard the balancing, politics is all about
20 balance of power, then I realize, I heard: Well,
21 individual -- I'm not talking City Council versus
22 Mayor. Mayor is one person. City Council is
23 one. So when you talk about individual City
24 Council, learning the process of the role and
25 learn to place the power of government and

1 balance, they need more time.

2 Mayor, by the time you win the Mayor, you
3 really know it all. And you have your machine or
4 mechanism pretty much. So for them maybe two
5 terms would be enough. So that's why I'm leaning
6 to two-three in that sense. It's more realistic
7 in the sense when you look at balancing-wise just
8 like, you know, what do you call it, the Special
9 Olympics. If you put Special Olympics people to
10 the regular Olympics never get a chance. But you
11 put Special Olympics they get a special chance to
12 make it and encourage them to participate, then a
13 chance to win. When you put the handicapped
14 people with the regular people they never had a
15 chance. So the inclusion method of involving
16 people by give people a chance to see the system,
17 allow the people who otherwise left out, get a
18 chance to get it. That's why I look at term
19 limits. This is a vehicle for us to use it in
20 the right way to encourage participation.

21 At these times people when say: Well, 16
22 percent vote. I think you forgot to look at the
23 74 percent who doesn't vote. I'm (inaudible) 84
24 percent that haven't voted. So the framing of
25 discussion, and I'm talking about 16 versus 32,

1 and this is wonderful here, we have three
2 elections, this is a good year to put on the
3 ballot. But somehow framing this how are we
4 going to get the other 84 percent that last time
5 didn't come out?

6 So in that sense then on the prospectivity
7 part, in principle I go along with it, because I
8 personally believe that it's a pendulum, a
9 switch, a swing every now and then a few years.
10 But then the issue we're talking about is make it
11 simple for the voters. Sometimes, I myself know
12 that I voted, sometimes I'm confused. I actually
13 turned out voted for the wrong side. There are
14 times this referendum I didn't know, I was
15 confused, I voted, later I found out oh gee, I
16 put it on the wrong side.

17 I guess I consider myself an educated,
18 average voter. I have voted on the wrong side.
19 So in that sense, avoiding complexity, make it
20 real simple is important. We can always make up
21 later. (Inaudible) the Chancellor already
22 mentioned the time factor. It takes time to
23 deliberate and it takes time to educate
24 (inaudible) educating the public you can't. The
25 only thing you can do, minimize, is make it

1 simple, so you don't have to spend too much time
2 educating public. You're limited. It's finite.
3 So in that sense some of us are doing that,
4 you're make out a ballot as simple as can be so
5 that people who felt complicated, get confused,
6 vote wrong, will get into the 84 percent margin.
7 So that's my view about making it simple.

8 CHAIRMAN GOLDSTEIN: Thank you very much,
9 Commissioner Chen.

10 Commissioner Fiala.

11 COMMISSIONER FIALA: Thank you, Mr. Chairman.
12 This is an issue that just won't die.

13 COMMISSIONER BANKS: We thought we killed it
14 eight years ago.

15 COMMISSIONER FIALA: So did I. This is more
16 frustrating and complex for me today than it was
17 a decade ago. That decision was complicated for
18 me. But this is more frustrating. It's more
19 frustrating because I'm a hobbyist of history. I
20 love our history as a Republic. You hear me
21 quote the Federalist Papers a lot. I look to
22 history and to the experts, the real geniuses of
23 our history in helping form my judgment.

24 Here's what was said in Federalist 3:

25 "People of any country, if like Americans, they

1 are intelligent and well-informed, seldom hold
2 and keep erroneous beliefs about what their best
3 interests are for many years."

4 Here we are ten years later. I would have
5 hoped that the people of this city would have
6 realized that term limits are antithetical to our
7 Republic. Yet Federalist 3 just obviously
8 contemplated a greater period than I guess a
9 decade.

10 I just want to read you a couple of passages
11 from a speech I gave to help you understand why I
12 have a difficult time with this issue. Thomas
13 Paine in 1776 declared: "What we obtain too
14 chiefly, we esteem too lightly. It is in
15 dearness only that gives everything its value."
16 So that's very, very true. We have as a nation,
17 despite our relative youth on the world stage,
18 grown very, very sloppy. Very, very
19 disinterested in our history. We've grown
20 disengaged, disillusioned. We've lost site of who
21 we are. And the responsibility, more importantly,
22 that we have to the future. The framers of our
23 form of government aspired to establish a system
24 that was deliberative and produced representation
25 characterized by these virtues: Calmness,

1 civility, detachment, reasonableness, and the
2 concern for the long-term.

3 Term limits are antithetical to our Republic
4 form of government. They are an abdication of
5 civic responsibility. They limit your ability and
6 your right to choose. They will strengthen the
7 hands of the permanent government as Commissioner
8 Banks alluded to. The bureaucracy and the
9 special interests. While weakening the
10 legislative expertise and institutional memory
11 required. In my view, term limits are the wrong
12 means to adjust a desirable end. It is ironic
13 that in New York City, which is regarded as the
14 best campaign finance system in the nation, look
15 to term limits for salvation. One expands
16 individual choice while the other robs you of
17 your individual choice.

18 Suffice it to say I hold today, bear in mind
19 this is 10 years ago, the same opinion on term
20 limits I heard when they reared their ugly head.
21 Their simplistic head. Patriotic we opposed.
22 Democracy is a delicate balancing act, ladies and
23 gentlemen, largely dependent upon respect for the
24 first principle in the role of process.

25 The issue before us today is of large

1 consequence. The question before us is not
2 whether term limits are the wrong means to a just
3 and noble end, rather the question is whether the
4 means prescribed in Intro 80 -- that was the
5 proposed law -- justified the desired end.

6 I want to step out now and add some current
7 thoughts. Historical context is important here.
8 If we treat term limits in isolation of
9 everything else as a city, we do ourselves a
10 disservice, and we do our grandchildren a greater
11 disservice. Twenty years ago a majority of New
12 Yorkers, and I was on the losing side, as I
13 always am, the majority of New Yorkers voted for
14 this current Charter. And it established, it
15 established as its core form of governance a
16 strong mayoral-council form of governance. And
17 in 1990 a new Mayor and new a City Council walked
18 into City Hall and began that new form of
19 government. Two years later, someone comes along
20 and decides that term limits are going to cure
21 all the problems that New Yorkers felt existed in
22 their city. You talk about schizophrenia, you
23 talk about really just losing focus. Here we
24 were ushering in a brand new model where we made
25 a determination that we wanted a strong,

1 deliberative City Council, something that didn't
2 exist before, and if something is to be
3 deliberative and thoughtful it needs to have time
4 to organically grow, cultivate. If you're going
5 to have a strong legislative body as a
6 counterbalance to what we all want, a strong
7 Mayor, you need to respect the institution of the
8 City Council.

9 The people of New York were misguided in
10 their vote. They voted their passions. I
11 understand that. But it's counterintuitive when
12 you stop and you put it in that context. You
13 could not possibly have arrived at a reasonable
14 conclusion that said term limits were the right
15 answer when you arrived two years earlier at the
16 conclusion that we wanted a strong City Council.
17 It's counterintuitive.

18 The fact of the matter is you've got to have
19 skin in the game if you want to be an American.
20 This isn't a spectator sport. This isn't a direct
21 Democracy, it's a Republic. It requires that you
22 get off your duff once a year and you make an
23 informed decision. And I'm getting very tired of
24 hearing the same old tired rhetoric recycled over
25 and over again when the big issues are being

1 ignored. If you think recycling politicians
2 every eight years is going to solve your
3 problems, balance your City budget, fix your
4 roads, pick up your trash, keep your streets
5 safe, you're delusional. The fact of the matter
6 is it requires your active engaged, informed
7 involvement. And that happens at elections. And
8 we cannot insulate ourselves from the
9 responsibility that we have. As you know, we're
10 the Board of Directors of this company, this
11 country. Voters are the ultimate arbiters of the
12 fate of our elected officials. Voters. Sadly,
13 not enough of them show up.

