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Transcript of the Meeting of the
CHARTER REVISION COMMISSION
held on Wednesday, November 3, 2004
Spector Hall, 22 Reade Street
Borough of Manhattan

AR-TI REPORTING COMPANY, INC.	
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1 Meeting convened at 7:20 p.m.

2 P R E S E N T

3 DR. ESTER FUCHS, Chair

4 COMMISSIONERS:

5 JENNIFER RAAB

6 ROBERT ABRAMS

7 CURTIS ARCHER

8 LILLIAM BARRIOS-PAOLI

9 AMALIA BETANZOS

10 STEPHEN FIALA

11 DALL FORSYTHE

12 STANLEY GRAYSON

13 DAVID CHEN

14 ANTHONY CROWELL

15 MARY McCORMICK

16 STEPHANIE POWER

17

Also Present:

18

TERRI MATTHEWS, Executive director

19

BRIAN GELLER, Analyst

20

21

22

23

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1 CHAIRPERSON FUCHS: I think it's time to
2 call this meeting to order. I'd like to thank everybody
3 first for coming tonight. I hope everyone can hear us.
4 We don't have mikes up here, but since we have this
5 enormous audience, I think we'll be okay.

6 Basically, we created an agenda based on the
7 last meeting and I just want to spend a couple of
8 minutes at the outset to review the agenda and to review
9 the timeline as to where we think we're going with the
10 next series of meetings so everyone can have some kind
11 of public notice about how we expect to move forward.

12 What we would like to do is invite -- after
13 I review the agenda, we want to have Teri Matthews, our
14 new Executive Director of the Charter Revision
15 Commission. Teri, you could just say 'hi' to everybody.

16 MS. MATTHEWS: Hello.

17 CHAIRPERSON FUCHS: We'll introduce Teri
18 more formally in a moment, she's the Executive Director,
19 she's going to do the overview of procurement reform for
20 us, picking up from some of the last Charter Revision
21 Commission and picking up on some of the actions that
22 have taken place on procurement reform. We're going to
23 give you a document and we'll be working from that
24 document.

25 I'll be doing a brief presentation on

1 previous ideas considered by previous Charter
2 Commissions. This document goes back to 1998. We're
3 going to do more work and go back even further than
4 that. That is really for an open discussion with the
5 Commission members, where we really want to start
6 kicking off the discussion.

7 What we expect to do as we move forward, I
8 just want to go over briefly a timeline which we're
9 putting together which we'll, obviously, send to all the
10 Commissioners, and also what we expect to accomplish in
11 this timeline. We have a series of baseline meetings
12 that we're proposing, and we will be canvassing the
13 Commissioners to make sure that these meeting times work
14 for the majority of the Commissioners.

15 We have three areas, as I remember from the
16 last meeting, that the Mayor, you'll remember, suggested
17 to us that we review, and while we're going to be
18 starting with those three areas, obviously we're not
19 limited to those three areas in terms of what we'll
20 review in this Charter Revision Commission.

21 The first presentation will relate to the
22 fiscal issues relating to the sunseting of the
23 Financial Control Board. We'll be doing that on
24 December 8th, we'll get a baseline presentation from
25 Mark Cage, the director of the Mayor's Office of

1 Management and Budget, and somebody who was very engaged
2 in the original creation, sounds like was present at the
3 creation, which he was.

4 Some other people were present at the
5 creation and we expect them to -- I'm looking at Dall
6 Forsythe -- we expect them to be particularly involved
7 in that particular aspect of the overview.

8 January 12th we expect to meet again, in
9 which we will have a baseline presentation from Carol
10 Robles-Roman the Deputy Mayor for legal affairs on
11 administrative judicial reform, and on February 9th, we
12 will have a presentation from Susan Kupferman, the
13 Director of the Mayor's Office of Operations. She will
14 be doing the overview on Government operations and
15 reform initiatives.

16 What we expect to do after that is have a
17 series of public meetings and invite public comment in
18 which we will have our open meeting sessions, and in
19 which we will be soliciting comments particularly from
20 experts in these areas, from members of the Commission
21 and asking for both written and oral testimony, and we
22 will be meeting in all five boroughs through the months
23 of February and March, and that will be our first round
24 of public meetings.

25 Then we expect to produce a preliminary

1 report in March-April and then we will have a second
2 round of public meetings with comments on the
3 preliminary report, again in all five boroughs, and then
4 we expect to produce the final report by June.

5 So I will send everybody from the Commission
6 this set of baseline meetings with specific proposals
7 for the dates, but just so everybody has an outline of
8 where we expect to be going, and as I said, we're not
9 limiting our discussion to these three basic issues, but
10 that is really the beginning of the discussion.

