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Transcript of the Meeting of the  
CHARTER REVISION COMMISSION  
Held on Monday, September 15, 2003  
St. Francis College,  
180 Remsen Street  
Borough of Brooklyn

AR-TI REPORTING COMPANY, INC.	
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1 Meeting convened at 6:10 p.m.

2 P R E S E N T

3 FRANK MACCHIAROLA, Chairman

4 COMMISSIONERS:

5 PATRICIA GATLING

6 MOHAMMED KHALID

7 STEVEN NEWMAN

8 WILLIAM LYNCH, JR.

9 FRED SIEGEL

10 Also Present:

11 DR. ALAN GARTNER, Director

12 ANTHONY CROWELL, General Counsel

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1                   CHAIRMAN MACCHIAROLA: Okay, ladies and  
2 gentlemen, we have a quorum, so we call this meeting to  
3 order. There really are three items that are on the  
4 agenda. The first is to get a report on Tuesday's  
5 election and find out what happened in the City and what  
6 might have happened if we had had Charter reform. I  
7 think that's relevant.

8                   VOICE: Could you speak into the mike?

9                   CHAIRMAN MACCHIAROLA: Second item is to  
10 report on the program for education that the Commission  
11 will undertake and the third is to consider unfinished  
12 business on recommendations that have been proposed to  
13 us, and any other business with regard to endorsing or  
14 urging the Legislature or other relevant bodies, I guess  
15 it's the Legislature and the Board of Election to  
16 consider conduct with regard to same day registration,  
17 extended polls hours, non-citizen voting and convicted  
18 felon voting.

19                   And the way I've done that, what I've  
20 suggested is that we first consider if there is a  
21 sufficient number of Commissioners who want to support,  
22 we would consider the endorsement of each of these  
23 proposals one by one and in the alternative the holding  
24 of hearings or support of research or whatever else to  
25 encourage people to consider these resolutions, or doing

1 nothing, a choice I think is up to the Commission  
2 members as to what they feel like doing.

3 First let's get your report, Alan, on  
4 Tuesday's election.

5 DR. GARTNER: There are many ways, obviously  
6 to look at Tuesday's election, Council election and we  
7 are continuing to do some work on looking at that, so I  
8 will give you a partial report tonight and there will be  
9 some subsequent things that the staff is doing.

10 Let me turn just first to the next to the  
11 last column from the right. As you all know, of course,  
12 the U.S. Constitution has been interpreted to require  
13 one person one vote and that means in terms of the size  
14 of districts an equal number of people, but as you will  
15 see in that column, the number of registered voters  
16 varies from 40,000 to over 100,000. Each of those  
17 districts are equal sized districts. The average  
18 District in New York City, of the 51 is 150,000 people,  
19 but what that column reflects are various differences;  
20 differences in age, if there are more younger people,  
21 they're less likely to be registered to vote;  
22 differences in citizenship, obviously and differences in  
23 the registration pattern. So you have this really quite  
24 extraordinary variation, even in the context of one  
25 person-one vote.

1                   CHAIRMAN MACCHIAROLA: They're also not  
2 identical in size?

3                   DR. GARTNER: The average is 157 and you can  
4 go plus or minus 5 persons around the mean. Unlike the  
5 Congressional districts which are precisely equal by one  
6 body to one person, the City Council districts vary  
7 around the mean. Let me just walk across one column and  
8 tell you what's there. I don't mean to interpret it,  
9 simply to describe it for you. Column 1 in District 1  
10 the winner of that Democratic primary, you see 5909  
11 votes. There were a total of active Democrats  
12 registered in the District of 46,000, 5900 is 12 percent  
13 of the 46,000 and in terms of the total registration of  
14 that District, the 5900 was 8 percent and change of the  
15 71,000.

16                   We go down each of the districts and as  
17 you'll see in a goodly number of the districts, there  
18 was no primary election, so there's nothing to report.  
19 I think the overall numbers are fairly clear, in the  
20 number of registered Democrats in no instance is it more  
21 than 10 percent voted and in terms of total registration  
22 it's all in single digits.

23                   I'll be glad to answer any questions about  
24 this.

25                   COMM. NEWMAN: One District had a Republican

1 primary.

2 DR. GARTNER: Correct.

3 COMM. NEWMAN: Do you have any sense of what  
4 that was?

5 DR. GARTNER: The numbers were of the same  
6 order.

7 COMM. NEWMAN: How do these numbers compare  
8 to special elections, Council special elections?

9 DR. GARTNER: We've not compared them to  
10 Council special elections. What we have compared them  
11 to is the last time in 1991 when we only had City  
12 Council elections, the average turnout then, -- help me  
13 Frank -- make sure I get the numbers right, was 20  
14 percent, this is about 12 percent. So it was barely  
15 half of what it was a decade ago. Obviously there are  
16 lots of changes in a decade.

17 COMM. SIEGEL: You said the average turnout  
18 was 12 percent?

19 DR. GARTNER: Of the total vote. The 5909  
20 is just what the winner got.

21 COMM. SIEGEL: What I'm puzzled about,  
22 looking at the percentage of registered Democrats, the  
23 Times reported 12 percent.

24 DR. GARTNER: Mr. Gersen got 5909 votes in  
25 District 1. There were two other candidates who also

1 ran in that election, so it's 12 percent of the total  
2 registration, but 8 percent of the person who won, won 8  
3 percent.

4 COMM. SIEGEL: But if Gersen won in that  
5 District with 12.73 the highest total, how do you get 12  
6 percent average for the City? How did the Times get a  
7 12 percent average for the City?

8 DR. GARTNER: Gersen won 5909 votes,  
9 Mr. Gersen won 1411 votes in that District, so the total  
10 votes in that District were 7300 --

11 COMM. SIEGEL: Oh, I see. Total votes.  
12 Fair enough, okay.

13 DR. GARTNER: What we're going to be looking  
14 towards in the further analysis is comparing the scheme,  
15 the design that the Commission has adopted of the top  
16 two vote getters with the current arrangement. Other  
17 questions?