14 I commend the following to those who are
15 interested. Someone wrote into The New York
16 Times, they mentioned -- I referenced Federal 51
17 and they completely took out of context what I
18 said. So reread 51, read 3, read 2, read 57.
19 I'm not going to bore my colleagues or you with
20 the details of it.

21 The law of unintended consequences came into
22 play here. We tend to look for simplistic
23 solutions to very complex issues. Government,
24 Federalist 2. Government is a necessary evil.
25 It's how we prevent ourselves from beating each

1 other over the head with clubs. We settle our
2 differences, hopefully, in a deliberative body.
3 And the idea, the idea that you can have public
4 officials being thrown out just when they start
5 to acquire the acumen needed to be good at their
6 job is lunacy to me. I want a surgeon who has
7 performed surgery a thousand times over. I want
8 a professor who understands his or her craft
9 because they taught longer. I want a dentist who
10 knows the difference between the teeth. I want a
11 baker who is an expert at baking cakes. But
12 somehow we want politicians to come in and out,
13 to be able to know exactly what we want, and to
14 be able to understand these complex institutions
15 of government, reconcile all of these differences
16 of opinions, and then quietly walk away. It's
17 lunacy, I tell you. It's counterintuitive. It's
18 a copout. It's not worthy of what it is to be an
19 American. It's shameful.

20 We cannot insulate ourselves from our public
21 responsibilities. This country doesn't ask much
22 of us. It simply does not ask much of us. Serve
23 jury duty and vote. Other than that, it doesn't
24 ask you to do anything. We have become a nation
25 accustomed to wanting our rights but not wanting

1 to exercise our responsibilities.

2 Now here's where I'm going to boggle your
3 mind. And Commissioner Banks will know this
4 because this is exactly the way I went in my
5 speech.

6 COMMISSIONER BANKS: It's déjà vue all over
7 again. I'm like, oh my God.

8 COMMISSIONER FIALA: The 17 percent of New
9 Yorkers who put term limits in -- and that's what
10 it was, 17 percent of New York City residents
11 gave us term limits -- more people went into the
12 voting booth and chose not to vote either for or
13 against term limits. They just didn't vote on
14 that question. More people went in and just
15 didn't vote on the question and voted either for
16 or against. You want to know something else?
17 More people just didn't show up at all to vote
18 for anything. Sadly, that's the way a Republic
19 works. Decisions, as I said on Day One, are made
20 by people who show up.

21 I went in and I was part of the 30 percent
22 that voted against term limits. I lost. I
23 respect that. I lost the second time as well. I
24 respect that.

25 I had hoped that over time we would realize

1 that as we dug ourselves deeper and deeper into
2 this experiment -- we're now 20 years into this
3 experiment of our government -- 10 years ago the
4 time wasn't ripe. I would have hoped 10 years
5 later people would have come on their own
6 conclusion to the belief that having a healthy,
7 deliberative body that is held in check by an
8 informed citizenry is in the best interests of
9 their future. However, we're apparently not there
10 yet. I have listened very attentively to
11 everything that was said by the hundreds and
12 hundreds of people who testified. And I'll say
13 more importantly to my colleagues here,
14 Commissioner Moltner and I had a lot of
15 discussion on this, we're on opposite ends on the
16 underlying issue. But I don't want to put words
17 in his mouth, but I think we have enormous
18 respect for each other's opinion. Commissioner
19 Patterson is very eloquent in talking about the
20 unintended consequences, something not being ripe
21 and moving forward. The Chairman has said
22 eloquently, and it's fortuitous that we have a
23 mathematician chairing the Commission at this
24 time, because he talks about probability. That's
25 where I fall on this, ladies and gentlemen.

1 I believe we made a wrong decision not once,
2 not twice. The Council did what -- and this is
3 important because as the Chairman said in the
4 last hearing, and I'm going to paraphrase, this
5 is a educative thing we do as well. It's
6 important to remember what your City Council did
7 was fully legal, it was upheld by the courts,
8 there is no distinction between a referendum and
9 a local law. Commissioner Banks talked about
10 this. There is nothing sacrosanct about this. The
11 only thing sacrosanct in this country is the vote
12 of an individual. The vote of an individual with
13 respect to a referendum is not. With respect to
14 an official is. So what they did was
15 permissible.

16 Here's something that boggles my mind. You
17 heard me say this a few weeks ago. For all the
18 talk about worrying about whether or not we
19 should protect the citizens and grandfather this
20 in or make this binding and prevent anyone from
21 doing this in the future, the people of those
22 districts reelected them, all but one, and I
23 believe that one was thrown out for other
24 reasons. The people chose. Democracy works the
25 way it was supposed to. Guess what? Those of you

1 that disagree, like me, you're on the wrong side,
2 the losing side. Democracy worked.

3 Here's where I fall, Mr. Chairman. Our
4 colleagues have eloquently stated this, so I take
5 my cue from them. I think I've made my case. I
6 wish the question could be the foundational issue
7 of should we or should we not have term limits in
8 this City? And my argument was that if the
9 people voted we should by default we would be
10 stuck with three terms, which I believe is better
11 than two. If the people voted "Yes" we should
12 have term limits -- "No," then we would not have
13 term limits. And we would have settled this issue
14 once and for all. However, the issue apparently
15 isn't ripe. And more importantly than it not
16 being ripe, because Edmond Burke, who was a great
17 British statesman, said this, I used this back
18 then, I use it quite frequently in teaching
19 civics: A representative owes you not only his
20 industry or the talent he or she brings to the
21 office, but his judgment. And he betrays you if
22 he sacrifices his judgment for your opinion.
23 That's what a Republic is. It's about we choose
24 people who are going to Washington, going to
25 Albany, going to City Hall to make decisions on

1 our behalf. If we don't like them we throw them
2 out. But the problem we face in this City at this
3 particular time, as has been eloquently stated by
4 others, is confidence.

5 So here's where I fall, because I would hope
6 that we would come out unanimous, Mr. Chairman, I
7 think it's important for there be unanimity on
8 the Commission. Restoring confidence is a
9 prerequisite first step before we can engage in
10 that more serious deeper discussion about whether
11 or not the underlying foundational issue of term
12 limits is in the best interests of the City. So,
13 I would support a proposition that simply
14 afforded the opportunity for the people of New
15 York to have their right to redress, to say
16 whether or not it should be three terms or two
17 terms.

18 Furthermore, I would support prospectivity.
19 I have no fear that it isn't enough, because
20 again the ultimate arbiters in our Republic are
21 the voters. That's as it should be.

22 Additionally, those that are in office now
23 should be grandfathered. A Charter Commission
24 should not define its job as being one geared
25 with an eye toward being punitive. That's

1 reactionary, that's acting on our passions. And
2 I'm not sure that I want to act on the complete
3 passions of the public. I'd like to be able to
4 give at least a little bit of myself to this
5 proposition. So grandfather them in, because
6 there are 17 of them, I believe, as Commissioner
7 Patterson said.

8 COMMISSIONER PATTERSON: There seems to be
9 some division --

10 COMMISSIONER FIALA: 17 or 18 --

11 COMMISSIONER PATTERSON: 17, 18 or 19
12 somewhere, around there.

13 COMMISSIONER FIALA: For those who fear that
14 they might get back in, understand this. They get
15 back in because they were voted in. For those who
16 fear that they've said that they didn't think
17 this was right, then they've got a couple of
18 options. They can do the right thing and step
19 aside and not run. Or if they do run I guarantee
20 you this. They're going to have an opponent who
21 is going to take their words and use it against
22 them. So the protection is there.