11 I just also would like at this point to just
12 talk a little bit about the Municipal Home Rule Law
13 which permits the Mayor to provide employees, services,
14 facilities, materials and data to a Charter Commission
15 at the request of the Commission. And just want to
16 inform everybody that the Mayor has offered staff
17 assistance and resources for the 2004-2005 Commission,
18 and in particular, he's made available Teri Matthews,
19 who is the counsel to the Deputy Mayor For Operations,
20 as our Executive Director, and in addition, the
21 administration has prepared to provide any necessary
22 employees, services, facilities, materials and data for
23 the Commission until we complete our work as required by
24 law.

25 So this is sort of I think a very important

1 statement at this time, and I'd like to ask for a motion
2 to have the 2004-2005 Charter Revision Commission
3 request this assistance from the Office of the Mayor as
4 may be necessary and to delegate further decisions with
5 respect to staffing and other City resources to myself
6 as Chair of the Commission and to Teri Matthews as
7 Executive Director.

8 Do we have a motion?

9 COMM. BETANZOS: So moved.

10 COMM. ABRAMS: Second.

11 CHAIRPERSON FUCHS: Any discussion on the
12 motion? All in favor?

13 (Chorus of "Ayes.")

14 CHAIRPERSON FUCHS: All opposed? Thank you
15 very much.

16 I'd like to say personally, it's a pleasure
17 to welcome Teri Matthews and the other members who are
18 here today from the Mayor's Office of Operations and
19 from a variety of offices across the City who are
20 working with us on the Commission, and a special welcome
21 to Spencer Fisher from the legal department from the
22 Corporation Counsel's office, who has agreed to be
23 special counsel to the Commission. We have a really
24 crackerjack staff. I will send out a listing to
25 everybody.

1 Could a couple of you stand up and introduce
2 yourselves so you could just get a sense of some of the
3 people who are on board?

4 MS. RAMON: Myrna Ramon, Mayor's Office of
5 Operations, First Deputy Director.

6 MR. BARRY: I'm Frank Barry. I met most of
7 you last meeting. I work in the research communications
8 office of the Mayor's Office.

9 MR. GELLER: I'm Brian Geller, I work with
10 Teri Matthew.

11 MS. COMPTON: I'm Ashley Compton. I work
12 with Ester.

13 MS. GANNON: I'm Ruth Gannon, I work also
14 with Ester in the Mayor's Office.

15 CHAIRPERSON FUCHS: We'll be working with
16 other people as needed.

17 MS. GLUCK: I'm Abby Gluck, also with
18 Spencer, from the Law Department.

19 CHAIRPERSON FUCHS: I'm sorry, I didn't see
20 you back there.

21 MR. FISHER: It is an open meeting, so
22 there's no such thing as spies.

23 CHAIRPERSON FUCHS: Okay. Does anybody have
24 any questions? Okay. So I'd like to begin actually
25 with Teri Matthews' presentation on procurement. Teri

1 has promised not to put us all to sleep on procurement
2 issues. We have some experts on the Commission in this
3 area, but Teri has been especially involved in this in
4 the last couple of years and we're really very lucky to
5 have her here to do this baseline presentation.

6 MS. MATTHEWS: The one thing I want to ask
7 in the beginning, have you gotten copies of the memo,
8 because we have extras if you would like them so I'll be
9 working off of that.

10 My name is Teri Matthews, it's a real honor
11 to be working with all of you. I think we're going to
12 do some wonderful things. I'm counsel to Deputy Mayor
13 Shaw and that position has always been responsible for
14 policy development and oversight in procurement.

15 The Mayor's Office of Contracts Services is
16 what I'm responsible for, and when we first got into
17 office, procurement became an issue in the spotlight.
18 The Citizens Budget Commission, Human Services Council
19 and the Council on Senior Centers, we had three reports
20 shortly after we came into office that were very
21 critical of the process. And so as soon as we got in,
22 with the knowledgeable staff from the Mayor's Office of
23 Contracts, we sat down and tried to figure out how we
24 could shorten the process time appropriately, and we
25 identified a whole bunch of administrative reforms that

1 were things that we could do on our own without any
2 legislative change and then we identified legislative
3 changes.

4 Almost immediately, we started implementing
5 the administrative changes, because we needed to begin
6 the culture change at the agencies on this topic. And
7 it is important to I think point out here that at no
8 time did we think what the Charter Commission did in
9 1989 -- because that's when the system we're working
10 with came into effect -- we didn't think there was
11 anything fundamentally wrong with it, but it was time,
12 it was over ten years it had been enacted, it was time
13 to start tweaking, because it was born of scandal and it
14 had an enormous focus on integrity, process to check for
15 integrity and it wasn't as sensitive as we think it
16 needs to be to shortening the process time.

