Transcript of the Meeting of the

CHARTER REVISION COMMISSION

held on Monday, August 1, 2005

110 William Street

Borough of MANHATTAN

TANKOOS REPORTING COMPANY, INC.

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Meeting convened at 6:28 p.m.

P R E S E N T

DR. ESTER FUCHS, Chair
DALL FORSYTHE, Vice Chair
STEPHEN FIALA, Secretary

COMMISSIONERS:
JENNIFER RAAB
CURTIS ARCHER
STANLEY GRAYSON
ANTHONY CROWELL
MARY MCCORMICK
STEPHANIE PALMER

Also Present:
TERRI MATTHEWS, Executive Director
BRIAN GELLER, Analyst
SPENCER FISHER, ESQ.
ABBE GLUCK, ESQ.
CHAIRPERSON FUCHS: Good evening, everyone.

I'd like to call the New York City Charter Revision Commission into session for a public meeting. It's August 1, 2005. Thank you all for attending.

Members of the public, just to remind you, this is a public meeting, not a public hearing, and as such, the public can observe but not testify.

Let me briefly introduce or reintroduce to everyone here the members of the Commission. On my left is Dr. Dall Forsythe, the Vice Chair of the Commission and currently chief administrative officer of the Episcopal Diocese. To my right is Stephen Fiala, the Secretary of the Commission and currently County Clerk and Commissioner for Jurors for Richmond County. Also in attendance this evening is Anthony Crowell, special counsel to the Mayor; Stanley Grayson, president and chief operating officer of M.R. Beal & Company; Dr. Mary McCormick, president of the Fund for the City of New York; Stephanie Palmer, Executive Director of the New York City Mission Society; Curtis Archer, Executive Director of the Rockaway Development Corporation and
Jennifer Raab, president of Hunter College.

If you're interested in receiving any of our mailings or signing up for any of the documents that are still being produced by the Commission, please sign up in the back of the room or you can go to our website at nyc.gov and download any information about the proceedings of the Charter Commission.

Our next public meeting will be tomorrow night, Tuesday, August 2nd, in this same space, the fourth floor conference room, 110 William Street and you can check our website for directions.

The first order of business this evening is an update on what was proposal No. 3 in our Charter Revision Commission preliminary draft of the final report.

As everybody probably recalls by now, the work we've been doing for the last twelve months was based upon a mandate by the Mayor to look at agency efficiency, effectiveness and accountability, as well as fiscal responsibility and judicial administrative reform. We also were mandated to look broadly at the entire Charter Commission.

The work we did on fiscal stability really
comes out of the 1975 fiscal crisis and the sunsetting
of the Financial Control Act. Work we did on
administrative judicial reform was based upon work of
previous Charter Revision Commissions as well as work
done through State legislation.

The topic of agency efficiency and
effectiveness and the proposal that we came up with in
this Commission really had no antecedent and really
evolved from the public meetings and the public hearings
and the work done by the Commissioners on this
Commission, as well as the support work done by the
staff. We received many comments at public hearings on
the proposal and we released a proposal in a preliminary
recommendation and in the last public meeting on July
5th we announced several revisions to that proposal in
response to the public comments that we received.

However, since the last public meeting, it's
become increasingly clear to us that while I think we
have consensus on this Commission among Commissioners as
well as among the staff, we as Commissioners have
received some feedback as well as members of the staff
have received some feedback that there are still
concerns about proposal No. 3. Personally, I have to say I think we have addressed the legitimate concerns that have come up, but since the dissatisfaction which has been indicated to me is from some reputable individuals in the good government community we think at this point that it's more important to have full consensus and full support from the good government community for the work of this Commission, and we haven't as yet been able to achieve that consensus on this issue.

So what we're suggesting at this point in time is that we vote not to place this proposal on the ballot, deferring it to continued discussion at the local level, either by the Mayor and the Council, determining how to operationalize our proposal to reduce useless reporting and come up with valuable data so that the public's right to know is addressed in a way that's consistent with available technology and what any good government would really want to provide, any Democratic Government would want to provide, so either the Mayor would work with the Council to determine how to operationalize this proposal or it would be considered by a future Charter Revision Commission.
Given that we've spent a lot of time on this Commission trying to come up with a viable proposal, I thought that it was important and the staff thought that it was important that we as a Commission reconsider this one last time before we vote. I'm going to put a vote to you not to put proposition three on the ballot.

Do we have any comments from the members of the Commission? Commissioner Fiala.

COMM. FIALA: Thank you, Madam Chair.

Before we vote, I'd like to speak to this issue. Having been among the skeptics early on when this was presented, I guess a year ago, almost a year ago, I've grown to enjoy seeing this develop into a very thoughtful, very responsible public entity that responds to a pressing public policy, albeit it's not sexy. What we're doing tonight and what we'll do tomorrow, what we've done over the last year and what the public will look at in the coming months will not be viewed as politically sexy or sexy from a media standpoint, but that doesn't mean it's not important or not critical. So much of the important stuff is the stuff that doesn't make the newspaper or doesn't get on the news, yet it
keeps our Government moving forward.

I thought this proposal did just that. It took the novel ideas of prior Charters; '79 and '89, when this whole performance management issue was brought to the forefront and it updated it and I didn't fully appreciate the magnitude of the proposal, in prospect you don't usually appreciate something; in hindsight, it's easier. Now it's easy to say wow, this was great.

This started out as a discussion on the MMR. We were looking at reports, that's what we need to be reminded of. That's daunting. A Charter Commission examining over a hundred reports there are, and that's not exactly the right forum, I thought, and as this evolved, I realized that there doesn't exist a forum in which to have an intelligent, non-political opportunity to discuss the merits of a given report; reports which those of us in public office use to base our decisions on.

So this idea that came into being, this Commission, responded to that pressing need. So I want to use this opportunity to say to the staff, the Executive Director and her team and to the Chair who spent so much time on this, you should be very proud,
because rarely, let's face it, in life and certainly in the public arena are we confronted with new things. Most of the time we're recycling old issues, let's face it. It's packaged differently, but all the issues come to us in a different package. This is something that was really created from nothing.

The other issues are critical, critical to future success, but we're tweaking, we're codifying, we're making sure that that which is already there is improved upon. This proposal was something that did not previously exist. This is truly something that is new and novel, so you're to get credit for creating something new. That rarely happens in public dialogue.

I'm of the opinion based on talking to staff, talking to other Commissioners and listening to some of the good government groups that perhaps now is not the best time to put this forward. It's not ripe, let's say, that's the word, the term that's used, it's not ripe. That does not mean it should fall by the wayside. So I want to on the record say that I hope that the next Mayor who I hope will be the current Mayor will reconvene or convene a new Charter Commission to
address this issue as well as those other issues, and
I'll talk about that more today and tomorrow, because
this was time well spent, and again, it's often the
non-sexy things that are so important and the fact that
the media couldn't grab this and that the public didn't
seem to have an interest in it should not be an excuse
to allow it to fall by the wayside.

This is a good final product, Terri, you
should be very proud, your team should be very proud and
I hope that at some point future Commissioners will sit
and they'll vote to put either this identical project or
product on the ballot or tweak it even further. Because
it's come a long way in one year. Let's face it, it
takes years and years to get simple things done in
Government, so the fact we even had something ready for
the ballot this year is a testament to the hard work of
the Commission staff.

So having said that you all deserve to be
publicly recognized for delivering a unique product for

public inspection. We've reviewed it, the public has
looked at it, but I guess it's just not quite ready yet,
but I hope that within the next year or so it will find
its way before the voters, either through a Charter or
through their elected representatives and it gets the
light of day that it deserves.

CHAIRPERSON FUCHS: Thank you. That was
really extraordinarily important and I just want to
reaffirm what you're saying and particularly the hard
work that the staff did on this and the Executive
Director, Terri Matthews. This was thought and
rethought and tweaked and reworked, I think really in
response to the conversations that we've had and it's a
paradigm, I think, on how one should go about doing the
work of a Commission, particularly when a new idea
emerges. So I also would like to express my thanks
particularly to the Executive Director and to other
members of the staff who worked very hard on this issue.