18 CHAIRMAN MACCHIAROLA: Item 2, Alan?

19 DR. GARTNER: Following up on the  
20 conversation at the last meeting, we have begun a  
21 process of education that the Commission is to carry out  
22 in this period between now and election day. What we've  
23 done are two, basically three, things. One, we've  
24 informed various organizations, most particularly  
25 including the Community Boards, of the availability of

1 Commission staff members and Commissioners to describe  
2 to them what it is that will be on the ballot. We've  
3 reached out to various other organizations and we've  
4 begun to prepare material. We've had responses from  
5 some of the Community Boards requesting speakers, either  
6 only from the Commission or saying that they're going to  
7 have a panel and would we participate. We've said yes  
8 to both of those options. A number of good government  
9 votes are proposing panels, we've agreed to do that.  
10 Civic groups, political groups, education groups. In  
11 effect we've said yes to everybody who has requested,  
12 and we would provide educational material to them  
13 describing what it is that the Commission has adopted  
14 and what will be placed on the ballot in November.

15 CHAIRMAN MACCHIAROLA: Are we getting  
16 interest on all of the three ballot questions that we've  
17 had?

18 DR. GARTNER: No. As one would expect,  
19 non-partisan elections is the top issue. Sometimes,  
20 actually, I read one of the requests came in the mail  
21 today. The group, which I won't single out, kind of  
22 apologized by saying that they would be willing to hear  
23 about all three topics, but of course their members  
24 would be more interested in non-partisan elections. We  
25 are prepared, staff members and others would be involved

1 to talk about all three of them.

2 CHAIRMAN MACCHIAROLA: Any questions? Any  
3 observations? Thank you, Alan.

4 COMM. NEWMAN: Actually, two things. One, a  
5 comment. The group that had just reached out to me  
6 directly when I spoke to them after talking to you, I  
7 suggested to them, and they agreed, that they create the  
8 format to deal with the other two issues first, with the  
9 expectation that all the questions would be about  
10 non-partisan elections.

11 DR. GARTNER: Good suggestion.

12 COMM. NEWMAN: So at least let everybody  
13 hear the other two.

14 DR. GARTNER: It fits our forum notion that  
15 they ought to reserve.

16 I also want to note Commissioner Newman,  
17 we've also reached out and some Commissioners, happily  
18 and to my appreciation reached out to some of the weekly  
19 newspapers and we will be preparing material for a  
20 number of them; both the neighborhood or borough wide  
21 weekly newspapers, as well as some of the ethnic and  
22 minority press. Steve, you said you had two questions.

23 COMM. NEWMAN: The other thing is how far  
24 can we go in educating? Are we allowed to do material  
25 on the Charter stuff that we can mail, distribute,

1       whatever?

2                   DR. GARTNER:  I mean, how far?  My flip  
3       answer is in the five boroughs.  Can we do speaking?  
4       Yes.  Can we do material?  Yes.  Can we do mailing?  
5       Yes.  It's a matter of what the resources are, and we  
6       try to figure out what those resources look like.  I  
7       think the stricture is about the content, not about the  
8       form.

9                   MR. CROWELL:  All means are fine.  It's just  
10      the content which, as long as it's objectively  
11      presented, there's no problem with that.

12                  COMMISSIONER KHALID:  Can we also be using  
13      flyers telling the public that if people are in a  
14      certain crowded area, traveling by ferry, going to the  
15      City --

16                  DR. GARTNER:  My sense is if it would be a  
17      tome which Professor Gartner would prefer or a flyer  
18      which more reasonable people would suggest, I don't  
19      think it makes a difference.  Again, as Anthony has  
20      said, it's what the content has been.

21                  COMMISSIONER KHALID:  Because some of the  
22      people are still questioning me, some of the people are  
23      still not, you ask them what is non-partisan election,  
24      they still want to know more.

25                  DR. GARTNER:  Absolutely.

1                   COMMISSIONER KHALID: So it's a little more  
2 detail.

3                   DR. GARTNER: Absolutely.

4                   CHAIRMAN MACCHIAROLA: Okay, anyone else?

5                   Okay, the last item on the agenda, what I  
6 did was to prepare a draft. Alan, do you want to  
7 circulate it? I'll read it while he's doing it. It  
8 says, "Whereas the Charter Revision Commission has  
9 adopted the following core principles: Increasing  
10 access for voters and prospective candidates, enhancing  
11 and promoting participation in the electoral process  
12 among racial and political groups whose participation  
13 heretofore has been limited or precluded, and forging  
14 greater governmental accountability, and whereas the  
15 Charter Commission in furthering these principles has in  
16 exercise of its lawful authority adopted a set of  
17 proposals for a new system of City elections and whereas  
18 in recognition that policies and practices under the  
19 jurisdiction of other authorities have effect upon the  
20 achievement of these principles, now, be it resolved  
21 that the Executive Director be instructed to communicate  
22 to those authorities, including the State Legislature  
23 and the State Board of Elections, and then it's 1A, the  
24 endorsement of same day registration, or, 1B, the  
25 holding of hearings, the conduct of research and

1 consideration of those steps necessary to consider same  
2 day registration.

3 The same two opportunities: A, the  
4 endorsement of expanded polls hours, or B, the holding  
5 of hearings, the conduct of research and consideration  
6 of those steps necessary to consider expanded poll hours  
7 and days.

8 And then 3, the endorsement of voting in  
9 municipal elections by legal immigrants or 3B the  
10 holding of hearings the conduct of research and  
11 consideration of those steps necessary to consider  
12 voting in municipal elections by legal immigrants.