17 So we were trying to tweak and we started
18 making change administratively and then when the 2003
19 Commission got in gear, procurement quickly became an
20 issue that they started to focus on. So we worked with
21 them, and fashioned a proposal which you have in the
22 memo, that the idea was to support the administrative
23 changes.

24 So, unfortunately, the ballot proposal
25 failed, but we recovered, and we basically sat down with

1 the Council and negotiated a package of bills that we
2 thought did the trick. I mean, it wasn't identical, so
3 what I'd like to do is go through, quickly, the
4 proposals and sort of match it up with the Local Laws.
5 The memo is set up with the ballot proposals and then
6 the Local Laws.

7 The first one, the Charter has a lot of
8 detail about the alternative procurement methods in the
9 Charter and some people think the Charter should have
10 less detail and the details should be somewhere else,
11 either in the Administrative Code or in the rules. So
12 one of the ideas that the Commission had was to
13 eliminate the detail in the actual Charter and delegate
14 it to the PPB for rule making, and that didn't happen,
15 and the Council wasn't really enamored with that idea,
16 so we thought it wasn't something we needed to effect
17 the administrative changes. And the fact, you know,
18 it's something for consideration, but it wouldn't be
19 high on the list of things to consider. But, you know,
20 it is a topic that you could consider if you were
21 interested.

22 The second one was to have DCAS be able to
23 delegate specific purchases of specific goods to
24 agencies when they thought it was a good idea, and
25 actually the Council enacted a Local Law to do that, so

1 we don't have to do that.

2 The third item refers to a lot of small
3 agencies, you know, City Planning, DORIS, that have very
4 small staffs, administrative staffs where they're
5 stretched thin and one of the things is to have DCAS be
6 able to procure on behalf of them. The Council didn't
7 like that one, they truly didn't like that, but it's
8 something that, you never know, they thought it was
9 somehow suspect. But it was really designed to help
10 smaller agencies cope with what you could consider the
11 back office functions. So, I mean, that's something to
12 think about, it's still open and I think something to
13 think about.

14 The fourth bullet has to do with, this is
15 the Department of Small Business Services. Spencer, is
16 this one entered in Koch? It's an old, old piece of
17 legislation. It's designed to survey the vendors, their
18 employment practices, and embedded into the Charter, the
19 workplace reports.

20 COMM. CROWELL: It's the reporting.

21 MS. MATTHEWS: Vendors who are contractors
22 are supposed to fill out these reports explaining how
23 they do employment practices, and the detail, the report
24 is really long, it's good for two years, but the detail
25 is in the Charter and a lot of things have changed.

1 The vendors we had heard explained about the
2 detail and there's some question about whether, were we
3 to do it today, would we ask for those same questions.
4 So the idea would be to delete it from the Charter and
5 delegate to the Commissioner of Small Business Services,
6 the ability to promulgate what goes into the report by
7 rule. And the Council didn't really get into that one,
8 either. And so that's -- it's funny. To be fair to the
9 Council, they have a problem with Charter Revision
10 Commissions generally, so -- well, they do. But it's
11 something to consider.

12 I believe the Law Department thinks that it
13 can't be done by Local Law, it needs to be done by a
14 body such as this, because it would impair the power of
15 an elected official. So it's actually the type of
16 matter that is appropriate for this particular
17 Commission.

18 Qualifications for City purchasing
19 officials, Local Law 20 addressed it.

20 MR. FISHER: We could certainly look at that
21 issue again. I don't know, we can look at that issue
22 again of whether it actually requires a referendum. I
23 can't say we should do it at this moment, but we can
24 look at it.

25 MS. MATTHEWS: It's open, if this is

1 something you find compelling.

2 Qualifications for City purchasing
3 officials, Local Law 20 did it, and the staff is
4 underway working with appropriate ACCO's, trying to come
5 up with requirements, trying to elevate the professional
6 requirements for City procurement professionals.

7 The next bullet, small business and minority
8 and women-owned businesses. We ended up on our own just
9 doing an Executive Order, even without having it enacted
10 by the voters, we took it up and did it ourselves. I
11 think the thought was, though, if you had it enshrined
12 in the Charter, it wouldn't depend on who was Mayor to
13 make that a priority, but it's been done for us.

14 Security-related contracts. A lot of
15 people, agencies thought it was necessary. The Council
16 truly didn't like that one, either, but it's still
17 available as a topic. In these times, it's a piece --
18 it's a very public process for procurement and it's
19 considered in these times some information may not be
20 appropriate to put into the City Record, have bids and
21 specifications that are publicly available. This is
22 still a very open topic.