Are there other comments, though, from
members of the Commission? If not, what I would like to
do in order to move us forward on the other two
proposals that we'll be discussing, as well as
discussing the final report, I would like to ask someone
to make a motion to revoke the tentative approval of
proposal No. 3 and to defer such proposal to continued
discussion at the local level.
Is there a motion?

COMM. FIALA: So moved.

COMM. PALMER: Second.

CHAIRPERSON FUCHS: All in favor of deferring proposal No. 3 to future discussion, please say "aye"?

(Chorus of "Ayes.")

CHAIRPERSON FUCHS: Any opposed? Unanimous decision to defer proposal No. 3. Thank you all very much.

What we're going to do now is really review the final report with the assistance of our Executive Director, Terri Matthews, as well as Spencer Fisher and Abbe Gluck, who have been special counsel to the Commission. What I'm going to ask the Executive Director to do is to walk us through the different sections of the report and I'm going to ask for discussion after each section so we're not going to defer it to the end, but after each section we're going to try and address any of the issues that are still on the table or any issues that are not on the table.

We'll be going through the executive summary, fiscal stability, administrative judicial reform, operational efficiency, then other suggestions
and recommendations that we are deferring, that's what
we've been fondly calling the back of the book. Then we
have the resolution and ballot questions and abstracts.

So we have a lot to walk our way through,
but I think we have enough time this evening to get
ourselves through this discussion. We will not be
voting on the final decisions to accept ballot
propositions until tomorrow evening, so we've reserved
tonight for discussion.

Terri?

MS. MATTHEWS: Okay. We sent a draft
"Balanced Budgets and Administrative Ethics: Lessons
Learned" document by e-mail to you on Friday morning for
your review and comment. You have in the materials
before you a revised draft with minor edits made since
two.

This document and the two proposals
contained in it reflect the work of this Commission
since last August, with Spencer and Abbe sitting here
beside me, I will walk through the sections of the
documents highlighting certain items of interest and
Spencer and Abbe will highlight certain legal issues.
Just pop right in.

The document begins with an executive
summary, as most documents these days do. What is
important to know about our executive summary is that we
will be translating it into the four languages we've
been translating our newsletters and also the earlier
executive summary for the preliminary report, and we
translate it in Spanish, Russian, Chinese and Korean,
and that's part of our outreach to New Yorkers who do
not speak English.

The executive summary provides a brief
history of this Charter revision process and the two
ballot questions and related abstracts.

Just the abstracts. No ballot questions in
the summary, just the abstracts.

MS. GLUCK: By way of explaining what our
proposals are, that's the purpose of including the
abstracts there, a summary of the proposals.

MS. MATTHEWS: Ester, do you want to ask
questions about the executive summary?

CHAIRPERSON FUCHS: So you're not going to
explain anything else about the executive summary?

MR. FISHER: I would note that because the
executive summary, except for the fairly brief process
discussion, includes the abstracts, we can discuss the
abstracts now or we can perhaps wait until we discuss
the ballot question and abstracts because they are
identical, so it's up to you on how you want to proceed
on that.

CHAIRPERSON FUCHS: Why don't you do that, because it doesn't make sense to just discuss an executive summary in the abstract without the abstracts.

MR. FISHER: Now I'm getting dizzy.

CHAIRPERSON FUCHS: Whoa. See, you thought I wasn't paying attention.

COMM. CROWELL: Why don't you -- after we do the ballot question, right after that section.

Compartmentalize it.

MR. FISHER: We can discuss it together with the ballot.

CHAIRPERSON FUCHS: All right. Terri why don't you then move to the substance of the report and begin with the fiscal stability section.

MS. MATTHEWS: There's another section before you get to the meat, but it's important. It's called "About the Commission," and it provides an overview of the process you've been conducting since last August, and it includes a separate appendices, all the internal memoranda of the various elements of the Charter that you've been reviewing and considering.
This section also outlines your public outreach efforts and includes as a separate appendix all the people and organizations we've all met with during the last year.

The next two sections are actually on the two proposals that we're going to bring forward: fiscal stability and administrative judicial reform. These two sections have identical format. They begin with an explanation of the issues and describe the related discussions that you've all had with the experts and the members of the public. Versions of this material have been in the various documents released by the Commission throughout the year. They outline the changes the Commissioners made to the preliminary proposals as a result of the public comment you received in June and immediately following the general explanatory information there's the statutory material and the statutory material has sort of a legal summary of the statutory language and that it's followed by the actual language, so we've been through the actual proposals, does anyone have --

CHAIRPERSON FUCHS: I think you should just summarize them, thank you.

MS. MATTHEWS: Well, turning to -- maybe you
21 could at this point mention when I get there the new
22 change.
23                  MR. FISHER:  Small changes.
24                  MS. MATTHEWS:  The small changes.
25 Basically, there are four items in our proposal. We

1 require, we will be requiring that the City end each --
2                  CHAIRPERSON FUCHS:  Terri what page are you
3 on?
4                  MS. MATTHEWS:  I'm on page 31, these are the
5 components of the proposal. The city end each fiscal
6 year so the results of its operations do not show a
7 deficit when reported in accordance with GAAP.
8 The second component would require the City
9 to continue preparation of the four year financial plan
10 documents with quarterly modifications during the year.
11 The third would be to require the City to
12 conduct an annual audit in accordance with generally
13 accepted auditing standards, which is also GAAP. Oh,
14 that's GAAS. It's interesting, we discovered that that
15 was in the FEA and not in the Charter. We learned a lot
16 as a result of this exercise. And we are requiring the
17 city to continue the stricter limits on short-term
indebtedness that are in the FEA. There are three
places where there is talk of short-term indebtedness.
The Charter, which is not that restrictive, the local
finance law -- the State local finance law and the FEA.
The FEA for New York City is by far the strictest
standards, so the FEA when it goes away, we're putting
it in the Charter so it will continue to govern the
occurrence of additional short-term indebtedness.

MR. FISHER: I would note that the current
Charter standards which Terri characterizes as less
restrictive. In some cases they're a little different.
In some cases they apply when the FEA standards don't.
They came around the period of the fiscal crisis, we
left those in well. The city will be governed by
multiple standards on short-term indebtedness as it is
now.

MS. MATTHEWS: I don't think anyone has more
restrictive standards than the City.

So those are the components of the fiscal
stability proposal. I think the law department wants to
mention a few tiny changes.

MR. FISHER: I guess we'll mention a couple
of things. First of all, if you look at, actually, this
comes up in the summary, but in the text, there used to be a provision that was sort of buried on what is now page 37 but it's been moved to be its own subdivision on the bottom of page 39 that concerns the possibility of changes in generally accepted accounting principles. We've not substantively changed the provision, but we have moved it to its own subdivision out of some concern expressed by OMB that the provision was sort of buried in one part of the section and might not apply to the various places in which GAAP would apply in the section, so it's been made a free standing subdivision, but the substance which basically says that the Mayor could determine that changes to GAAP should be phased in if they would result in substantial adverse impacts on essential services in the City, that substance is the same.

I would note that, I guess with respect to this, currently this determination is made by the Financial Control Board which will continue to make this determination during the period of the Financial Emergency Act, so we can't impose the Mayor on the Financial Control Board. This provision would only
fully kick in upon the expiration of the relevant provisions of the Financial Emergency Act.

COMM. FORSYTHE: The City Comptroller disagreed with our drafting that?

CHAIRPERSON FUCHS: Not anymore. That was resolved today.

MS. MATTHEWS: He is happy --

MR. FISHER: Is he happy?

MS. MATTHEWS: Well, not happy --

CHAIRPERSON FUCHS: It was resolved today, and the language is consistent with what the Comptroller is comfortable with.

MS. MATTHEWS: And no one will object.

COMM. FORSYTHE: That's not what you said in the report.