23 The question on the ballot should be two or
24 three, prospectivity as a separate question, and
25 we should grandfather them in because we ought

1 not be punitive.

2 CHAIRMAN GOLDSTEIN: Thank you, Commissioner
3 Fiala.

4 COMMISSIONER CASSINO: Could I say --

5 CHAIRMAN GOLDSTEIN: Yes, Commissioner
6 Cassino.

7 COMMISSIONER CASSINO: One day I'd love to
8 join my fellow Commissioners in the proposition
9 that we don't need term limits. That's a
10 theoretical. And I get it, and I wish I could be
11 there. But the reality on the ground, Mr. Fiala
12 makes the point is that everybody's reelected
13 virtually. The reelection rates are massive in
14 this because of the power of incumbency. And
15 it's not like being a doctor. I want a doctor
16 that's done it a thousand times. But here, the
17 self-interest and the corrupting nature of being
18 in forever, and the ability of nobody else can
19 get into that position. Nobody's trying to take
20 that doctor's practice away from them, because we
21 want them to excel at it, but we want an open
22 process for elected office. So I'd love to be
23 able to join in that concept, but I think it's a
24 concept, it's a theoretical. The reality is 11
25 percent of the people vote, and incumbents are as

1 powerful as they've ever been, even with the
2 greatest public finance system in the country.
3 And so if we could get past that I'd love to be
4 able to say I would support term limits. And I
5 don't think it's punitive to say that somebody
6 who is in the Council now should not get the
7 benefit of something -- I don't think it's a
8 punitive nature. I mentioned their words, because
9 I think words do matter. I don't mention it to
10 be punitive. I think that it's important here
11 what they thought about it, doing it either as
12 new members or members that were there.

13 CHAIRMAN GOLDSTEIN: Thank you.

14 Professor Crowell, do you want to opine?

15 COMMISSIONER CROWELL: You called me
16 "professor."

17 CHAIRMAN GOLDSTEIN: Professor, professor.

18 COMMISSIONER CROWELL: I was just --

19 CHAIRMAN GOLDSTEIN: I'm trying to elevate
20 you.

21 COMMISSIONER CROWELL: I am a professor, and
22 I would like to invite Steve Fiala to my class in
23 which I started out teaching Federalist Papers.
24 It's always interesting to get a history
25 professor. I teach at Brooklyn Law school on

1 constitutional law questions.

2 So, I think there's a lot of passion on this
3 panel, which is always a good thing at a Charter
4 Commission, but also one that calls to mind the
5 need towards larger (inaudible) and bring
6 yourself back to what's best for governance of
7 the City. And that always requires a cooler head
8 and a more rational approach at hand.

9 I think that this Commission and its staff
10 has done a lot of work trying to rationalize how
11 term limits should be implemented in the City.
12 It's come from a place should there be term
13 limits at all to how to reconcile between the
14 choices, two versus three. We have a three-term
15 limit, I think that I'm in agreement that while I
16 may personally think that three terms strikes the
17 right approach for the City, I think that giving
18 the voters the opportunity to ratify the three
19 terms, which was the Council in 2008, would be an
20 appropriate approach for a return to two terms.
21 So that would be something that I support.

22 And as far as prospectivity goes, I am also
23 mindful that while we as a Commission need to be
24 careful about restrictions you place on the
25 legislative branch, we can talk about it in this

1 context, of course, but you must also think about
2 restrictions on the legislative powers that can
3 arise in other contexts. So if we were to move
4 forward with prospectivity you must be very
5 mindful of that. And I would not be unsupportive
6 of other measures that looked at a prospective
7 approach for the effective period for a Council
8 election.

9 CHAIRMAN GOLDSTEIN: Thank you, Commissioner
10 Crowell.

11 I guess I need to have the last word. I
12 would say I was struck by Commissioner Fiala's
13 comment that term limits just doesn't seem to go
14 away. And I'm reminded that this discussion
15 reminds me of a Bach fugue. You hear a passage by
16 the oboe and you say that's really beautiful and
17 you think you're done with it and five minutes
18 later you have hear the same passage by a
19 trombone. So I don't think it is going to go
20 away. And as I listened intently to all of you,
21 let me indicate where I come out. I guess I am
22 with the overwhelming majority here that I think
23 that the voters ought to be able to opine on the
24 issue of whether they should revert, we should
25 revert back to what occurred with two-two, and if

1 they reject that we are with three-three for
2 either one would be fine with me.

3 I support the notion of prospectivity. I
4 think it's not a perfect solution. But it does
5 give a very strong statement that we think that
6 that is important in terms of good governance.

7 I think the issue about implementation is
8 complex. And I think it certainly needs more
9 discussion. I don't like the idea of punitiveness
10 at all, and so I sort of lean in your direction
11 and the direction of Kitty Patterson and others
12 who have spoken in that way as well.

13 Let me for the audience, I hope you agree
14 with me that this was a profoundly erudite,
15 passionate discussion of those on the Panel.
16 Again, I continue to say how lucky I feel to be
17 connected with all of you. You're really an
18 extraordinary group of women and men and deeply
19 informed and want to do what you think is the
20 right thing, and I really appreciate all of your
21 work.

22 Let me just continue. So I do see sort of
23 an emergence of a consensus -- we're not voting
24 tonight as we said -- there are some slight
25 differences, but it seems to me that the

1 overwhelming group is moving in the direction
2 that I just indicated. But obviously we need some
3 more work to do.

4 Just in terms of issues of a lower order of
5 magnitude, certainly in terms of passion, we
6 didn't resolve the issue of the instant run-off
7 voting. One of the reasons that I sent around
8 that article by Mr. Gottlieb was to reinforce a
9 point that I had made before that I thought IRV
10 is a seductively interesting idea. But when you
11 take the surface of IRV and you start looking
12 deep inside it you realize it's much more complex
13 and much more subtle. And I think as a result of
14 that from where I stand, and I've expressed this
15 view before, that it doesn't satisfy one of the
16 principles of that I believe we all agree on, and
17 that is that we've studied the issue
18 sufficiently. So I think most of us will agree
19 that although the staff did a wonderful job in
20 their Preliminary Report and spoke about IRV, I
21 think a consensus, unless any of you disagree,
22 that this is a subject that probably should be
23 studied a lot more to be understood by those who
24 will follow us to be better informed about this
25 and would suggest that as the staff is putting

1 together the final report, that that subject be
2 part of a subject for a future commission, and to
3 use the time until that happens to really
4 understand the depth and subtleties of that
5 subject. I think on some of the other subjects
6 we've talked about, my sense, unless some of you
7 disagree, that we do have support for a number of
8 different things, and although it needs some more
9 discussion, and I'm just going to go through
10 these in almost random order, but I think from
11 what I've heard thus far, and I don't think it
12 needs certainly the kind of discussion that term
13 limits is, decreasing the number of petition
14 signatures. My sense was when this was brought by
15 the staff, and we looked at that. There were a
16 lot of bobbing heads and people thought that this
17 made a lot of sense. The consolidation of the
18 Voters Assistance Corporation within the Campaign
19 Finance Board also was an idea that seemed to
20 have merit. And I didn't hear a lot of pushback
21 from that idea as well. So that I think would be
22 kept on the table. The disclosure of independent
23 campaign contributions was another area that I
24 think when it was brought to the preliminary
25 report by the staff that was yet another area

1 that I think people felt had merits.

2 On the issue of the Conflicts of Interest
3 Board, increasing fines, mandating training, and
4 barring Council Members from supporting budget
5 items in which they had an interest, I think
6 there was a rather strong support for that as
7 well.

8 With respect to the issue of the Conflicts
9 of Interest Board, the issue of an independent
10 budget is still subject for discussion. I think
11 that people felt that while overall there may be
12 some issues -- there are some issues with respect
13 to independent budgets across a number of
14 entities, that there was some support for the
15 notion that the Conflict of Interest Board is
16 different and may require further review. And
17 lastly but not, and not certainly an exclusive
18 list, the consolidation of the Administrative
19 Tribunals. The citywide review of reporting
20 requirements I think also had rather strong
21 support.