13 And then 4A, the endorsement of voting in  
14 municipal elections by those convicted felons who have  
15 completed their sentence or, 4B, the holding of  
16 hearings, the conduct of research and the consideration  
17 of those steps necessary to consider opportunities to  
18 vote in municipal elections, et cetera.

19 And then 5A, the endorsement of reform of  
20 the City Board of Elections efficiently and productively  
21 to conduct municipal elections in a non-partisan manner  
22 or, B, 5B, the holding of hearings, the conduct of  
23 research and consideration of those steps.

24 And my suggestion is we vote on each of  
25 these, discussion and vote on each of these, vote them

1 up or down and then depending on where we are, we will  
2 have a set of recommendations that the Executive  
3 Director can frame and produce as appropriate. In some  
4 cases to the State Legislature, in other cases to the  
5 State Board of Elections. Obviously, this may not be  
6 the right language, so I'll stand by modification, too,  
7 but this is at least to get the ball rolling.

8 So item 1A. Are there any questions? So  
9 let's get to the question of whether we want to endorse  
10 same day registration. I think we've got six  
11 Commissioners here, so we need four affirmative votes if  
12 that's what we're going to do. Discussion?

13 COMM. NEWMAN: I guess I'm instinctively for  
14 it. On the other hand --

15 DR. GARTNER: You're instinctively --

16 COMM. NEWMAN: For it. I believe in it. I  
17 believe in it just based on personal belief, having  
18 absolutely no information, evidence, whatsoever about  
19 how this has operated around the country. We have been  
20 criticized as a Commission over and over again for  
21 rushing to judgment and not giving issues adequate time  
22 in areas where they have been studied forever, and  
23 therefore, though I'm for it, I personally don't think  
24 we should do it until, or propose it until we actually  
25 see information and that there's some research and

1 study. So I'd be for 1B rather than 1A, though I  
2 suspect that ultimately for 1A.

3 CHAIRMAN MACCHIAROLA: Well, we're taking  
4 1A. 1A we need four affirmatives on 1A. Do we have  
5 anybody else that wants to speak on behalf of 1A?

6 Okay, let's move to 1B. Rather than  
7 endorse, to hold hearings and conduct research in  
8 consideration of those steps necessary to consider same  
9 day registration. Again, we need four affirmative  
10 votes.

11 DR. GARTNER: Excuse me, Dr. Macchiarola, I  
12 may have not artfully crafted the whereas clause. It is  
13 to recommend, the B options is for the State  
14 Legislature, the State Board of Elections to hold the  
15 hearings and do the research. Not --

16 CHAIRMAN MACCHIAROLA: Yes.

17 DR. GARTNER: I wanted to be sure that was  
18 clear.

19 CHAIRMAN MACCHIAROLA: A, 1, 2, 3 and 4 are  
20 for the Legislature and Board of Elections is 5.

21 DR. GARTNER: Correct.

22 COMM. GATLING: 1B.

23 CHAIRMAN MACCHIAROLA: 1B. We're now on 1B.  
24 And I think here, what I would hope is that it would  
25 reflect -- in other words, instead of urging them to

1       conduct hearings, I think there has to be the belief  
2       that it is a good thing to do. I think, we don't want  
3       to pass the buck, but we do want to give them a sense  
4       that we support this. Now, I've also left out the City  
5       Council and Home Rule message and other things, because  
6       I think whatever we have to do to implement whatever we  
7       decide we want to propose would be inherent in this  
8       recommendation.

9                   Okay? Do you want to urge this to be done?

10                  COMM. NEWMAN: Just a technical legal  
11       question, more for Anthony. Can the State Legislature  
12       do this just for New York City, or would they have to do  
13       this statewide because of the Election Law?

14                  MR. CROWELL: Well, I don't like to answer  
15       questions of what the State Legislature can or can't do.  
16       I would imagine they would probably do it statewide if  
17       they're going to do this. That would be the choice I  
18       believe they would do.

19                  COMM. NEWMAN: In which case we wouldn't  
20       need a Home Rule message.

21                  CHAIRMAN MACCHIAROLA: I would think if they  
22       were going to do it, they sure as heck wouldn't want New  
23       York City to have the only place where you can go in and  
24       vote, especially on a state and federal level, right?

25                  MR. CROWELL: The thing is, certainly if you

1 have a mixed state-local election, which generally our  
2 local elections are off cycle, it would raise  
3 complications, so I imagine it would be a law of general  
4 applicability of how they would handle it.

5 CHAIRMAN MACCHIAROLA: But we're only  
6 interested in our own, so if they want to do it -- yes,  
7 Bill.

8 COMM. LYNCH: School Board elections, didn't  
9 they just do it for the City and the rest of the State  
10 didn't have to adhere?

11 DR. GARTNER: Two things there. It was done  
12 in the Education Law, not in the Election Law and the  
13 Education Law is chock full of provisions for school  
14 districts with a million or more students, which never  
15 describes what those school districts are, but there's  
16 only one in New York State. I mean, there are thirty or  
17 forty different clauses in the Education Law that apply  
18 to school districts of a million or more.

19 COMM. LYNCH: But if there was a Home Rule  
20 message that talked about cities larger than a million,  
21 there would be only one city that fit that description.

22 DR. GARTNER: Sure, but I think the  
23 political point that the chairman and Steve were making,  
24 at least resonates with me, it really picks up on Phil  
25 Thompson's point to the extent we increase the potential

1 of registration in New York City, that shifts the  
2 balance between New York and upstate.

3 COMM. NEWMAN: Also you have a District  
4 Attorney election at the same time as the Council races,  
5 such as you have in Staten Island right now. You would  
6 have people registered to vote in, who could same day  
7 register to vote in the Council race but because the  
8 other is a State election, they may not be able to same  
9 day register to vote. So you might have people who  
10 could only vote in the council race but couldn't vote in  
11 the DA's race, because it's a State election.