MR. FISHER: The report notes the earlier objection of the Comptroller. If that's not the case, we can take that out.

CHAIRPERSON FUCHS: Right, that should be clarified because I spoke to the Comptroller today.

COMM. FORSYTHE: I don't disagree with the decision.

MS. MATTHEWS: The way it's written, it
notes the suggestion --

CHAIRPERSON FUCHS: You know what, you'll fix it.

MS. MATTHEWS: It noted the suggested change and we replied that we didn't make it, but we'll take a look and fix it if necessary.

MR. FISHER: One other change, this is a very technical note which applies both here and in the administrative law provisions, is that the way legislation works in the Charter is that you have to put the effective date right into the Charter because the Charter Revision Commission only amends the Charter basically so if you want to say when your revisions are effective you put it right in the Charter. So there's a technical amendment which I think you may be seeing for the first time on page 45 which basically says these amendments would take effect immediately.

That's hardly a surprise, but of course the fact that they take effect immediately doesn't alter the provision that's within these provisions themselves which state that they continue to be subject to the FEA during the period of its existence.
CHAIRPERSON FUCHS: Are there any questions or discussion on the fiscal stability issue? Commissioner Grayson.

COMM. GRAYSON: I'm just a little confused by your last comment. The provisions are effective immediately, so for a period of time you will have the Financial Control Board in place and the Charter amendment, then when and if the Financial Control Board or Financial Emergency Act goes away, then this is all right in place and sort of springs into, sort of like a springing --

MR. FISHER: It's sort of --

COMM. CROWELL: Concurrent.

MR. FISHER: I guess that's a good word. I don't know that it will spring, but it will remain, I guess it will remain after the death of its parent or whatever, to inherit the --

COMM. GRAYSON: Suppose one is inconsistent with the other?

MR. FISHER: They are, I think they generally track each other quite closely, that was deliberate. In a few places where an official like the Mayor was substituted for the Financial Control Board
the provision that we put into, I guess there's
provisions in both the short-term debt and in 258, the
financial plan provisions which indicate that current
law will continue to apply. So these provisions are
subject to the continuation of the Financial Emergency
Act during its existence and we couldn't have said
otherwise if we wanted to.

CHAIRPERSON FUCHS: I think it's fair to say
that as long as the Financial Emergency Act is in place,
it's State law, and so that's the law, given --

COMM. GRAYSON: I understand.

CHAIRPERSON FUCHS: I mean, for everybody
else to understand. Commissioner Forsythe?

MR. FISHER: I guess I would note it's not
explicitly in the short-term debt provision but it's
obviously the same principle that applies.

COMM. FORSYTHE: I have a less substantive
comment, it has to do with the way you presented a
question. Since earlier drafts of this, you've had this
pregnant footnote about the expiration of the Financial

Emergency Act and the clauses that were put into place
during the MAC refinancing, that's on page 26 and over
the weekend I got a copy in the mail of the State
Comptroller's latest review of the City's financial
plan, which, by the way, generally endorses the steps
that we're taking, which is good news, but where we say
key provisions of the FEA are now set to expire in 2008,
the Comptroller says that because of these changes in
the city bond issuance, the Financial Emergency Act was
effectively extended for nearly thirty years.

It's a sort of historic contrast.

CHAIRPERSON FUCHS: Well, there's

legislation pending now and maybe, I don't know which
one of you want to speak to it specifically, but
Assemblyman Denny Farrell is sponsoring the legislation
to correct what was a drafting error, that's how it's
been characterized by everybody, so I'm not sure why the
Comptroller chose to characterize it differently, but
you might want to speak to that, Spencer?

MR. FISHER: It does appear that the

Legislature, that there was an error, that the
Legislature intended to insure its extension to 2008 and
wrote in later rather than earlier. It's true that the
effect of that under current law is as written that if it
was not changed portions of the FEA would extend beyond
2008 based on the date of discharge of certain City debt, I believe, or paying down certain City debt that requires the State required covenant.

That is reflected in the materials in the final report and that's also reflected in the draft abstract, which we'll get to a little later, so I don't think, I don't think there's any effort to conceal that that's the current state of the law and there are bills to change that.

Not all of the FEA will continue beyond 2008. For example, the provisions concerning the control period and I believe what we're calling the end of year snapshot, the end of year budget balance or control period test snapshot will I believe sunset. So the FEA, if it continued in its current effective date form will become a sort of mishmash, if you will, of provisions that have sunsetted and provisions that will continue. I think the general theory is that is not a coherent approach to the FEA and someone will have to take a look at it before 2008.

COMM. FORSYTHE: I agree. I was pleased the City was interested in recommending a more comprehensive look. I just wanted to know if you were satisfied with this sentence saying key provisions of the FEA are set to expire in 2008 as characterizing the existing
situation, a satisfactory characterization.

MR. FISHER: I believe that's true. I think most people characterize the control period test as being the key provision and I believe that provision will expire in 2008 by its own terms which are built into the FEA itself.

COMM. FORSYTHE: I can see one of our students getting a little confused.

CHAIRPERSON FUCHS: Students get confused all the time, as we know.

MR. FISHER: This confuses people with graduate degrees.

CHAIRPERSON FUCHS: To be fair, I'm glad you brought this up, this is a confusing issue. We tried to deal with it through these footnotes without obscuring where we think things will be in the course of the next six months which will be a correction of what everyone has characterized to us as a mistake in drafting, period. Having said that, I think Spencer has really clarified it. Even if this mistake is not corrected, we probably have an even bigger mess at the State level making it more important that we do something coherent at the local level.

MR. FISHER: Just as an example of that,
Financial Emergency Act was changed to be the later of two dates, there's another provision that says that no control period can continue beyond the earlier of two dates and that provision was not changed. So I think most people believe, as I mentioned earlier, that the control period test will expire even though other parts, a sort of rump FEA, if you will, will expire later, to coin a term.

CHAIRPERSON FUCHS: Any other comments on this section? I know we've worked quite hard in banging out this part of the Commission's report. This was something that was particularly important to the Mayor for us to get done this year, because in view of the sunsetting of the Financial Emergency Act in 2008, even barring this footnote issue that we have to deal with, the Mayor felt strongly that it was incumbent upon the City to take on the fiscal management tools that were outlined in the Financial Control Act and that really has insured the City's fiscal stability over the past 25 odd years.

So I want to also take the opportunity to congratulate staff as well as the Commission here in helping us wade through a very complicated area, and I
want to particularly thank those members of the good
government world and the IBO who is here today who has

worked with us very closely and the two Comptroller's
offices in making sure that we reflect adequately and
accurately what should be in the Charter.

So a lot of work went into this both during
Commission hearings and meetings but as well as with
staff to make sure that principals have a stake in
seeing the City is well managed and the oversight works
effectively that these provisions stay in place for the
City for the future.

So this has been I think an extremely
important part of the work of the Commission as we move
forward.

Do we want to move on to the administrative
judicial reform area or do you have another point?

MR. FISHER: I just have one point, just to
show what a dynamic and active Commission we are, it's a
technical point in response to Commissioner Grayson, the
relationship between the Charter and the FEA. I think
it's worth considering, the current provision on
short-term debt says the City can only issue short-term
debt as authorized by State law. I think that covers
the concern. However, because we put a provision in the financial plan provisions on page 40 at top that says the powers duties and obligations set forth in that section are subject to the FEA during its existence, I actually think it would be helpful to put a similar provision into the provision on short-term debt since that's a separate section and it would be a useful change so that to clarify that, for example, the powers given to the Mayor would not be fully activated until after the demise of the Financial Control Board.

I think that's a useful point. I think it's certainly not too late to make that change and I think we can make it. We can make it today. Tomorrow. Before the final.

CHAIRPERSON FUCHS: Right. Do you want to move on to administrative judicial reform?