22 There are yet a number of other issues that
23 certainly the issues that Commissioner Cassino
24 has brought forward with respect to the City
25 Council.

1 The issue of Fair Share, although we haven't
2 spent much time talking about that, my sense was
3 that there were a number of you have that felt
4 that this was an area that we ought to give
5 consideration to. And again this is not an
6 exhaustive list, and I would encourage and prod
7 any of you as ideas fulminate and take shape to
8 please get them to me and we will find an
9 opportunity, as we did tonight, on term limits to
10 discuss these in greater detail.

11 Before I call on you, Commissioner Cohen,
12 I'm watching the clock. And again, I want to
13 emphasize that since we began our work on March
14 3rd, and we will conclude our work with barely
15 six months of time, we've done a remarkable
16 amount of coverage of the Charter. Again, let's
17 not bite off more than we are capable of
18 consuming. Let's remember these principles of
19 being able to understand the issues as deeply as
20 we can so that if something jumps up on the page,
21 it jumps up not only because we feel it's
22 important but that you feel it's been discussed
23 sufficiently to warrant that level of discourse.

24 We have two more open forums. We conclude
25 this formal part again on August 2. That's just a

1 couple weeks away. The next time we meet I expect
2 that we're going have a formal vote on what we
3 want to bring to the ballot. And then the meeting
4 that will take place after that we will need a
5 vote on the report that will be the history of
6 what the last six months were about, and as part
7 of the formal record of the work of this
8 Commission. So we don't a lot of time, and we are
9 converging on what I would call the solution that
10 we were asked to start thinking about.

11 Commissioner Cohen.

12 COMMISSIONER COHEN: Thank you, Mr. Chairman.
13 I wanted to just comment on your list at the end
14 of things that there's consensus on, and I agree
15 with most of that list. But I think that there
16 are two major areas that the staff has
17 recommended we move forward on that were
18 leftovers, if you will, from previous
19 commissions. One on Administrative Tribunals and
20 the other on a Commission to evaluate reports.
21 And I have to say for myself I don't know nearly
22 enough about either one of those to even think of
23 going forward. And we certainly have not
24 collected public testimony on either of those. So
25 I am very reluctant. Those are large issues. The

1 first one I have to tell you I don't know the
2 first thing about other than it sounds good as a
3 consolidation of government. But there could be
4 any them of, again, unintended consequences that
5 I know that I would like to understand more, and
6 I would certainly want to hear from the public
7 about.

8 On the second one, which purports to get rid
9 of, I certainly agree with that goal, but I would
10 really need to understand more about how this
11 proposed solution of a Commission tasked with
12 that assignment would work. So I think those are
13 the two actually big recommendations that we
14 haven't talked about at all, which leads me to
15 the larger question issue, which is this question
16 of the timing. And I completely agree with your
17 four principles for determining what things we go
18 forward with in this time frame. But I think it's
19 also very clear from everything we've heard, all
20 of our discussions, even this list that you just
21 presented now and with which I have some concern
22 that it includes a couple of quite large things
23 that we don't know anything about, the continuing
24 calls from the public on any number of issues
25 ranging from reexamining Fair Share to Top Two

1 elections, that clearly there is need for
2 continuing work on these and many other issues by
3 a subsequent Commission, assuming that we in
4 fact, as we are assuming, are going to bring to
5 term limits now we've just been discussing it,
6 we're going to bring it in November 2010. And
7 then in case there's anybody out there who
8 doesn't, who does not know this although I think
9 pretty much the public has been paying attention
10 to the Commission knows this, that we dissolve
11 automatically, we go out of business. And I think
12 that there is a lot of people with a lot of
13 concerns about what's left on the table that
14 would like to know that the those things are not
15 going to be left on the table forever, and that a
16 new Commission is going to be appointed sometime
17 in the foreseeable future to continue this work,
18 which could actually include those items that I'm
19 saying I'm not comfortable pursuing, namely the
20 Administrative Tribunals and the Reporting
21 Commission.

22 CHAIRMAN GOLDSTEIN: Let me respond to on
23 your last point. I couldn't agree more, that
24 I've always believed that given the time frame
25 that we have to operate within that I think as

1 important an action of bringing something to the
2 voters in November is the guidepost, the
3 guidepost that we developed for future
4 commissions.

5 I think there are so many big issues here
6 that I think there's a moral imperative for us to
7 create the groundwork for future commissions, and
8 I think all of us agree on that.

9 With respect to the consolidation of
10 Administrative Tribunals and the reporting
11 requirements, I think all of us would agree that
12 we don't have the tools to really understand
13 exactly what that means. All I was referring to
14 was these were issues that were brought to our
15 attention and we thought had merit with respect
16 to somebody looking at this very, very deeply. I
17 don't think we have the capability, quite
18 frankly, of doing that. It doesn't have to be a
19 ballot measure at all. It could be some action of
20 a letter that the Commission sends to say that we
21 think this is important and that it should be
22 looked at in much greater detail. I didn't
23 necessarily mean this to be a necessary ballot
24 issue.

25 COMMISSIONER COHEN: Okay. Thank you,

1 Mr. Chairman, for that clarification. I think it
2 is certainly within our purview to make up of our
3 list what we're bucking to whom on other bodies.

4 And I also want to take the opportunity to
5 remind the public since this actually underlies
6 all the discussion we've just had about how to
7 implement a term limits change, and this question
8 of prospectivity and grandfathering and so forth
9 and so on, as Commissioner Fiala would say, the
10 foundational issue under all of those is that the
11 City Council can change the Charter at any time.
12 So I would remind -- by local law and has about a
13 hundred times probably since the '89 Commission,
14 that we are so often harken back to. And so I
15 would remind those people who feel that they have
16 an urgent matter that we do not feel that we have
17 the time to thoroughly discuss and vet before the
18 public, that they do have another path if they
19 want to change the Charter, and that they should
20 bring their issue to the attention of the City
21 Council, which can amend the Charter.

22 CHAIRMAN GOLDSTEIN: Anybody else want to
23 jump in at this particular point in time?

24 Yes.

25 COMMISSIONER FIALA: Mr. Chairman.

1 CHAIRMAN GOLDSTEIN: Commissioner Fiala.

2 COMMISSIONER FIALA: I just want to talk
3 about the Commission on Reporting. I used the
4 word esoteric many times over throughout these
5 hearings. There's nothing more esoteric about
6 about that subject matter.

7 I would strongly urge the Commission -- the
8 staff did a great job in taking the work of the
9 '04-'05 Commission and updating it and putting
10 our own add-ons to it. We talked about wanting to
11 create for the people of New York a more
12 efficient and responsive government. Reports are
13 something that typically the City Council -- they
14 know how to add reports, as Commissioner Banks
15 will tell you. This is not a subject matter that
16 they themselves would necessarily initiate. The
17 Commission on Reporting is more than just
18 reports. There are hundreds and hundreds of
19 reports that are generated by City agencies,
20 tribunals, the City Council, the Mayor's Office,
21 Operations, et cetera. Additionally, there are a
22 multitude of commissions and task forces that
23 have been established over the years. This
24 Commission idea, which was novel and new, the
25 last Commission, and David and Anthony worked on

1 this, that's why we didn't move forward, because
2 when something's that new you know there's some
3 pushback. I don't want us to miss a good
4 opportunity to put before the voters something
5 that is beneficial in terms of improving
6 efficiency, saving dollars.