12 DR. GARTNER: This would be true, when  
13 there's State and local elections.

14 CHAIRMAN MACCHIAROLA: My sense is that we  
15 don't have to shape their legislation for them.

16 COMM. NEWMAN: No. I was just trying to deal  
17 with the Home Rule message.

18 CHAIRMAN MACCHIAROLA: We just want to  
19 suggest that we think this is a good thing for obviously  
20 what we considered citywide elections. If they want to  
21 extend it beyond, that's fine. If they choose not to,  
22 they'll say so. Okay. Yes?

23 COMM. SIEGEL: Could we rephrase B so it  
24 says something like, in virtue of the potential same day  
25 registration call for enhancing voter participation, we

1 suggest the holding of -- is that just --

2 CHAIRMAN MACCHIAROLA: Once we know what the  
3 five items are and how we're going to do them, we'll  
4 craft it. But the whereas clause is included in here.  
5 Our reasons for doing this are not because we came up  
6 with five good ideas or four good ideas or three good  
7 ideas or no good ideas. Our reason for doing this is  
8 because we've studied access, we've studied the issue of  
9 voting and we believe that the people's right to vote  
10 should be extended beyond the limited scope of what we  
11 have today.

12 COMM. SIEGEL: I would support 1B as well.

13 MR. CROWELL: I think what we need to do is  
14 have decisive action on what language you want and then  
15 read the resolution you want to adopt when you have  
16 everything decided into the record and that will enable  
17 the Executive Director to send whatever message. So the  
18 transcript of the meeting will then contain the entire  
19 resolution as we craft it now. So we should decide on  
20 that.

21 CHAIRMAN MACCHIAROLA: I hope so. What  
22 we're going to do is authorize, we're going to authorize  
23 the Executive Director to act on the spirit of what we  
24 have said. Nothing we pass is by law, so I'm not  
25 worried about getting every word in tonight, so I want

1 it clear to understand that we're not going to get every  
2 word in. But we'll do it in the spirit of what we pass.  
3 Please, don't do that.

4 Okay.

5 Item B, the holding of hearings, the conduct  
6 of research and the consideration of those steps  
7 necessary to confer same day registration. We need four  
8 affirmative votes. Do we have four affirmative votes on  
9 that?

10 (Show of hands.)

11 CHAIRMAN MACCHIAROLA: We have five.

12 The endorsement of expanded poll hours. And  
13 days. And/or days. This is not the -- again, falls  
14 into two items. Do we want to endorse it or do we want  
15 to ask the Legislature to consider hearings, et cetera,  
16 et cetera.

17 COMM. SIEGEL: I think Steve's reasoned  
18 objections to 1A doesn't apply to 2A. I think it's a  
19 more straightforward proposition.

20 CHAIRMAN MACCHIAROLA: So you're ready to  
21 vote for --

22 COMM. SIEGEL: 2A, yes.

23 CHAIRMAN MACCHIAROLA: Is anyone else ready  
24 to vote for 2A? No one?

25 COMM. LYNCH: I'm ready to vote.

1                   CHAIRMAN MACCHIAROLA: 2A, that's two votes.  
2 Do we have anyone else that wants to vote?

3                   COMM. NEWMAN: I can vote for 2A straight  
4 away, though it would be nice to know what others have  
5 done.

6                   CHAIRMAN MACCHIAROLA: Anyone else? Put me  
7 down. Four. Okay.

8                   The endorsement of voting in municipal  
9 elections by legal immigrants. Do we have anybody that  
10 wants to support that?

11                  COMM. LYNCH: I want to support it.

12                  CHAIRMAN MACCHIAROLA: One. Anyone else?  
13 Any discussion?

14                  The holding of hearings, the conduct of  
15 research and consideration of those steps necessary to  
16 consider voting in municipal elections by legal  
17 immigrants.

18                  COMM. GATLING: I'll support that.

19                  COMMISSIONER KHALID: I'll support that.

20                  CHAIRMAN MACCHIAROLA: Two.

21                  COMM. NEWMAN: I got a comment. The  
22 opposition to this, and I used to help run a refugee  
23 resettlement agency, so I think it's an issue of which  
24 I'm reasonably aware.

25                  I used to be an executive of a refugee

1       resettlement agency and we spent a lot of time and  
2       effort to encourage people to become citizens and do  
3       training on citizenship and run citizenship courses and  
4       the proudest thing we would do would be our clients  
5       coming back later to be sworn in as citizens, having  
6       taken the test. And the opposition to this comes from a  
7       fair number of people who would articulate that the act  
8       of allowing people who are not citizens to have all the  
9       rights of citizenship is a negative towards becoming a  
10      citizen.

11                        So I guess from my standpoint, I don't have  
12      any trouble with a permanent resident being allowed to  
13      vote, but I think it should be sunset, and I don't know  
14      how the Board of Elections would cope with this, it's a  
15      practical issue, but it should be sunset at the point in  
16      time where they've been here long enough that they could  
17      become a citizen, and so that there would be no negative  
18      incentive, in essence, that if you are a permanent  
19      resident, that having the right to vote would be  
20      constructive, but it should basically end at the time  
21      when you could have become a citizen.

22                        CHAIRMAN MACCHIAROLA: I have a problem with  
23      confusing the issue. We have already been accused of  
24      having endorsed this proposal in the press. I just  
25      think that it's better if we don't -- if we just pass by

1       this issue. It seems to me that it's caused a lot of  
2       unsettlement. So I think it's, from my own standpoint  
3       we would be better off to pass it by. But if we have  
4       four votes, we can move it. If we have four votes in  
5       favor of the holding of hearings, the conduct of  
6       research and consideration of those steps to consider  
7       voting in municipal elections by legal immigrants, we  
8       can put it forward.