MS. MATTHEWS: On page 53 is where the proposal to authorize the creation of a code of administrative judicial conduct is. Again, it goes through the history, the explanatory text, talks about the history of the administrative judicial system, the conversations you had with the experts, the changes you
made to your proposals. And where we are is that the
Mayor and the Chief Administrative Law Judge of OATH
will jointly promulgate and will jointly amend rules
establishing a code of ethics or code of professional
code of conduct governing the activities of all administrative
courtrooms and hearing officers and City tribunals.

So that is the proposal, it came out of

2003, which has two parts. One was creation of a
coordinator, that you decided to defer to administrative
action in the letter, and this is the one thing that
remains.

Do you have any questions?

CHAIRPERSON FUCHS: Just to remind everybody
that we had a much broader proposal that we began with,
which was the creation of a judicial administrative
coordinator. We as a Commission sent a letter to the
Mayor requesting that he do that through Executive
Order. We've just gotten approval and agreement from
the Executive that they will be moving forward with
creating that position through Executive Order and are
very pleased with the suggestion made by the Commission.
That will be done, that Executive Order will be
announced by the Mayor. We hope to invite members of
the Commission to that as well in the next couple of months, actually within the next two months it looks like, and so he was pleased at the idea that we felt we could do this through Executive Order, did not need a Commission proposal, and also accedes to the idea that it's important to put the ethics piece of this on the ballot, given how important ethics issues are if it's to the idea that a Charter Commission should speak to the principles of governing as its primary objective.

So on this issue, I think we have made some serious decisions and I think that they were the right ones. I think we're going to get work done that does not appear on the ballot but rather happens in another venue as a result of the Commission.

Are there any comments on this, any changes or suggestions that are still something that we want to consider at this point related to this particular proposal?

MS. GLUCK: I would note Spencer noted on this section on page 54 there's also an effective date provision for this proposal that you haven't seen before which also says that this proposal will take effect
immediately.

COMM. FORSYTHE: Upon passage.

CHAIRPERSON FUCHS: Upon passage.

MS. GLUCK: Upon adoption by the voters.

CHAIRPERSON FUCHS: Good catch.

Okay, operational efficiency, effectiveness and accountability.

MS. MATTHEWS: Which is the proposal that you just --

CHAIRPERSON FUCHS: Can I interrupt myself, since I do that well, often, I shouldn't just interrupt everybody else, I should interrupt myself.

I want to on the previous proposal, I want to recognize that much of the very difficult work into figuring out how to do a judicial administrative coordinator position came from the work done by a previous Charter Commission and the work was done by our Commissioner, Anthony Crowell and he has been critical in both articulating the substance of what that would look like, as well as helping shepherd the request of this Commission through City Hall in making sure it got the attention of everybody who was to be consulted, which are minions, before the Mayor would be approving
the decision to do this through Executive Order. He also has worked on creating that Executive Order, not leaving anything to chance.

So we are very lucky to have him with us working on this and helping to get the work done that we're not doing here at the Commission, but needing other branches of Government to help us get done. So we are particularly grateful to you for this, Commissioner Crowell, because it's very, very important. I am somebody who did not understand the breadth and the depth of judicial administration. Now I know more than I ever wanted to know. I'm sure the rest of you do as well, but also realize how important it is, how really important it is. This is something I know was echoed by the Executive Director as well. Thank you.

COMM. CROWELL: Thank you for your kind words.

CHAIRPERSON FUCHS: Now I'd like to move on to operational efficiency, effectiveness and accountability.

MS. MATTHEWS: This used to look like the other two sections in format, but it's been changed to
reflect the fact that we were thinking it should be
defered to generate enough time and consensus. But it
begins with an explanation of the issue, describes the
discussions that you had with the experts. It outlines
the changes that you would have made to this proposal
and then this proposal, the actual statutory text and
the explanation has been moved into a separate appendix
for what we hope is continued discussion. We didn't
want to just jettison it totally. We wanted to keep it
in the way back.

Which then brings us back to the formal end
of the book.

CHAIRPERSON FUCHS: Are there any comments
anybody wants to make along those lines? I just want to
make a brief comment which is again to thank the staff
and the Commission for the really creative work that was
done around this reporting commission, and again to

reassure everybody that our work is not just going to
lie fallow after we finish our work.

The Mayor's Office of Operations and the
director of the Mayor's Office of Operations, Susan
Kupferman graciously lent us one of the seniormost
members and one of the most important members of her
staff, Myrna Ramone who worked with us here in the
Commission and was the point person on this initiative
working very closely with Susan Kupferman and
interestingly enough, despite the fact we'll be
deferring this at this point, the director of the
Mayor's Office of Operations is very enthusiastic about
keeping this proposal alive in some way and seeing if
there's a way that she can do some of the suggestions we
have made here.

So whether we move forward with this or not
in another Commission, there is now real serious
interest in figuring out how to resolve the problem that
we, I think identify very clearly in the work of the
Commission in a way that addresses the need for balance
among all branches of Government, as well as the
public's access to information.

There's no question that there are over 150
documents out there that almost nobody reads or looks at
that a lot of people spent a lot of time on, and most of

us didn't really understand the magnitude or the depth
of that before this Commission started its work so I
believe this is going to be an important part of the
legacy of this Commission and I want to especially thank Myrna Ramone for helping us navigate this particular issue.

MS. MATTHEWS: You remind me. I wanted to point out since we last met we did some additional research. In the appendices are, we tried to quantify the magnitude of the reports, so in addition to the 33 documents that were in appendix A to the first document we have two more charts; reports that are in the ATCO, reports that are in the Charter, and then we did another bar graph showing when they began life, and for the majority of them, we put them all together, the majority of them came up before 1990 -- a lot of them are very old. There has been a spike recently in the near term, but a big chunk, and that's part of the story, that there's a lot of stuff that's very old and we just thought we'd point that out to you.

CHAIRPERSON FUCHS: It's interesting. I think one of the unintended consequences of term limits in the City Council is, if you look at this chart you'll see 2005 was a banner year for reporting requirements, and I believe that this is going to continue over time;

that the Council has found this as a tool, and while it
may be useful at the moment, over time we're going to
find ourselves with more and more reports that are going
to become less and less useful over time. A lot of
reports are done I think because of some crisis issue
that comes up, and their long term utility is not really
ever evaluated.

So the issue will not go away. Yes.

COMM. FORSYTHE: I absolutely agree with
your characterization, but I would like to point out
that in the absence of Commissioner Betanzos, that I
think I am the senior member of the Commission here
today, and old isn't necessarily bad.

MS. MATTHEWS: I'm old as well, and I agree.

COMM. McCORMICK: Thank you, Commissioner.

COMM. FORSYTHE: And I believe I speak for
Commissioner Abrams as well.

CHAIRPERSON FUCHS: Both of whom are out of
the country, I might add, which is not why they're not
here.

MS. MATTHEWS: Although old in reports is
probably just fifteen, so I thought I would point that
out.

COMM. FORSYTHE: Just teasing you.

CHAIRPERSON FUCHS: Okay.
MS. MATTHEWS: So moving on to the famous back of the book. The next -- oh, sorry, hold on for a second. So we're done with topic three. The last section is called other significant recommendations deferred and it has been expanded since the preliminary report version as we foreshadowed it would be. This is what we're calling the back of the book and it will live on after the Commission concludes its work. It provides the foundation for future Charter Revision Commissions and can provide the foundation for future legislative agendas at both the local and the State level.

It begins with a discussion of the Commission's approach to revising the Charter. A Charter Commission is able to propose a referendum on any matter within the jurisdiction of a local government to enact. The Commission may choose to propose a broad set of amendments that essentially overhauls the entire Charter or consider proposals aimed at broad reform in particular areas, or it may choose to focus on certain technical issues. It may also choose a combination the above.

This Commission has chosen a new approach. This Commission has focused on broad, systemic issues concerning the operation and administration of the entire City Government, about which there is a
considerable consensus. The Mayor's initial suggestion
that the Commission examine as part of its review of the
entire Charter, issues of fiscal stability, citywide
tribunal operations and agency effectiveness, efficiency
and accountability focus the Commission on the general
theme of accountability. The theme of accountability
has permeated much of the Commission's discussions of
proposals both within the three areas and without.