7 When the Charter was adopted in '89 it was
8 pre-Internet, and this concept of realtime data,
9 the notion of a 311 system, the notion of a Mayor
10 coming in and making realtime information
11 available and setting up that system was a
12 foreign idea. Now that we have it, not only are
13 these reports costly, but it robs people of
14 essential time that they could be doing other
15 duties. We have people employed that spend a
16 great deal of their year compiling data that by
17 the time it gets into the hands of the
18 stakeholders it's outdated. So I would love for
19 us to reread -- I would encourage or reread that
20 section. This is not a very big issue in terms
21 of complexity. It's a big issue in terms of
22 improving efficiency and examining all of those
23 nuisance reports, as well as the important
24 reports, in seeing whether or not we could
25 utilize modern technology and taking a fresh look

1 at all of the commissions and task forces that
2 are out there that take a lot of time and a lot
3 of money.

4 The Council won't act on this themselves.
5 This is an area where the voters could vote to
6 have a Commission established to explore
7 everything from soup to nuts, but we reserve for
8 the Council and the Mayor the ultimate authority.
9 So we have the checks and balances in place.
10 It's a very simple concept. We just didn't act
11 on it in 2004-2005 because it was truly new. It
12 was something that we at the last minute decided
13 to defer hoping the next Commission would take it
14 up. And Commissioner Patterson alluded to this I
15 think a couple of meetings ago. We see things
16 recycled over and over again. I would hope that
17 others would feel that this is one of those
18 issues that we should advance, because it has
19 been sufficiently vetted by staff. And I think it
20 is something that those of us that study
21 government, like the Commission itself, this is
22 worthy of the public voting on, because it will
23 yield I think positive results.

24 COMMISSIONER MOLTNER: Mr. Chairman?

25 CHAIRMAN GOLDSTEIN: Yes.

1 COMMISSIONER MOLTNER: If I may, I would
2 just like to express my support in what
3 Commissioner Fiala said, thank you.

4 COMMISSIONER HART: I would also include the
5 consolidation of tribunals, which is a for those
6 people who have participated on the respondent
7 side, it is a very difficult area to navigate.
8 So I would strongly consider that we include that
9 in our final recommendations.

10 CHAIRMAN GOLDSTEIN: Commissioner Crowell.

11 .COMMISSIONER CROWELL: I would support that
12 the staff is going to have some people come in
13 and discuss that, which I think some of us
14 requested last week, which will be important, and
15 I think the way the proposal was structured given
16 authorization to do this, which is to Steve's
17 point, it fosters innovation and would permit, I
18 think, there's some great opportunities and we
19 saw with the example of Environmental Control
20 Board being put under the jurisdiction of the
21 Office of Administrative Trials and Hearings,
22 some enormous progress, one of the most complex
23 and trafficked tribunals the City. So we think
24 it's an opportunity for us in an area of direct
25 concern.

1 CHAIRMAN GOLDSTEIN: I think if I can speak
2 on behalf of Commissioner Cohen, I think you just
3 wanted to understand it, understand what all of
4 this means before you would say: Yes, I'll --

5 COMMISSIONER COHEN: Yes. I want to
6 understand. I want the public to understand that
7 we're talking about it and give us some input,
8 because there's really been no discussion of
9 these two items before.

10 CHAIRMAN GOLDSTEIN: Yes, Commissioner
11 Patterson.

12 COMMISSIONER PATTERSON: On the issue of the
13 reports, I completely agree with what
14 Commissioner Fiala has said, and I would also
15 want to point out that you're right, the City
16 Council is not going to vote on it as it's not a
17 high profile issue, it's not an interesting
18 issue. There are a lot of other issues that
19 interest constituents, care a lot more about.
20 But it is vitally important among other things,
21 because it increases transparency. I'm a very
22 strong believer in getting information where the
23 general public can find it. And you can't find
24 most of these reports even if you're looking for
25 them. Even if you know how to search for them. A

1 lot of them aren't online. A lot of them are
2 hard to find even if they are. It's not just an
3 issue of being outdated. But I think this is one
4 that is a very fine public policy proposal
5 because it opens up, I mean, you talk about
6 getting information out to the public, getting
7 the public interested, it opens up data on a
8 realtime basis to people who might actually get
9 excited by it and do something about it. The
10 press, the voting public, students, young voters,
11 I think it's very, very helpful. And we have the
12 technology now, we didn't have it in '89, but I
13 agree that there's so many of those reports out
14 there, and some of them are outdated, some of
15 them are unfindable, that you really do need a
16 Commission of people who can really burrow down
17 to figure out how to make it more efficient.

18 On consolidation of Administrative
19 Tribunals, I think it's the same issue that as
20 you alluded to. There are rules on top of rules
21 that are inconsistent with each other depending
22 upon which tribunal you're talking about, and
23 under what circumstance an action is being
24 brought. There's an efficiency to having the
25 same rules apply to everybody. And there's logic

1 to it again. Again, I think that's a public
2 benefit as much as an efficiency issue.

3 CHAIRMAN GOLDSTEIN: But this would be an
4 action that would be directed to the City Council
5 that has the authority and the talent to really
6 do the job is really what you're saying.

7 COMMISSIONER PATTERSON: Well, not
8 necessarily.

9 COMMISSIONER CROWELL: I think the tribunal,
10 the tribunal piece, I think some of it we're
11 looking at may require an actual referendum or
12 State law. But if you do it by referendum you
13 could have a potential curtailment issues that
14 would authorize the Mayor to take actions. It
15 depends on what the tribunal function is,
16 actually. There are a variety of tribunals and
17 they're established in different ways.

18 CHAIRMAN GOLDSTEIN: Anything further?

19 Before we conclude this part of our meeting
20 tonight and hear from the public?

21 Matthew, do we have a list of people who
22 want to be heard? I couldn't tell.

23 COMMISSIONER CROWELL: I think on the
24 reporting it be would nice to have Esther Fuchs
25 back if possible since it was her Commission that

1 came up with the idea, and that is a question
2 Steve -- but to Commissioners Patterson's point,
3 I think a lot has changed since 2005. So the
4 1989 for sure, and even 2005, the way it is
5 reported and delivered to the public, so I think
6 it merits discussion.

7 CHAIRMAN GOLDSTEIN: Remember it was only 30
8 years ago that we started to even understand what
9 a phrase called E-mail was about. About 30 years
10 ago. 1980. E-mail did not exist except the
11 military and certain high levels (inaudible) so a
12 lot as has happened.

13 We're ready to hear from the public. Let me
14 start with Joshua Rodriguez, who is representing
15 Congressman Serrano. Is Joshua Rodriguez here?

16 MR. RODIRGUEZ: Yes.

17 CHAIRMAN GOLDSTEIN: I also ask that the
18 speakers restrict their comments to no more than
19 three minutes, please, so that we can get to
20 everybody that signed up tonight.

21 MR. RODRIGUEZ: Hello.

22 CHAIRMAN GOLDSTEIN: Are you a baritone or a
23 basso?

24 MR. RODRIGUEZ: Hi, my name is Josh
25 Rodriguez. I'm an intern for Congressman

1 Serrano, and I'm here --

2 CHAIRMAN GOLDSTEIN: You can pick that up a
3 bit if you'd like. Just give it a twist.

4 Matthew, you want to help out here?

5 Okay, Joshua, it's fixed.

6 MR. RODRIGUEZ: Thank you. Alright. Sorry.
7 I'm reading from a Blackberry as well as some
8 notes. Sorry about that. Okay. I'm commenting on
9 Fair Share and 197(a) reform. And it's a
10 statement that was prepared by Congressman
11 Serrano for the hearing.