9                   COMM. LYNCH: Mr. Chairman, I'm confused by  
10       your earlier statement. The press has accused us of  
11       what?

12                   CHAIRMAN MACCHIAROLA: Excuse me?

13                   COMM. LYNCH: I'm confused --

14                   CHAIRMAN MACCHIAROLA: I think when this  
15       item appeared it had the sense that we were intending to  
16       do something that we weren't intending to do. It seems  
17       to me we heard from a lot of people who were opposed to  
18       it, I certainly heard from a lot of people who were  
19       opposed, and since it's not within the scope of our  
20       work, from my standpoint, I would prefer the Commission  
21       not be involved in putting a resolution like this  
22       forward for exploration. But that's my judgment, we're  
23       all entitled to whatever judgments.

24                   So if we have four votes, we will move it.  
25       Do we have four votes?

1                   COMM. LYNCH: Are we voting up or down?

2                   COMMISSIONER KHALID: I want to clear myself  
3 on this, that this is a State matter.

4                   Is this Commission -- I think is, the  
5 Executive Director can recommend for the research and  
6 everything else, but I don't think it should be wise for  
7 the Commission to say that this should be done this way.  
8 So I would go to the number 2 and support what you said,  
9 that it is an issue which has to be resolved by the  
10 State.

11                   CHAIRMAN MACCHIAROLA: Okay. So we don't  
12 have four votes.

13                   Item 4. Endorsement of voting in municipal  
14 elections by those convicted felons who have completed  
15 their sentence? It's an automatic right to vote. Do we  
16 have four affirmative for that? Okay.

17                   4B, the holding of hearings, conduct of  
18 research and consideration of those steps necessary to  
19 consider opportunities to vote in municipal elections by  
20 those convicted felons who have completed their  
21 sentence? One?

22                   COMM. LYNCH: Mr. Chairman, could I go back?  
23 Did you call for a vote on felons?

24                   CHAIRMAN MACCHIAROLA: We're doing that now.  
25 The endorsement of consideration of voting in municipal

1 elections by those convicted felons and I asked if we  
2 had any affirmative votes on that. We have one vote,  
3 yours.

4 COMM. LYNCH: We have one.

5 CHAIRMAN MACCHIAROLA: The holding of  
6 hearings, conduct of research and consideration of those  
7 steps necessary to consider opportunities to vote in  
8 municipal elections by those convicted felons who have  
9 completed their sentence. Pat, you wanted to --

10 COMM. GATLING: I said I'd support that.

11 CHAIRMAN MACCHIAROLA: Do you want to say  
12 something like that?

13 COMM. GATLING: I know right now for a  
14 person who has been convicted of a felony, they have to  
15 get a release of disability. Right now they have to get  
16 a release from civil disabilities. But I think we do  
17 need to conduct more hearings on this, I think not only  
18 the State should conduct more hearings on this, the  
19 State Board of Elections, but probably the human rights  
20 agencies in the State and the City should be involved,  
21 because our law does protect people with conviction  
22 records in terms of employment and this might be  
23 something that kind of would fit, so I would support 4B,  
24 the holding of hearings.

25 CHAIRMAN MACCHIAROLA: Is your issue broader

1 than voting?

2                   COMM. GATLING: No, my issue in fact to the  
3 Commission is not voting.

4                   CHAIRMAN MACCHIAROLA: No, broader than the  
5 concept of voting?

6                   COMM. GATLING: Absolutely. My issue is  
7 employment. It's much broader than voting, and I think  
8 voting and the right to work, they're all sort of tied  
9 in with each other and I think it's important. It's  
10 important rights that people lose forever.

11                   CHAIRMAN MACCHIAROLA: The reason I asked  
12 you the question, because as I was listening to you, my  
13 thought was that this, that we could probably break this  
14 out as a separate right?

15                   COMM. GATLING: Mm-hmm.

16                   CHAIRMAN MACCHIAROLA: And while we're  
17 talking about voting rights, to broaden the argument or  
18 broaden the discourse in the letter that we would send,  
19 communication, to go beyond the question of just  
20 simply--

21                   DR. GARTNER: I know that Commissioner  
22 Gatling, the Commission has done work on employment and  
23 the broad topic that I call the reintegration of former  
24 felons into society. If that's the direction that the  
25 Commissioners want to go, that would be the way I would

1 draft the letter, to talk about the broader issue of  
2 reintegration into society, including the opportunity to  
3 vote.

4                   COMM. GATLING: And you could also talk in  
5 terms of the Voting Rights Act, people not being able to  
6 participate, how that impacts on the African American  
7 and Latino communities, so I do think it's a broader  
8 issue.

9                   CHAIRMAN MACCHIAROLA: Okay. Why don't we  
10 treat it that way, Alan. In other words, these first  
11 two are really straightforward, get out the vote applied  
12 to everybody. This last subject really applies to  
13 people who are, have served their time and are still in  
14 need of some rehabilitation.

15                   COMM. GATLING: They still have a sentence.  
16 A life sentence.

17                   CHAIRMAN MACCHIAROLA: I think we ought to,  
18 at least that's the direction I'm going in. Is that the  
19 Commission members?

20                   MR. CROWELL: That would be B?

21                   CHAIRMAN MACCHIAROLA: It would be more than  
22 B. Because the limitation here is just voting in  
23 municipal elections. What Pat is saying is broader than  
24 that, and I'd like us to say it's broader than that,  
25 because it has an impact on more than just the

1 opportunity to vote; on your opportunity to be a  
2 citizen, your opportunity to fulfill your citizenship  
3 responsibilities. So --

4 COMM. NEWMAN: Question?

5 CHAIRMAN MACCHIAROLA: Yes.

6 COMM. NEWMAN: I realize we're doing this to  
7 have research done, but I was just wondering, are there  
8 other states and cities that do this?