As a result, the Commission's proposals
would amend the Charter in areas in which there is a
substantial consensus that such reforms would increase
accountability in a systemic manner across City
operations.

Although this Commission deferred the
various recommendations that came from the public and
experts during the year, several themes emerged from
which we have pulled out and from them we have pulled
them out and described them in this section. And they
consist of issues of fiscal stability for future
consideration and in that we've identified the rainy day
fund, which kept coming up; increasing the linkages
between local legislation and the budget, which you had
mentioned several times at the beginning, and then
increasing linkages between programs and the budgets,
services area kept mentioning and kept hearing from
members of the public.

Second theme would be issues of Government
institutional structure for future consideration, and
this is a way of looking at the post -- the '89 changes
in a post '89 world. We identified three areas:
Revisiting the Charter mandate of certain entities and
their ability to perform them; we heard from the Borough
Presidents and the Public Advocate and this section is
aimed at looking at those issues. Revisiting the land
use process in view of attention that's coming, it came
up before you between open space and development, and
then the third would be revisiting certain fiscal issues
with implications for Government structure.

The third topic we're calling issues of
Government operations for future consideration, and that
consisted of all the ideas that came from the agency
heads, which were very interesting, and needed, perhaps,
but seemed too specific and were not within the broad
approach that you were taking this time. And then the
third -- and I hesitate to say it in view of all the
things we've been doing in procurement, but there were a
couple of lingering issues that kept coming up and I thought it was important to articulate them not necessarily as procurement issues, but they come up as procurement issues but they seem to be either related to the budget or related to sort of a fundamental way of looking at the area.

So this is all new.

CHAIRPERSON FUCHS: And I think a lot of that comes from the Commissioners themselves, particularly Commissioner McCormick and Commissioner Palmer and Commissioner Chen and Commissioner Archer all of whom articulated some of these issues in the context of not-for-profit procurement.

MS. MATTHEWS: It will be nice when it comes again, when it's ripe, that focusing on the other places in the process where you can fix it. Because it's my opinion you can't fix it all in procurement based on the State law and the Local Law constraints and actually it's in another place.

So it's there for future thought and consideration and action. And that's new. That is a new section, new text.
And we have captured all the significant suggested proposals from the public and it came to us in testimony, in correspondence, in our informal outreach meetings as well as the proposals that came from the agency heads and they are now in the very last appendix M, and those charts were a lot of fun to do. I'm looking at experience as I say that, because they have a sort of numbing quality as you start looking at them. But at any rate, they're there for the future.

MR. FISHER: They're individually meritorious and collectively hypnotic. But I guess I would just supplement Terri's description with a note that part of the charge of reviewing the entire Charter for the Commission is explaining why the rest of the Charter wasn't changed at this time, and what we were calling the back of the book really conceptually should be in the front of your mind by the way, because it's critical to understand not just why the Commission made the changes it made, but why it didn't make the changes it didn't make.

This discussion beginning on page 65 explains and proposes for the Commission's adoption the
rationale which we believe the Commission has adopted
informally and now will adopt formally if you adopt this
final report, and appendix M at the end which Terri was
describing goes into some detail and the comment boxes
in appendix M give I think a real sense of the sort
of philosophy as to why individual proposals were not
adopted.

So I encourage you to take a quick look at

those now. I know you've had the chance over the last
several days to look at those as well.

CHAIRPERSON FUCHS: Commissioner Forsythe.

COMM. FORSYTHE: Could I ask questions about
two of the proposals? As you say, it does have a
certain hypnotic quality.

MS. MATTHEWS: Yes.

COMM. FORSYTHE: One we had a very brief
discussion about, which was a concern that had been
raised in an editorial some years ago, about the
adjustment of pay for elected officials and senior
executives. I couldn't find that in here, I tried, but
I failed. Help me with that, please.

MS. MATTHEWS: It is in, it's on page 222.
The TV show. That dates me.

MR. FISHER: It's in the text too.

MS. MATTHEWS: It's part of the thematic, but as an actual idea that came to us, page 222, the third line of -- restrict the effective date of pay raises to officials to a term after the approval takes place.

COMM. FIALA: Page 474 addresses that and the lulus.

MS. MATTHEWS: It's in two places.

COMM. FORSYTHE: The second one is this question that has been raised very recently about class size and proposals -- it was circulated in a letter to us, suggesting a class size ballot.

MS. MATTHEWS: That I didn't put in the chart. I'm sorry. It was an oversight.

CHAIRPERSON FUCHS: It came late.

MS. MATTHEWS: It came late and I was kind of done. But we'll put it in.

CHAIRPERSON FUCHS: That needs to be added. I'm glad you brought that up.

COMM. RAAB: Was there an official response to that?
CHAIRPERSON FUCHS: We have an official response. Do we have a draft response, Terri?

MS. MATTHEWS: We have a form of the draft response? It literally came in two or three days ago.

CHAIRPERSON FUCHS: Do you want to summarize the response, Spencer, maybe?

MR. FISHER: This isn't really the place to go into great detail about the class size petition, and I guess the letter came very late. I guess it was felt, you know, I should note that as a procedural matter, in the next several days, the City Clerk with the advice of the Corporation Counsel's office will be issuing an opinion and certifying as to whether that petition is lawful in a variety of areas. So I think we thought for one thing that at this point it was somewhat premature for the Commission to jump on a bandwagon that may be derailed by the City Clerk for other legal reasons later in the week.

Also, the proposal was made to the Commission very late and the Commission had already focused on other broader themes. Not necessarily broader themes, but other themes that I think took up
with good reason a significant amount of its time. This
would be a very controversial area with regard to
budgetary priorities and a whole new area for the
Commission that would require I think a significant
amount of discussion to occur so late.

So just in terms of where this came up in
the Commission's agenda, I thought, I think we're going
to recommend that this proposal not be pursued at this
point by the Commission.

MS. MATTHEWS: And we will put it in the
chart, because we reflected all serious proposals from
wherever they came in the charts, and that truly was an
oversight and we will prepare a letter with a response
to them as we are doing to all of them.

CHAIRPERSON FUCHS: Just to reiterate what
Spencer was saying, we had talked about the preparation

of a letter and circulating it with the Commission and
the critical issue at this point in time was really the
legal issue, that it didn't make sense for us to get
involved.

First of all, it's complicated and time was
sort of running out, obviously, but it certainly didn't
make sense for us to get involved in an issue that was
about to be litigated or was about to be --

MR. FISHER: Possibly.

CHAIRPERSON FUCHS: Was about to be possibly litigated or in fact the legality of it altogether would be questioned.

COMM. RAAB: Perhaps there should be, just to make the record clear, though, some acknowledgement of the letter.

CHAIRPERSON FUCHS: Yes, in fact, there should be, absolutely 100 percent and I'm glad that somebody caught that, because it was meant to be in, both the letter as well as the proposal needs to be in this report.

COMM. RAAB: I'm saying just also a response, just so that the record is clear that it was received and that the Commission is either acting or not acting.

CHAIRPERSON FUCHS: I circulated the letter to everyone, so it was intended for everyone to see it so we could respond to it as a Commission, so that was the intent and that's what we will do.

COMM. FORSYTHE: With your permission, if I
can have one minute to make a substantive comment on this.

CHAIRPERSON FUCHS: Sure.

COMM. FORSYTHE: The States of California and Florida have over the course of the past decades enacted provisions like this into their constitution that hard wire various requirements for their spending and that created disastrous fiscal and budget conditions as a result of that. I have no problem with people wanting to reduce class size, but putting this in the Constitution is very, very dangerous in my view. If we were going to have a substantive discussion on it, I would have strong opinions. But since we're not --

CHAIRPERSON FUCHS: That's extremely helpful, actually. And thank you for calling that to our attention. That was -- we missed that, and that was certainly not intentional. As I said, we circulated this letter to everyone so as to make sure that they were aware of the issue.