12 For decades I've fought to represent the
13 interests of a community disproportionately
14 overburdened by public and private infrastructure
15 that serves the broader needs of our City. From
16 prisons to power plants, City agencies have
17 pushed the siting of unpopular and polluting
18 infrastructure without meaningful public input.
19 The problem with concentrating City
20 infrastructure in one neighborhood is heightened
21 when it comes to waste, because we are the City's
22 only mainland Borough. The geography has created
23 a concentration of noxious waste-handling
24 facilities, both public and private, that only
25 exists in similarly challenged communities such

1 as Sunset Park and Red Hook. Due to
2 administrative rulemaking initiated by the
3 Department of the City Planning following the '89
4 Charter revisions, low-income communities of
5 color, such as Bronx Community Board 1, 2,
6 continue to be disproportionately targeted for the
7 siting of City facilities with significant
8 environmental impacts. Specifically, the post-
9 Charter regulatory loophole which allows
10 amendments to the Annual Statement of Needs is
11 particularly harmful as it allows City agencies
12 to propose the siting or expansion of industrial
13 facilities at any point by filing amendments to
14 the Statement of Needs. In essence, these
15 amendments make the 197(a) response process
16 meaningless. By extension, the stated intent of
17 Section 203 of the 1989 Charter Revision to
18 spread the burden of City infrastructure is also
19 undermined. Also, section 204, which is
20 responsible for identifying all City facilities
21 slated for siting expansion or closure cannot
22 work in conjunction with Section 203 because the
23 Statement of Needs can be amended without
24 integrating the community input required by
25 197(a) plans. An exhaustive listing of industrial

1 facilities and communities such as my South Bronx
2 district, including state permitted, privately
3 owned facilities, is needed in order to
4 illustrate the cumulative environmental burden
5 shouldered by communities such as Hunts Point,
6 Fort Lawrence and Mott Haven. Any assessment of
7 environmental burden and community health impact
8 should include data on diverse polluting sources
9 such as highways, industrial facilities and
10 brownfields that have developed since 1989. In
11 order for 197(a) plans to be meaningful,
12 Community Board reform should include adequate
13 annual funding and land-use training that allows
14 for informed public input for our most local
15 government.

16 Can I keep going for a moment or should I
17 stop here?

18 CHAIRMAN GOLDSTEIN: Could you finish up? Do
19 you have this written?

20 MR. RODRIQUEZ: No I don't. It was E-mailed
21 to me. But I'm almost done.

22 CHAIRMAN GOLDSTEIN: Hurry up, please.

23 MR. RODRIGUEZ: Now that the 2010 Charter
24 Revision Commission has been impanelled by the
25 Mayor with an express purpose of examining the

1 voter approved revisions made by the 1989 Charter
2 Revision Commission, in light of new challenges
3 and opportunities it's time to reverse the damage
4 done to environmentally overburdened communities
5 like Bronx Community Board 2 and reform the Fair
6 Share and 197(a) sections of the City Charter
7 this year to comply with the original intent
8 (inaudible) by voters 20 years ago. Thanks.

9 CHAIRMAN GOLDSTEIN: Thank you very much, and
10 give our best to the Congressman.

11 MR. RODRIGUEZ: Sure. Thank you. Very much.

12 CHAIRMAN GOLDSTEIN: Thank you very much.

13 Ruth Acker?

14 MS. ACKER: Thank you, Commissioner. I'm the
15 President of the Women's City Club of New York, a
16 non-profit, non-partisan, multi-issue
17 organization founded in 1915. Our mission is to
18 improve the lives of New Yorkers by helping to
19 shape public policy and promoting responsible
20 government. On July 23rd, we sent Chairman
21 Goldstein a letter to be entered into the
22 Commission's record regarding the opposition of
23 the Women's City Club to nonpartisan elections
24 and all term limits. In that letter, I said the
25 Women's City Club does not believe that

1 nonpartisan elections and determine limits are
2 the answers to improving government in New York
3 City. While we share the sense of outrage that
4 many New Yorkers feel regarding the shameful
5 behavior and poor performance of some State and
6 City elected officials, we urge the Charter
7 Commission and all New Yorkers to examine the
8 larger issues involved in creating good
9 government, both structure and process. So in
10 your Preliminary Report, while the issue of
11 nonpartisan elections is postponed for future
12 consideration, as we've heard tonight, the issue
13 of term limits is still front and center.
14 Therefore, I'm here tonight to reaffirm our
15 longstanding position of opposing all term
16 limits. We see no reason to and do not intend to
17 change that position, because we believe that
18 term limits tend to focus public officials'
19 attention on short-term results rather than
20 long-range planning. There is no incentive for
21 long-range planning if they will not be able to
22 implement the plans due to term limits. In
23 addition, with term limits, elected officials are
24 not held accountable for the long-term results of
25 their actions, because they're already on to

1 other pursuits. Finally, we believe that term
2 limits create a governmental game of musical
3 chairs where staff and lobbyists wield undue
4 influence. The Women's City Club also wishes to
5 go on record in support of the recommendation
6 made by Commissioner Hope Cohen at the July 12
7 Commission meeting that the question of no term
8 limits be placed on the ballot this November so
9 that all New Yorkers, including the many who
10 oppose term limits, have a chance to be heard.
11 The Commission has said that it wants the people
12 to decide the term limits issue once and for all.
13 If that is true, we urge you to make sure that
14 all options on that important question are
15 presented to voters as soon as possible so we can
16 move forward to solve the larger problems facing
17 New York. Thank you.

18 CHAIRMAN GOLDSTEIN: Thank you Miss Acker.

19 Ann Valdez?

20 Let me, I was just informed that I misspoke.
21 We have three additional hearings that will
22 terminate on August 2. And if I said two, I
23 spoke in error. I meant to say three. Two next
24 week and then the following August 2, so there
25 will be three in total.

1 I'm sorry, is Ann Valdez here?

2 Diego Gerena? Is Diego Gerena here?

3 Keith Gamble? Keith Gamble?

4 Cathy Stewart?

5 MS. STEWART: Good evening, Commissioners.

6 I'm Cathy Stewart. I'm the New York County Chair
7 of the Independence Party, and I also serve as
8 the Citywide Coordinator for the Independence
9 Party.

10 I think our City right now is in the midst
11 of something unusual and very positive. It's
12 engaged in a public dialogue on ways to reform
13 our electoral process, and the centerpiece of
14 that Democratic dialogue is the debate on
15 nonpartisan elections, sometimes referred to as
16 Top Two. Much credit goes to Mayor Bloomberg,
17 who set this process in motion when he convened
18 this Charter Commission, and to the Citizens
19 Union, who has so diligently examined the issue
20 and so eloquently presented the urgent case for
21 putting the question to the voters this November.
22 The Independence Party of New York City, a
23 longtime champion of Top Two systems, is
24 gratified by the vigorous and healthy public
25 debate. During the course of this process, many

1 people have asked me what the difference is
2 between the New York City Independence Party and
3 the State Independence Party. I imagine that
4 Commissioners have read some of the press
5 coverage about the legal and ethical troubles
6 engulfing our state Chairman, Frank MacKay. The
7 public debate on Top Two in New York City has
8 helped to underscore the difference between the
9 City and State Independence Party. For the City
10 party, our concern has always been the Democratic
11 reform of the political process to give more
12 voters, including independents, the right to
13 participate, and we thank the Mayor and this
14 Commission for creating the opportunity for a
15 vigorous public study of nonpartisan elections.
16 Sadly for us, this vibrant debate is in sharp
17 contrast with the conduct of the Independence
18 Party's state Chairman. Frank MacKay has spent
19 years effectively outlawing Democracy inside the
20 party and reducing the party's agenda to the most
21 cynical patronage and quid pro quo. And now, if
22 press reports of the ongoing investigation by law
23 enforcement are accurate, may also have committed
24 criminal offenses in the name of party building.
25 As is well-known, the Independence Party of New

1 York City^ ,no has long opposed Mr. MacKay's
2 politics and practice.

3 Our thanks goes to the Commission, which has
4 made it possible for an evolving Democratic
5 debate that is challenging and changing the minds
6 of many New Yorkers. We, the Independence Party
7 of New York City, will continue to participate in
8 that debate and to support what is best for the
9 people of our City. Thank you.