9 COMM. GATLING: Absolutely. But I mean  
10 there are states like Florida that ban it forever, so  
11 even if you served your time, you come out, you're  
12 working, you can never, ever vote.

13 COMM. NEWMAN: Are there states and cities  
14 that allow people to vote?

15 COMM. GATLING: Yes, there are.

16 COMM. SIEGEL: This is in play nationally.  
17 Pennsylvania had a court decision allowing felons to  
18 vote. It's a very complicated decision, it hasn't  
19 played out yet.

20 COMM. GATLING: We're not talking about  
21 people incarcerated. And especially in a city like New  
22 York, where we've got 500,000 people coming back.

23 COMM. NEWMAN: People on probation or  
24 parole?

25 COMM. GATLING: Or who may not be.

1                   CHAIRMAN MACCHIAROLA: You can be out ten  
2 years.

3                   COMM. NEWMAN: No, I understand, but in the  
4 resolution we're discussing, do people on probation and  
5 parole have the right to vote?

6                   DR. GARTNER: In general in the  
7 jurisdictions that permit it, they do not, you have to  
8 serve your complete sentence, which means the  
9 incarceration, probation and/or parole.

10                  COMM. NEWMAN: Could we make that a part of  
11 this?

12                  CHAIRMAN MACCHIAROLA: Pardon me?

13                  COMM. NEWMAN: Could we make that a part of  
14 the resolution?

15                  CHAIRMAN MACCHIAROLA: That's what I'm  
16 saying. We're going to submit a set of beliefs that the  
17 Commission has, I think we'll articulate this.

18                  MR. SIEGEL: There's a problem with this.  
19 In Pennsylvania, as I understand what's happening, and  
20 I'm only getting this by word of mouth, the question is  
21 raised, let's suppose someone commits a felony, he  
22 serves his time and is back out. They have a right to  
23 vote. Suppose now they commit another felony, does this  
24 apply seriatim.

25                  COMM. NEWMAN: Meaning a three strikes law?

1                   COMM. SIEGEL:  Suppose they come out and  
2                   commit another crime.  Now, do you get it back a second  
3                   time?

4                   COMM. GATLING:  You pull it back again.

5                   COMM. SIEGEL:  There's a political history  
6                   here that's not very appealing.  In the City of  
7                   Washington former Mayor Marion Barry attempted to  
8                   organize the felon's vote.  Nothing to laugh at,  
9                   literally.  This is being played out.  I sort of  
10                  disagree with what Frank said.  I think this is  
11                  something being played out around country and ought to  
12                  be watched to see what people do.  It's very  
13                  complicated, it's not nearly as straightforward as it  
14                  appears and let it play out and then I don't see why we  
15                  should, we who haven't studied it at all would want to  
16                  enter into this.  There's a reason the Founding Fathers  
17                  were so opposed to felony voting.  I don't think it  
18                  should be taken entirely lightly.

19                  COMM. LYNCH:  Why were they?

20                  COMM. GATLING:  I still think, I strongly  
21                  believe, though, why can't we be ahead of things?  Why  
22                  do we have to wait to see what other places are doing  
23                  who may not have the numbers of people we've  
24                  incarcerated in this City, having done so myself for  
25                  umpteen years.  You could have 100,000 arrests in

1 Brooklyn every year, half of which are felons. So I  
2 think that given our numbers, it's incumbent on us to  
3 research, to find out what's going on around other  
4 places and I think the State Board of Elections, State  
5 Legislature, this is something they need to really take  
6 a look at, stop just giving mouth service to all kinds  
7 of actions.

8 CHAIRMAN MACCHIAROLA: You don't have a plan  
9 in mind?

10 COMM. GATLING: Not necessarily, but I could  
11 come up with one. I could come up with one. I'm  
12 creative.

13 CHAIRMAN MACCHIAROLA: What you're really  
14 saying is there's an issue here that has to be  
15 addressed.

16 COMM. GATLING: Right.

17 CHAIRMAN MACCHIAROLA: We've seen it in the  
18 context of our own Commission's deliberations, but it's  
19 really something that should be looked at.

20 COMM. GATLING: That's what I'm saying. I  
21 would hope that there are at least two other or three  
22 other fellow Commissioners who would support me.

23 COMMISSIONER KHALID: Absolutely. I would  
24 go along with that.

25 CHAIRMAN MACCHIAROLA: So we have two?

1 Bill, three.

2 COMM. NEWMAN: Is there some in between  
3 compromise between Fred's position and Pat's position,  
4 which is that this be somehow looked at over the next  
5 couple of years to see how it does play out?

6 CHAIRMAN MACCHIAROLA: Pat doesn't have --  
7 she'll come up with one if we ask her. Notice I didn't  
8 ask her. So I think what we can present is a sense that  
9 it's an area worth looking into, lest we be, you know  
10 what, Fred, the alternative is the Court decision will  
11 come in and give us the kind of Draconian response they  
12 always do.

13 COMM. SIEGEL: That's a fair response if  
14 this was moving along. Philadelphia, in particular  
15 Philadelphia has a very high crime rate, much higher  
16 than New York.

17 COMM. GATLING: I'm familiar with that.

18 COMM. SIEGEL: It's comparable to this. I  
19 don't see the courts moving quickly on this. This so  
20 far has been a legislative initiative, not just in  
21 Pennsylvania, but a few other places as well. As far as  
22 I know, I could be wrong, it has not begun to move  
23 through the courts.

24 COMM. GATLING: Excuse me, Fred, there is a  
25 case brought by the Aid Fund in the Federal District

1 Court. I don't know how broadly, but there is a suit  
2 that the Aid Fund has brought.

3 COMM. SIEGEL: Your point holds.

4 CHAIRMAN MACCHIAROLA: Look, we've done the  
5 same thing, maybe the next, putting this aside, the next  
6 issue I'm dealing with is education financing. If we  
7 had set out to provide an adequate system of funding in  
8 the schools in the State a long time ago, we wouldn't be  
9 faced with a Court issuing an order that nobody can  
10 figure out what it says.