MS. GLUCK: I would just note also that as part of the staff's outreach process the staff and

Executive Director met with some of the sponsors of that class size petition and did do outreach on the
Commission's work some time ago.

COMM. FORSYTHE: I wish you invited me.

MS. GLUCK: They were meeting on our proposals.

COMM. CROWELL: Did they bring up that issue in that discussion?

CHAIRPERSON FUCHS: No, it wasn't at that discussion, it wasn't the right thing to do. That was when we met with the Municipal Labor Council.

MS. MATTHEWS: Page 17. That letter came in very late, but we added it in.

CHAIRPERSON FUCHS: You have the letter in there?

MS. MATTHEWS: This is the letter from the Municipal Labor Council.

CHAIRPERSON FUCHS: But that wasn't --

MS. MATTHEWS: No, no, I was referring to this meeting. This chart, as I said, the numbing effect of it.

COMM. FORSYTHE: The question about the deficit is an interesting one and worth considerable discussion.

MS. MATTHEWS: Oh, yes, and I thought it was
sort of dovetailed in with the rainy day fund.

COMM. FORSYTHE: Yes, it does.

MS. MATTHEWS: There's a lot of good stuff in the back of the book. It's really a good piece of public policy, I think.

So, and we will add it, you'll see it tomorrow, we'll send around a revised draft and we'll do it first thing in the morning. Okay?

CHAIRPERSON FUCHS: Commissioner Palmer.

COMM. PALMER: I wanted to comment and really just applaud the work of the staff and the Commissioners around the procurement issues around the not-for-profit sector, so I want to thank you guys for bringing together the Commissioners and the leaders in the not-for-profit sector to address them.

I do also want to take some time to talk about, on page 76, I agree with you that some of the issues articulated were not procurement issues, but issues had to do with the budget process, but at the same time there were issues such as prime contracting, which we looked at, so basically there was a commitment to look at exhausting other means of addressing them. They weren't Charter issues, but working with Marla Simpson, the Mayor's Office of Contracts to look at how we can resolve these issues.
MS. MATTHEWS: Maybe what I can do, the thought was that all of the administrative actions were underway and that would be part of it, and that was part of the reason the Commission decided to defer, but what I could do is amplify the administrative actions.

CHAIRPERSON FUCHS: That would be very helpful.

COMM. PALMER: That would be great.

MS. MATTHEWS: Actually all the stuff, all the background memos about what administrative actions have been underway, that is in appendix, oh, I don't know, B, B1 and B2. So that's there, but what I can do is amplify the reference to it.

COMM. PALMER: That would be great.

CHAIRPERSON FUCHS: Are there any other comments? If Commissioners are reading this document into the wee hours of the morning and do have comments that they want to send to me or Terri, please feel free to do that in the morning. We're obviously going to bring this document back to you in final form tomorrow evening, so it's dense. The back of the book is dense. The rest of the document I think is pretty clear but it has a lot of material in it and much of it comes from members of the Commission.

So you should find yourself in here
somewhere. Commissioner Fiala?

COMM. FIALA: I'll speak now on that issue.

I read the report over the weekend. We made a
deliberate decision to keep our work broad and we
addressed the broad issues and over the course of the
last year we've had 100 plus proposals presented to us
by the public, by elected officials, by good government
groups, service providers, not for profits. Many of
those are very worthy of, I would say the vast majority
of them are at the very least worthy of further
deliberation, not necessarily as I indicated previously
in this type of forum, because much of it can be
achieved through other avenues that don't require
Charter changes.

However, there are those big ticket items.

In this room a year ago when we introduced ourselves, I
told you that the big issues for me when I was in the
City Council is the rainy day fund. I said, and I don't
want the record to reflect that I'm upset that it's not
on. It shouldn't be on this year because there are
legal impediments to doing so. So the steps we're
taking get us in position where now that should be the
next set of discussions by an elected official, and I
hope a future Charter Revision Commission, the rainy day fund.

The other one being this growing problem, not only in New York but at the State level and the federal level of unfunded mandates or appropriating monies for projects or initiatives outside of the normal budgetary process, and what you wind up doing is creating significant initiatives that get worked into the baseline budget over years, but which did not get the scrutiny that they warranted.

When you're going to do something as a legislator, as I said, I was one, it's great to come up with a lot of ideas. You have the responsibility to show the other side of the ledger, though. How are you going to pay for it? It's too easy for me as a City Council member to come up with a great idea and point and say the Mayor won't fund it. That's not fair. If I have the idea I have to at least show how I'm going to offset those costs, so I talked about that mechanism and this has been talked about, certainly Commissioner Crowell knows about it, because in his past lives and previous Charter Commissions, this has been talked about
for some time, but there is this legislator spin and
you're never going to change that, but you can provide
some sort of mechanism to insure that spending is
responsibly.

So in line with my earlier statements on the

Commission on reporting and the rainy day fund, as well
as what we talked about, the distribution of powers; the
Borough President, the Public Advocate, the issue that
Walter McCaffery brought up, the lulus and as
Commissioner Forsythe brought up, the idea of giving
yourself a raise in a pending term, all of those should
be brought up in a future Charter Commission that deals
specifically with the how, because it's now been a fair
amount of time.

The framework that we're working with, the
'89 framework is largely intact. I think we have enough
experience now with these offices to say okay, let's now
tweak, since that's a word we like to use, let's reform,
let's fix these things that have been talked about for
some time. So I want the record to reflect that, and I
want to urge that a future Commission address those how
issues, the distribution of power issues and those
issues that have a way of getting away from us and
really shifting unfair responsibility on one side of the
equation, mainly, the chief executive, and lets the
other side off the hook.

It's great to have all the ideas, but if you
don't come up with ways to pay for them, it's really not
fair to advance them, so I would urge that we encourage
a future Commission to look at these issues with making

them the same type of a priority that we made our issues
this year. Because it's time now.

MS. MATTHEWS: And, you know, remember,
everything you said, and I attempted to sort of express
it in a thematic way. If there's anything you'd like me
to --

COMM. FIALA: No, you've done it great.

This is the wrap-up. You're the one who said the
Charter is a living document and all --

MS. MATTHEWS: But if you want us to --

CHAIRPERSON FUCHS: Terri --

MS. MATTHEWS: Okay, okay.

COMM. FIALA: Good job.

CHAIRPERSON FUCHS: Thank you. Any other

comments from the Commissioners?
COMM. McCORMICK: I don't know if we'll have a chance tomorrow night to say that this really was a superb effort with excellent results from the staff and the colleagues on the Commission. And it's very hard to do this, there's not a lot of interest generally, as has been pointed out, and to have done it so well and to have set it up for future Commissions I think is really very admirable, worthy of congratulations.

CHAIRPERSON FUCHS: I hope we get to repeat that tomorrow night, all the congratulations.

Our Executive Director doesn't take her compliments well. So sometimes just take the compliment, right? Your work has been extraordinary.

MS. MATTHEWS: Thank you.

CHAIRPERSON FUCHS: Are we discussing next, I think the resolution and ballot questions?

MS. MATTHEWS: That's where we are. And it's appendices A1 and A2.

CHAIRPERSON FUCHS: Does everyone have a copy of that?

MR. FISHER: Do you have a page number? 78 is the resolution and 80 the ballot questions.

CHAIRPERSON FUCHS: Page 78 is the
resolution. And 82 are the ballot questions.

MS. MATTHEWS: Maybe we can take a few seconds just to look at it and the law department is here for questions.

MR. FISHER: Briefly, the resolution on page 78 and 79 is generally consistent with the form in which previous Charter commissions have adopted such resolutions with a minor amount of modification to reflect the work of this Commission. There's one modification that will be in tomorrow's resolution. In the past Charter Commissions have left it to staff to construct from scratch the ballot abstracts at times.

We have provided you with ballot abstract that the Commission can substantially adopt if it so chooses tomorrow, so the form of the resolution tomorrow would reflect that the Commission is telling the staff to finalize the ballot abstracts that the Commission has already viewed.