10 CHAIRMAN GOLDSTEIN: Thank you, Miss Stewart.

11 Joseph Little. Is Joseph Little here?

12 Welcome, Mr. Little.

13 MR. LITTLE: Thank you, Commissioners. My
14 name is Joseph little. And to --

15 CHAIRMAN GOLDSTEIN: Matthew, do you want to
16 give Mr. Little a hand, please?

17 MR. GOLDSTEIN: That's good. Okay, thank
18 you. Okay. I'd like to say that this public
19 hearing is fraud for the simple reason that it's
20 too little and too ineffective as far as reaching
21 out to the broader community and community-based
22 organizations. You haven't done enough due
23 diligence in reaching out to the grassroots
24 community. Because the process is too fast and
25 it's too shallow. You haven't covered any

1 meaningful change as far as the government
2 structure of our city. In fact, you haven't
3 discussed it in power of the community planning
4 boards, the ULURP procedure, which is very
5 important to our community, because the ULURP
6 procedure is determinative of our gentrification
7 of our neighborhoods. (Inaudible) people of
8 color, low-income power when they're building all
9 these high-rises that are now standing vacant in
10 the Bronx. We did a survey where there's over 500
11 empty condominiums that are standing vacant in
12 all the City of New York, because due to the
13 economic crisis nobody can purchase them, so
14 they're just standing vacant there. And that's
15 part of the ULURP procedure. And as far as the
16 gentrification goes. And in addition to -- oh,
17 we need to expand the hearing, because you're
18 going to be over with in a couple of months. We
19 need to expand this hearing into 2011, you know,
20 because we need more time to discuss the
21 empowerment of the Community Planning Boards,
22 which we think that there should be, their
23 empowerment should be binding, and this process
24 should be elected -- I'm a member of Community
25 Planning Board 2, which I was appointed. And I

1 think the possibility we should have a dual plan
2 where elected and appointed members of the
3 Community Planning Board. As far as the term
4 limits, you made this whole Commission into a
5 one-issue debate. Just term limits, that's the
6 only thing you discussed, was term limits, which
7 term limits should be a done deal. It should be
8 a two-three, because the Mayor, you know, he
9 wants to create New York City as his own fiefdom,
10 you know? And he wants to be the emperor of New
11 York City. So it should be a two term limits.
12 The way he went about it, which is most
13 disgusting to the general public, should be
14 outlawed, okay, and I want to thank you very much
15 for letting me speak. Have a pleasant evening.

16 CHAIRMAN GOLDSTEIN: Thank you, Mr. Little.
17 Angela Vega. Angela Vega?

18 I have an "Adam or Kelly"? And what is The
19 Point? What does that mean?

20 MS. KELLIE: The Point is our organization.

21 CHAIRMAN GOLDSTEIN: Okay.

22 MS. TERRY: Good evening, Chairman, and
23 fellow Commissioners. I'm going to (inaudible)
24 I'll figure in how much I can get in before my
25 class starts. Good evening.

1 CHAIRMAN GOLDSTEIN: You're Kellie?

2 MS. TERRY: Yes, my name is Kellie Terry and
3 I'm Executive Director of The Point Development
4 Corporation. We're located in the Hunts Point
5 section of the South Bronx, and am also here also
6 as a member of the Environmental Justice
7 Alliance, and we're here this evening, I'm not
8 going to read the whole testimony, because I
9 believe the Commission in good faith has been
10 truly engaged in these issues. I would like to
11 discuss and, you know, make a very compassionate
12 plea to you all to really take up Fair Share and
13 197(a). And I want to just lay out some bullet
14 points. We did read the staff recommendations
15 and we understand that according to those
16 recommendations there hasn't (inaudible) the
17 Commission the has is that Fair Share and 197(a)
18 will quote/unquote will make substantial changes
19 to the balance in the systems of land-use
20 established in the 1975 Charter. And that is what
21 I want to address today and just some follow-up
22 comments, because (1) the Fair Share/197(a),
23 although it may have some certain implications in
24 the 1975 Charter, the 1998 Charter Commission,
25 which some members were a part of here, did not

1 firmly vet, and we do believe that we should
2 trust in that vetting process and not act as if
3 this is new. This is not a new issue. Neither one
4 of these are new. They were well-established and
5 vetted and well-thought of. Second, Environmental
6 Justice Communities have waited over 20 years to
7 fix the Fair Share and 197(a), and while we
8 waited the conditions got worse and they will
9 getting worse. So this is not a matter of, you
10 know, do we have enough information? And what
11 are the unintended consequences? Speaking of
12 unintended consequences, the unintended
13 consequence of not really addressing this now is
14 that our asthma rates are going to go up. We,
15 you know, we live in the South Bronx. We have
16 some of the highest asthma rates in the nation.
17 And, you know, a matter of health, we don't think
18 that any, any of the Commissioners would want the
19 unintended consequences of sending the message to
20 the general public that public health is not
21 urgent. Especially because these two particular
22 issues were extremely well-vetted in an earlier
23 Commission. You know, there's no guarantee,
24 although I respectfully take the Commissioner's
25 comments about really leaving this on to another

1 Commission and, you know, assuring that it will
2 be taken up in the future, and that is wishful
3 thinking, and I want to be positive, but,
4 however, there is no guarantee. There is no
5 guarantee that there will be a Charter in a
6 timely fashion, another Commission, that can take
7 up these very urgent issues, that it's about
8 living and dying at this point, that we can, you
9 know, wait and hope that that might happen. And
10 also this Mayor agrees with Fair Share and says
11 so according to the Solid Waste Management Plan,
12 and PlaNYC 2030. And with that said, we have
13 already submitted testimony on the 23rd to the
14 Commissioner and to the Commission Board on
15 exactly how we do believe that these things can
16 be addressed and fixed and we stand here as a
17 resource. We want to be a resource for this
18 Commission. If there are anything about those
19 policies that you really feel would jeopardize
20 any fundamental decisions in the 1975 Charter, we
21 are a resource on this, and to enter into a
22 healthy conversation with this Commission about
23 those things, and to set aside any hesitation
24 that you might have regarding that. So I just
25 want to thank you again and please accept my --

1 and on behalf of the New York City Environmental
2 Justice Alliance and The Point, a huge plea to
3 take on these complicated issues as shown earlier
4 in your deep discussion on term limits as
5 something an issue that won't die, it's so
6 complex, yet so simple. We really do feel that
7 these two issues are truly simple, because they
8 have -- there's been due diligence applied to
9 both measures, and we would like very, very much
10 to have an opportunity to bring this to justice
11 on this ballot. Thank you so much for your time.

12 CHAIRMAN GOLDSTEIN: Thank you. The staff is
13 going to be discussing Fair Share, and we made
14 that commitment, I guess it was on Monday, when
15 we met? And as soon as the staff has had those
16 meetings we will bring this for discussion to the
17 full Commission.

18 MS. TERRY: Thank you very much. We greatly
19 appreciate that.

20 CHAIRMAN GOLDSTEIN: Frank Morano.

21 Mr. Morano, this is what, 18 for 18? Or 16
22 for 16?

23 MR. MORANO: Sometimes it feels like a
24 hundred. But I want to thank you for the
25 opportunity to testify and let you know how much

1 I've enjoyed watching your discussions about
2 government. And I hope that whatever questions
3 you put on the ballot this year you will ask the
4 Mayor to re-impanel you with the same unique
5 membership that constitutes this Commission,
6 because it really has heightened the civic level
7 of civic education about the issues that are
8 going to be before the constituents this year,
9 and hopefully in the future, more so than any
10 other Commission that I've seen. And I know you
11 guys might bristle at this suggestion, but I
12 would hope that if the Mayor, for whatever
13 reason, decides not to reappoint you, you might
14 consider voluntarily reconvening as sort of a
15 Better Government Recommendations Commission, I
16 knew you guys wouldn't like that suggestion, and
17 continue to hold hearings and continue to take
18 testimony and solicit testimony from the public,
19 and kind of still make recommendations to
20 policymakers, be it the State Legislature, the
21 City Council, the Mayor. This is what we still
22 think should be in the City Charter even though
23 we're not going to make recommendations that
24 actually come before the ballot. And I think
25 that so many people respect the wisdom and the

1 sort of process that you have undergone that you
2 might see activists take it upon themselves to
3 petition questions on the ballot based on your
4 recommendation.