11 COMM. GATLING: I don't want to rely on  
12 courts.

13 CHAIRMAN MACCHIAROLA: So I think, I think  
14 if we pass a resolution on this, we indicate that this  
15 issue is out there and it requires consideration, and it  
16 shouldn't be ducked. It should be faced.

17 COMM. SIEGEL: So this needs to be reworded.

18 CHAIRMAN MACCHIAROLA: We'll make it  
19 sufficient to providing both. I realize you're not  
20 shutting the door to study, you're not opening the door  
21 to a solution. So we'll work it out.

22 COMM. NEWMAN: Is there some way we'll do  
23 this in a way where it's a one-time only right?

24 CHAIRMAN MACCHIAROLA: I wouldn't even get  
25 into that. Let the Legislature figure it out. Unlike

1 the first, on same day registration, or the second,  
2 where we've endorsed the expanded hours, we're just  
3 recommending further study by the Legislature of this  
4 subject and that it not fall off the screen.

5 COMM. NEWMAN: But the act of suggesting  
6 study in some way communicates some level of support.

7 CHAIRMAN MACCHIAROLA: Any time you look at  
8 a problem, finding a solution, maybe that indicates  
9 support. I don't know. I think we're trying to find a  
10 solution.

11 COMM. NEWMAN: That statement assumes  
12 there's a problem.

13 CHAIRMAN MACCHIAROLA: Well, we know there's  
14 a problem.

15 Okay, item 5. Endorsement of reform of the  
16 City Board of Elections --

17 DR. GARTNER: Excuse me. I have quoted,  
18 Pat, Mohammed, Steve and Frank in favor of B and  
19 Mr. Lynch in favor of A?

20 CHAIRMAN MACCHIAROLA: That doesn't mean  
21 he's not in favor of B. He can vote twice. He can vote  
22 for B, too.

23 COMM. LYNCH: I thought A got voted down.

24 CHAIRMAN MACCHIAROLA: Right, right.

25 COMM. NEWMAN: And I shouldn't be recorded

1 as in favor of B. I'm much, in my mind I've been much  
2 more in favor of giving immigrants the right to vote.  
3 Immigrants who have permanent residence the right to  
4 vote. They haven't done anything wrong yet.

5 CHAIRMAN MACCHIAROLA: So we still have  
6 four.

7 DR. GARTNER: I just want to keep the record  
8 clear.

9 CHAIRMAN MACCHIAROLA: And then, finally,  
10 the endorsement of the reform of the City Board of  
11 Elections to efficiently and productively conduct  
12 non-partisan elections in an efficient manner. Why  
13 don't you explain a little bit what you had in mind on  
14 this one?

15 DR. GARTNER: My shorthand is the O'Hare  
16 problem. Father O'Hare, as you recall, raised the  
17 conundrum of how do you conduct a non-partisan election  
18 by a bipartisan Board of Elections; five each of the two  
19 major parties who are members of the Board, their  
20 appointment of poll watchers, their general conduct of  
21 the election and the notion here was should we ask the  
22 State, that is, the State law, it's not something that  
23 we can do here in the City, to consider whether there  
24 are other alternatives. We want to imagine, and I don't  
25 propose a solution, one could imagine all sorts of other

1 options, option of independent -- small i -- members on  
2 the Board of Elections, opportunities for members of  
3 other than one of the two major parties being poll  
4 watchers, and so forth. There are a variety of issues.

5 CHAIRMAN MACCHIAROLA: So the choice is  
6 between reform and hearings?

7 DR. GARTNER: Correct, explicit reform or  
8 hearings about what the nature would be.

9 COMM. GATLING: I'd support 5A.

10 COMM. NEWMAN: I'd support 5A as well.

11 COMMISSIONER KHALID: 5A.

12 CHAIRMAN MACCHIAROLA: 5A? Bill. Fred. 5A  
13 it is. To recap we supported 1B, 2A, 4B modified in  
14 language to get B as inclusive as possible, and broaden  
15 it so it includes the general commentary, and 5A.

16 DR. GARTNER: Yes.

17 CHAIRMAN MACCHIAROLA: Are there any other  
18 items before the Commission? Yes, Steve.

19 COMM. NEWMAN: The issue we never dealt with  
20 during the Charter Commission which is the City's  
21 finances and the financial control and its variety of  
22 clauses, some of which terminate in 2008. And the  
23 report that Anthony distributed before has a nice page  
24 on 138 and the top of 139 that describes the issue and  
25 describes the sort of open issues, and then it sort of

1 ends with me as a single Commissioner being strongly in  
2 favor of this issue being further reviewed. I'm just  
3 looking to broaden that so it wasn't just me but was in  
4 fact the Commission.

5 COMM. SIEGEL: I would concur.

6 CHAIRMAN MACCHIAROLA: I don't think when  
7 listing you, our intention was to single you out.

8 MR. CROWELL: It was by no means that. It  
9 was that he had brought the issues -- the record can  
10 just reflect that there's broad support for that. I  
11 mean, it was an issue that came before the Commission.

12 CHAIRMAN MACCHIAROLA: Well, maybe we ought  
13 to highlight it a bit. I'm torn between two things.  
14 I'm torn between the desire not to have another Charter  
15 Commission --

16 COMM. SIEGEL: Self interest.

17 CHAIRMAN MACCHIAROLA: No, I don't mean  
18 that. I think, no, not just self interest. I think one  
19 of the criticisms and I don't think it's not without  
20 some warrant, although I don't agree with it, that there  
21 have just been too many Commissions, too many Charter  
22 Commissions recently, and there was a period of time  
23 when we didn't have as many, so the last thing I want to  
24 do is to make a suggestion that we ought to have another  
25 Charter Commission. I don't think that's what you've

1       said, so I want to be careful to say that we're not  
2       advocating another Charter Commission.    What we are  
3       advocating is that if there is another Charter  
4       Commission or a local body ought to consider the issues  
5       that were raised in terms of the codification of the  
6       Financial Emergency Act.