Other than that, this text before you will be the text of the resolution for tomorrow evening. So I guess if there's any questions about the resolution, this now would be the time to discuss them.
Okay.

CHAIRPERSON FUCHS: I think I would just suggest that tomorrow it would be useful if everybody read the resolution as well as the questions and the abstract for tomorrow's meeting. This is very, as I said, a lot to read, but that's particularly important. Commissioner Abrams had hoped we would have a discussion about the ballot questions, and we are having that discussion. He unfortunately is out of the country so will not be with us today.

MS. GLUCK: It might be preferable to take a couple of minutes now, that would be preferable, to read the resolution and the ballot questions.

CHAIRPERSON FUCHS: I know that's preferable, but I would just like everybody to get an opportunity to bring up issues to us tomorrow morning or before the evening. I don't think it's that substantial, but it's hard to concentrate on something this dense in such a short period of time.

COMM. RAAB: A question, which is going on the ballot? Are both going on the ballot?

MR. FISHER: Just to explain, there are two sets of materials here. Putting aside the resolutions,
we have the ballot questions on page 81 and 82 and the
abstracts. The actual ballot will only contain the
ballot questions, but the abstracts are made available
to voters in a separate document that is available at
the polls.

COMM. RAAB: We will vote on both of them?

MR. FISHER: You'll vote on both of them,
yes, in the sense they'll be included in tomorrow's
report and the Commissioners can refer to both of them,
subject to non-substantive changes that can be made.

After. The substance will be before you.

The abstracts will also, if prior practice
is any guide, also will be made available to all voting
households through the Voter Guide, which is mailed by
the Campaign Finance Board, and generally includes the
questions and the abstract, so they'll get a wider
circulation than just on election day.

CHAIRPERSON FUCHS: May I also suggest, this
is very important not just because it's important in and
of itself, but there's likely to be State questions on
the ballot as well. In fact, there is going to be,
there's going to be a bond issue and the State question
on State budgets, and so we are in a position of getting confused with what the State's work is, particularly since we have a fiscal ballot initiative if we vote to put that on the ballot tomorrow. So it's important that we get this language right and accessible to the voters, that we get the language in the abstract correct so it's comprehensible to the voters, which is why I'm asking everybody to pay a little extra attention to that.

Some of you are experts in this area. It would be valuable to hear from you if you have any issues. If you don't have any issues you don't have to make them up, it's okay, but it also would be valuable to hear from you who are not experts in the fiscal area particularly, because it needs to be comprehensible to all of us, especially to those who don't have background as budget directors like some folks here or finance managers like other folks in the room here.

So we are really, we're really requesting that this is a part that you just pay a little extra attention to.

Having said that, I know staff doesn't want a lot of comment.

MR. FISHER: But we welcome comments today.
CHAIRPERSON FUCHS: But substantive comments are always welcome.

MR. FISHER: I would note, just to follow up on what the Chair said, you will note the word "City" appears an inordinate number of times on the question on City fiscal appointments, and that was for the reason exactly what the Chair stated, there are State budget questions on the ballot and that's why the word "City" appears in virtually every element in the FEA ballot question.

CHAIRPERSON FUCHS: Commissioner McCormick?

COMM. MCCORMICK: Do we know which questions will appear first?

MR. FISHER: State questions are always first. That's why we proposed the numbers three and four. Abbe is reminding me we tentatively intended to place the question about ALJ's, to essentially provide a buffer between City and State questions.

MS. GLUCK: That's why we said, "as proposed by the New York City Charter Revision Commission" every time, just to make it very clear. I also want to remind you that, as we said in the beginning, the language of
the abstract is essentially the language of the executive summary, and so although not everybody requests abstracts, the people who read the executive summary will be reading that language and that will be the primary summary of our proposals.

MR. FISHER: The abstract will change slightly first to reflect the change I already explained to you earlier about the Mayor's power over GAAP changes we put a sentence in the abstract which will appear tomorrow evening. That simply says that "Changes in generally accepted accounting principles or in their application to the City can be phased in if the Mayor determines that their application will result in substantial adverse impacts upon the delivery of essential services," and then, open paren, "under the State law a State board, not the Mayor, currently makes this determination," close paren.

We will probably also put in a sentence to reflect the change that we made tonight after the colloquy of Commissioner Grayson to note that the short-term debt provisions are also subject to the continuation of the FEA and the Financial Control Board. Otherwise, tomorrow night, unless there are comments or changes, it should look very much like it does this evening.
CHAIRPERSON FUCHS: Commissioner Forsythe.

COMM. FORSYTHE: I have one general comment about the abstracts, for the finance portions. That is that it may be worth mentioning in the major provisions that the fact that this mirrors and extends to the City Charter the State Emergency Financial Control Law.

MR. FISHER: It does say that.

COMM. FORSYTHE: It says it once. It doesn't say it over and over and over again.

MR. FISHER: It does say it in the introductory paragraphs.

COMM. FORSYTHE: I understand that. What worries me, I think by the time people get halfway down to the end and try to puzzle out, they would think these are new provisions that perhaps we were putting forward that they had to understand in a new way as opposed to simply the incorporation of the Financial Emergency Act provisions, even in a slightly modified form.

It's not a big deal. I said the point is to keep people's minds from straying from the fact that that's what's being done instead of presenting a proposal, new rules that require new understanding.

COMM. McCORMICK: You're suggesting that for the ballot question?

COMM. FORSYTHE: Not for the ballot
question, for the abstract. This is a fine point of marketing and salesmanship, not a substantive comment.

CHAIRPERSON FUCHS: Minimally, it should be said at the end again and we could think about weaving it through a little more.

COMM. McCORMICK: Isn't there an issue on the ballot question itself, leaving the New York State Financial Emergency Act to be a little more specific? We could spend hours debating this I'm sure.

MR. FISHER: In terms of the ballot question, I think there is a balance between disclosure and accessibility and I think the legal and practical points of disclosure and accessibility. If we refer to the Financial Emergency Act by name, voters are not expected to know what that is, and so we will then --

COMM. McCORMICK: Unless they're a certain age.

CHAIRPERSON FUCHS: Right.

MR. FISHER: The question of whether the actual existence and nature of the Financial Emergency Act should be in the question and the abstract is a question of balance as to what should appear on the voting machine versus what should appear in the longer explanation. We tried to strike that balance by having
the questions reflect that these as a general matter currently apply through State law but not get into a disquisition about the actual State law in question.

COMM. McCORMICK: I might wonder why we're trying to do it through the Charter if it applies through State law right now, without any recognition of the State law is set to expire at some point.

But I know this is very, you've thought about it long and hard and there are probably a million different reasons.

MR. FISHER: I think that this, there are a number of possible questions one could conceive for this that would satisfy I think legal requirements and have various levels of detail. If the Commission, we actually could, I think we had an earlier, we had thought about drafting a sentence that went to more detail about the expiration issue. We can do that. I note that if we do that, we will probably have to note the details of the expiration quirks that we discussed earlier directly in the question in order to be fair and so I think we thought that that would be overburdening the voters and that might be more appropriate to the
abstract.

MS. GLUCK: Just to clarify, are you just asking that we name the State law? I thought I understood your question to say --

COMM. MCCORMICK: I think it might help just to name it. Does it have a year, the New York State Financial Emergency Act --

MR. FISHER: We could say a State law known as the Financial Emergency Act for the City of New York.

COMM. MCCORMICK: That would be helpful because that would position at least why we're saying the following.

COMM. FORSYTHE: I think that is helpful.

MR. FISHER: That's fine.

COMM. FORSYTHE: My worry and again you stated it nicely by talking about the State ballot provision that's going to be on, this is going to, a lot of people, me included, are going to think this is going to be a very bad proposal --

CHAIRPERSON FUCHS: The State proposal, he's talking about now.

COMM. FORSYTHE: And are going to want to oppose this proposal and suggest that it's an innovation
that doesn't work, reform that doesn't work.