5 I want to speak briefly with respect to
6 instant run-off voting. Chairman Goldstein, I
7 appreciate what you're saying about it seemingly
8 needing more study. I think the staff did an
9 incredible job highlighting the importance and
10 the need of instant run-off voting in meeting
11 several of the mandates you set out for this
12 Commission, namely enhancing participation,
13 increasing transparency, and then putting voters
14 in a place where their votes really count for
15 something. I have testified before the 2002 and
16 2003 Commission in favor of instant run-off
17 voting. That was mostly in the context of
18 nonpartisan elections. But for whatever reason,
19 and obviously I think you should pursue
20 nonpartisan elections, but for whatever reason
21 you decided not to, I hope you'll still consider
22 instant run-off voting for the primary elections,
23 for the citywide offices, and for City Council
24 races. Not only as the staff points out does this
25 save a great deal of money as opposed to having a

1 full second election, a whole run-off election,
2 but and at the end of the day who emerges as the
3 winner is going to be much more reflective of the
4 consensus of constituents. Now, we see time and
5 time again instances where members are nominated
6 mostly in the Democratic primary, which is
7 tantamount to victory, with 8, 9, 10, 11 percent,
8 12 percent of the vote, and they do not speak for
9 the vast majority of their constituents. That
10 also happens in nonpartisan special elections in
11 which there are multiple candidates. You see
12 candidates that don't reflect a majority of the
13 will of their constituents. Additionally, I
14 think what it would most fundamentally do is do
15 away with that awful "wasted vote" stigma. We
16 had a multiple candidate non-partisan special
17 election in Staten Island last year, and it
18 became clear that only two candidates only really
19 had a chance to win this election. So what you
20 saw is folks only limiting their choices to those
21 two candidates whereas if they could rank their
22 choices one, two and three, I think you would
23 have seen a much more different result and a much
24 more different set of solutions proposed by
25 candidates with an eye towards getting a

1 consensus rather than a "winner take all"
2 one-choice system. Thank you.

3 CHAIRMAN GOLDSTEIN: Thank you, Mr. Morano.

4 Our last speaker is David Shuffler? Did I
5 pronounce your name right?

6 MR. SHUFFLER: More or less.

7 CHAIRMAN GOLDSTEIN: More or less? Or less?

8 MR. SHUFFLER: Less.

9 CHAIRMAN GOLDSTEIN: Less? How do you
10 pronounce your name.

11 MR. SHUFFLER: Actually, my last name David
12 Shuffler, S-H-U-F-F-L-E-R. And let me say good
13 evening first, and that it's a pleasure to know
14 that the Commission is going to pick up Fair
15 Share as part of the discussions moving forward.
16 So I'm representing Youth Ministries for Peace
17 and Justice, an organization located in the South
18 Bronx founded in 1994, that does youth
19 development work. In this neighborhood we're
20 triangled in by three highways: The Bronx River
21 Parkway, the Sheridan Expressway, the Bruckner
22 Expressway, as well as the Cross Bronx
23 Expressway. Over the past 16 years of the
24 organization, we have found the benefits of
25 engaging community residents as part of the

1 process. So I encourage the Commission to really
2 look at Fair Share as well as 197(a), because it
3 has been a vital planning piece for us in the
4 community. So some of the victories that we were
5 able to have because of processes that engage
6 community residents as well as Community Boards
7 and government, we were able to win a lot of
8 parks in the South Bronx, create more access
9 along the waterfront, along with other priceless
10 victories, and things to come in the future. I
11 encourage the Commission lastly to prevent City
12 Planning from being able to use their power to
13 push their own agenda over what the community
14 wants. So I'll keep it brief, thank you, and the
15 I'm submitting a larger testimony as well.

16 CHAIRMAN GOLDSTEIN: Thank you,
17 Mr. Shuffler.

18 That concludes the official list of people
19 who signed up this evening. Any Commissioners,
20 have any last words? Yes, Commissioner Moltner.

21 COMMISSIONER MOLTNER: Just a question in
22 terms of timing. Mr. Chairman, you referred to
23 earlier. So do I understand correctly that after
24 the August 2nd meeting then there's going to be a
25 vote on the next preliminary -- next report or am

1 I off?

2 CHAIRMAN GOLDSTEIN: After August 2nd we
3 envisage that there will be two additional
4 meetings. The first one that follows August 2 and
5 hasn't been set yet, a date, should according to
6 my schedule be the time where we actually vote on
7 the items that we will bring for referendum. The
8 meeting after that, which also has not been
9 calendared, will be to vote on the report, that
10 is the final report, and I imagine, just
11 remembering the clock, that should be around the
12 16th to 18 of August. And it's a subject of when
13 we can coordinate all of our schedules.

14 COMMISSIONER MOLTNER: Thank you.

15 CHAIRMAN GOLDSTEIN: And according to that
16 schedule we should complete our work with the
17 third, no later than the third week of August.

18 COMMISSIONER MOLTNER: Thank you.

19 CHAIRMAN GOLDSTEIN: Yes, Mr. Chen?

20 COMMISSIONER DAVID CHEN: I have a concern so
21 with the last speaker who mentioned how wonderful
22 continuing our meeting. It's not easy. It's
23 tough. You can ask the staff, they know it's
24 very difficult. But we have a concern since we
25 started with a Big Bang issue a lot of work -- I

1 really hate to see that we are based on reviewing
2 the entire top to bottom everything is on the
3 table for review, all the important issues
4 identified, I hope, that years later we don't end
5 up just to be a term limits Commission. We have
6 issues to follow up. Like, the Chairman said, we
7 want broad shoulders for future giants can stand
8 up on. How do we do that? There are so many
9 issues? Really, every one of them importantly.
10 Grant it, they're on time, but how do we make
11 sure somewhere along the line, wherever it is,
12 like, you know, somehow referendum, everything is
13 correcting excesses over time, right? Every now
14 and then we revisit the same issue. But how as
15 much as we can, how do we identify the
16 significance of this issue? We don't have to time
17 to deal with it. But we certainly point out the
18 pitfalls or the significance of how future, this
19 kind of thing, I don't know, future, hopefully as
20 soon as possible, right, some of these are very
21 urgent issues. But there is a concern as to how
22 do we wrap it up not just a term limits issue.
23 There are some issues to deal with. Thank you.

24 CHAIRMAN GOLDSTEIN: I imagine that there
25 will be other important items that we will agree

1 should go on the ballot and that's subject to our
2 the next three meetings. And we really have a lot
3 of work to do over those next three meetings.

4 Any further questions of the Commissioners?
5 If not, I'll ask for a motion to adjourn?

6 COMMISSIONER TAYLOR: I make the motion.

7 CHAIRMAN GOLDSTEIN: And I seconded.

8 COMMISSIONER BANKS: Seconded.

9 CHAIRMAN GOLDSTEIN: I assume it's by
10 acclimation. We are, and we'll see you next
11 week, thank you.

12 (Whereupon, at 8:57 P.M., the above matter
13 concluded.)

14
15 I, NORAH COLTON, a Notary Public for and
16 within the State of New York, do hereby certify
17 that the above is a correct transcription of my
18 stenographic notes.

19
20
21 _____
NORAH COLTON
22
23
24
25