7                    COMM. NEWMAN:  I'm going to add that I  
8       believe it's an important issue and that it needs to be  
9       dealt with as quickly as possible.  If I could be  
10      direct, the closer it gets to 2008, the more people who  
11      think that the way you budget is to get yourself through  
12      the year you're in and not worry about what happens in  
13      the future will take control, and the sooner this is  
14      dealt with so it's dealt with in a more academic review,  
15      I think the better off the world will be, or at least  
16      the City part of it.

17                   CHAIRMAN MACCHIAROLA:  Do you want to say  
18      something?

19                   COMM. SIEGEL:  I agree generally with what  
20      you say, Frank.  Part of the reason there are so many  
21      Charter Commissions, it's in the Charter that was so  
22      fundamentally rewritten in '89, and with term limits,  
23      counsel members were not always terribly insightful  
24      about the future or the past and they have even shorter  
25      time horizons, so it's hard to see where this is going

1 to be dealt with, if it's not dealt with in a Charter  
2 Commission. We certainly can't look to the State to do  
3 this. The danger is between now and 2009, somebody will  
4 stop taking the State's paper and we'll get drawn down  
5 with it.

6 CHAIRMAN MACCHIAROLA: I think you remember  
7 that the reason we sort of backed off of any  
8 consideration was that the bonding and all of that issue  
9 was taking it away or in some form interrupted in the  
10 middle of our proceedings, so we sort of backed away  
11 from this.

12 Well, I'm willing to, obviously, I agree  
13 that -- I agree with both of you. I just don't want to  
14 be telling the Mayor you'll be having another Charter  
15 Commission, although I see that's the most probable  
16 response in doing it.

17 COMM. SIEGEL: We can put it saying the  
18 priority of the next Charter Commission, not necessarily  
19 recommending one.

20 COMM. NEWMAN: We could say that the issue  
21 be dealt with in 2004, either through a dialogue between  
22 the Mayor and the City Council or another Charter  
23 Commission.

24 MR. CROWELL: I just want to point out that  
25 this Commission is fine, however, you've adopted this

1 report, however all you want to do is just clarify that  
2 -- the record, I believe, already demonstrates that  
3 there was support for this, so --

4 CHAIRMAN MACCHIAROLA: Do I understand you  
5 to be saying in code language that there is Monday night  
6 football?

7 COMM. NEWMAN: But it's not for two hours.

8 MR. CROWELL: All I'm saying is you've  
9 already adopted this report and it's fine just to state  
10 in the record that there's wider support for budget  
11 issues, but you can't go back and change the report at  
12 this time.

13 COMM. NEWMAN: I wasn't suggesting changing  
14 the report. I was suggesting some sort of --

15 MR. CROWELL: I just want to clarify the  
16 report can't be opened up. You've adopted it, signed  
17 the resolution, it's legally binding at this point.

18 DR. GARTNER: If I may, I think the issue is  
19 not whether or not there should be another Charter  
20 Revision Commission but I think the essence of what I  
21 understand Commissioner Newman's remarks to be this is  
22 an issue that needs attention quickly because that will  
23 lead to a better resolution earlier; whether the format  
24 is a Charter Revision Commission or Mayoral election or  
25 a dialogue between the City Council and the Mayor, I

1 don't hear that being the essence, I hear attention to  
2 the issue being the essence.

3 CHAIRMAN MACCHIAROLA: Could I suggest that  
4 you draft a letter to the Mayor and the speaker, which  
5 reflects our concern on the issue and which we will sign  
6 as individuals who wish to sign? I think there are  
7 enough of us that would sign to make it a majority and  
8 we'll just indicate to the members of the Commission who  
9 aren't here, Father O'Hare who is traveling and Veronica  
10 who is not here because her husband is in the hospital,  
11 Jerry is sick, there are a number of reasons why the  
12 other Commissioners are not here with us tonight and  
13 we'll give them an opportunity to sign the letter.

14 MR. CROWELL: We can draft a letter, e-mail  
15 it around and whoever wishes to do so can designate  
16 themselves.

17 COMM. NEWMAN: And identify the issue is not  
18 Charter Commission, the issue is speed of dealing with  
19 the issue.

20 CHAIRMAN MACCHIAROLA: We got criticized by  
21 the City Council members who said "we could have done  
22 this." Well, the fact of the matter is they have the  
23 opportunity. We're now giving them an opportunity to do  
24 something before we ask the Mayor or before somebody  
25 asks the Mayor or a Charter Commission to do it and if

1       they do it, we don't need a Charter Commission. Okay?  
2       Is that agreed? Any other issues that the other  
3       Commissioners have? Bill?

4                   COMM. LYNCH: No.

5                   COMM. NEWMAN: No.

6                   COMMISSIONER KHALID: I'm all right.

7                   COMM. GATLING: Okay.

8                   COMM. SIEGEL: No.

9                   CHAIRMAN MACCHIAROLA: Any other issues?  
10       Fred said we can go home. Okay, well, the meeting of  
11       the Commission stands adjourned. We've scheduled no  
12       more meetings. We will have a meeting if it's  
13       necessary. I will call you together. If any members of  
14       the Commission wish to have a meeting, let me know,  
15       we'll convene one if it warrants it.

16                   COMM. GATLING: So moved.

17                   CHAIRMAN MACCHIAROLA: Carried.

18                   (Time noted: 7:00 p.m.)

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C E R T I F I C A T E

I, LINDA FISHER, a Registered Professional Reporter and 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, RPR