I think what we're trying to do is make sure that people understand that ours is different and that it's simply, whatever the right word is, an incorporation, a translation, so that people don't sit around worrying about whether it's a reform that works or not; recognize that it's sort of like a comfortable old set of clothes that we're going to put on from a different closet. I don't know what the right --

CHAIRPERSON FUCHS: That works. I like that. I think that's very helpful.

COMM. MCCORMICK: Could we say currently apply and have applied to the City since 1970-umm, about the comfortable clothes.

CHAIRPERSON FUCHS: The balance is between length and what are the cues and I think you're correct the cue of the Financial Emergency Act will be significant to a number of people who are of the age, of our age, anyway.

COMM. MCCORMICK: Our age and who typically vote on these kinds of things.

CHAIRPERSON FUCHS: And these were the
people who vote on these initiatives in any event.

COMM. PALMER: This is important, but I think it's a matter of explaining. As somebody who goes into the booth and really takes the issue of voting seriously, whatever I see, I don't understand it, I don't know how to vote because I don't get it. What Mary is talking about, for me as I sat here and this has been an incredible education, I am very grateful for it, but I was one of the ones you were talking about, did not have this financial background. This is this thing that did very good things for the City that's no longer going to be around and what we're doing is trying to put something in place to make sure that the good things continue.

That's an oversimplification, but that's what I got out of it is this is why it's important to put this.

COMM. FORSYTHE: A good new idea to replace a bad old idea.

CHAIRPERSON FUCHS: That message, it's a non-political, a non-fiscal message, it's a message that people can understand and link to. I think we have to take that seriously because that will help the voters
decide to support this proposition when we decide to put it on the ballot. It's very helpful.

MR. FISHER: Just a footnote, it's not our place to, the job of the question is not to have the voters vote yes, it's to have them understand the question so we have to be careful. But I think it's fine, it does help them to understand the proposal to refer to the New York State Financial Emergency Act by name, that's a good change. As I said, I don't think we have pride of ownership in this exact version, that's why we're here today.

COMM. McCORMICK: Because we had a financial emergency since the '70s, however, is there any way to stick the year in?

MS. GLUCK: That have applied since that year?

COMM. McCORMICK: '78?

COMM. FORSYTHE: This version was '75.

MS. MATTHEWS: The problem today is that the FEA as we know it took several attempts, it didn't happen on one date, and so I think the reference to the mid-'70s was an attempt because it started in '75 and
they kept fixing it, and so what we see took maybe two
or three years.

MS. GLUCK: Could I make a suggestion? What
if we said something like, "currently applied to the
City through a State law called the New York State
Financial Emergency Act for the City of New York which
was enacted in response to the fiscal crisis of the
1970's." Would that get --

CHAIRPERSON FUCHS: The 1975 fiscal crisis.

MR. FISHER: It was enacted in response to
that.

MS. MATTHEWS: We can say that.

CHAIRPERSON FUCHS: Good. Very good. Very
helpful.

Are there any other comments on the other --
well, if you have anything, try and get it to us as soon
as you can.

Let me just, I know we're getting ready to
wrap up this evening and I want to thank everybody for
their patience. I just want to note one congratulatory
note before we wrap up for this evening. Our staff
member, Brian Geller, has been admitted to the Bar of
the City of New York today.
CHAIRPERSON FUCHS: He worked very, very hard on the Commission, and he managed to pull that off.

Tomorrow evening we expect to finalize what we started last August and we expect to have votes. I want to explain very briefly how we're going to proceed. There will be two votes to approve the two proposals that we've put before you, and then one is for -- there will also be a vote to approve the final report. Right now the final report is entitled: Balanced Budgets and Administrative Ethics: Lessons Learned. If anybody has any experience in public relations and a better way of expressing the complexity of the issues we worked on in the past twelve months, be our guest and send those proposals in to us for a retitling this Commission's report. It's hard to come up with something.

COMM. RAAB: Commission reports always have titles?

CHAIRPERSON FUCHS: They always have titles. Some are more pithy than others.

COMM. RAAB: Do they all have a colon?

CHAIRPERSON FUCHS: The colon comes from my
flawed academic background.

We need now, having been a very quiet Charter Revision Commission, working very hard without the attention of too many people, now we need to get our message out if we are going on the ballot and people really need to know what we've accomplished and I think it's important that we do everything we can to make sure the public understands the value of the work.

So we've sort of had a gift that we've gotten to do serious work without a lot of the political circus that often is part of this kind of work, but now we actually have to work hard to get the message out.

COMM. MCCORMICK: "Balanced Budgets and Administrative Ethics: Advancing the Future?"

Something that will go to the future rather than lessons learned.

COMM. RAAB: I think that's a great idea.

MS. MATTHEWS: I'm sorry, we were having a discussion here.


COMM. CROWELL: How can you advance the future?
CHAIRPERSON FUCHS: Advancing something.

COMM. CROWELL: Advancing good government.

COMM. RAAB: Putting a more positive spin is a better idea.

COMM. CROWELL: Advancing good government, advancing accountability?

MS. MATTHEWS: Could I throw out the earlier version? How about, "Accountability That Counts?"

COMM. FORSYTHE: Between that and "Final Report," it's a tough one.

COMM. RAAB: I'll stick with "Final Report."

COMM. McCORMICK: "Accountability That Counts: Balanced Budget and Administrative Ethics."

MS. MATTHEWS: Okay, I was just going for the pithy.

CHAIRPERSON FUCHS: We can't really advance the future we have to advance something.

COMM. CROWELL: How about "Advancing Accountability"?

COMM. PALMER: That's good.

COMM. CROWELL: Blend Mary and Terri,
"The City in Transition" was in 2001.

MS. MATTHEWS: We have another one --

MS. GLUCK: "Guaranteeing Good Government,"

if everyone likes all the alliteration.

COMM. CROWELL: Guaranteeing good
government?

COMM. PALMER: Advancing accountability.

MS. MATTHEWS: Advancing accountability.

CHAIRPERSON FUCHS: "Balanced Budget,
Administrative Ethics: Advancing Accountability." What
kind of accountability?

COMM. McCORMICK: Fiscal accountability?

COMM. FORSYTHE: Do you like it with
"advancing accountability" first?

CHAIRPERSON FUCHS: I'll go either way.

COMM. McCORMICK: I like it first.

COMM. PALMER: First. "Advancing
Accountability: Balanced Budgets and Administrative
Ethics."

CHAIRPERSON FUCHS: Okay, I think we've done
the hard work. Then it says "Final Report."

MS. MATTHEWS: It's "Advancing
Accountability"?

CHAIRPERSON FUCHS: We actually are hoping
-- we did meet with former Chairs of Charter Commissions and did get a very interesting suggestion from one of them, who may not want me to reveal his name, but he said that we should provide all of you with bound copies of the Commission's report and work.

COMM. CROWELL: I wonder who that was. Did you ask FM -- did you ask him if he did that to his Commission?

CHAIRPERSON FUCHS: He did. We don't know who it is. He said he did. In any event what we will be doing tomorrow evening is voting on four separate votes. I just want to get this down so everybody understands. Excuse me. Okay.

So finally, just so everybody understands, we've got four separate votes tomorrow and for each of those votes we will be taking a roll call so nobody gets surprised why am I calling the roll. We've done everything by consensus here and in fact it's worked extremely well and we've had a hundred percent consensus on all our work. It's required for the final tally for us to do a roll call so tomorrow I will be doing a roll call on these votes and every Commissioner will be asked to sign the resolution as well.

So if there are no further issues, I'd like to ask somebody to propose that we adjourn the meeting.
COMM. FORSYTHE: So moved.

COMM. RAAB: Second.

CHAIRPERSON FUCHS: All in favor?

(Chorus of "Ayes.")

CHAIRPERSON FUCHS: The meeting is adjourned and thank you all for coming.

(Time noted: 8:01 p.m.)
CERTIFICATION.

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

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

LINDA FISHER,
Shorthand Reporter