23 Timeliness of contracting and payment. This
24 one was address in Local Law. Local Law 20 and Local
25 Law 24 dealt with that. None of the Local Laws

1 addressed the procurement report, but that is possibly a
2 topic.

3 Reporting, the MMR is a topic that might be
4 coming up in Ester's discussion of prior ideas. The
5 Council didn't like messing around with the MMR, the
6 PMMR and this would have been a piece of that.

7 Then pretty much, I would say nine of the
8 Local Laws dealt with versions of this. Not in the way
9 we would have, but they, you know, it's pretty much
10 covered. Financial audits was addressed by Local Law 20
11 and the last issue, Vendex, which is similar to the DSBS
12 employment report, there's a lot of detail. It's not in
13 the Charter, but it's in the Administrative Code so that
14 the questionnaires are just very detailed and you can't
15 not ask a question that doesn't make sense anymore,
16 because it's embedded in law.

17 We wanted to take it out and delegate it to
18 the City Comptroller and the Mayor. It didn't pass and
19 we basically agreed when we were negotiating with the
20 Council that we would take this up jointly with the
21 Comptroller, the Council, and we would try to do this
22 one legislatively. So that's kind of a summary of the
23 proposal and how we tried to get most of it
24 legislatively.

25 Do you have any questions?

1 CHAIRPERSON FUCHS: Questions or comments?

2 MS. MATTHEWS: Or comments.

3 COMM. FORSYTHE: I have a question. You
4 said the goal was to get the processes to work more
5 quickly; that's the goal?

6 MS. MATTHEWS: One of them.

7 COMM. FORSYTHE: Do you collect data on the
8 processing speed?

9 MS. MATTHEWS: We have. In September we
10 came out with the first MMR report and we can get you
11 copies of them if you think this would be interesting.
12 I mean, it is fascinating, we learned a lot, but it's
13 the first set of indicators on our watch where we
14 started measuring cycle time and we tried to break it
15 down. So I could certainly get you copies of that,
16 because that's the real key is you make changes and then
17 you have to evaluate whether they've made a difference.
18 So, yes.

19 COMM. FORSYTHE: Specifically my question
20 was, did the changes that were made make any difference,
21 but you don't know yet.

22 MS. MATTHEWS: We don't know yet. We have
23 basically a year's data and I think a year from now
24 we'll have a better sense, but I can definitely get that
25 to you. I think that will be really excellent for you

1 to have and it sort of brings you up to date on this
2 from the administrative side.

3 COMM. CROWELL: One of the other things I
4 think is important that Teri was talking about is with
5 the last year's Charter Commission was thinking is that
6 what was put in place by the 1989 Commission was
7 outdated because of technological advances, and that's
8 something I think that Teri could speak to a lot, and
9 how technology plays such an important role today in
10 expediting the system. It certainly wasn't thought of
11 or embraced back in '89 the way we may be able to do it
12 today and be very forward thinking about it. You may
13 want to comment a little bit on what some of those
14 advances are.

15 MS. MATTHEWS: For example, Vendex, we
16 created our own database system. It's what they call a
17 legacy system. The system and the law are together and
18 we're in the process of, MOC is in the process of
19 drafting an RFP to do what they call end to end
20 procurement, where it's a whole system that would, every
21 agency would be part of it, and you could track -- for
22 example, all of the indicators right now are tracked
23 manually for the most part by the agencies.

24 If you have a system where all of this is
25 done by the system, the forms are electronic, they're

1 sent around electronically, the cycle time would be
2 measured electronically. Once you get into this, it's
3 sort of like inside baseball, but that would be an
4 enormous improvement, because it's really paper based,
5 it's very manual.

6 A lot of it is people don't know where the
7 package is, it gets lost in the mail system, and things
8 like, you just learn. I mean, the Vendex system, you
9 learn from it, that some things make sense. It's a risk
10 management, because it's all about integrity and you
11 don't apply the same standard to all contracts. If the
12 technology allows you to be more nuanced and you can
13 program it to be more nuanced, and it's the same thing
14 with the DSBS. If you could figure out what the right
15 questions and levels of risk benefit are, then we could
16 program the systems once we get the procurement going,
17 which is ironic.

18 COMM. CROWELL: They'll get more user
19 friendly for everyone. It's time to rethink things,
20 so--

21 MS. MATTHEWS: It's not just of the City
22 agencies dealing with each other, but then there's the
23 interface with the public.

24 CHAIRPERSON FUCHS: And the providers, in
25 particular the contractors. A lot of people here know a

1 lot about that.

2 COMM. CROWELL: We have a real opportunity
3 to shape how a new system could embrace that technology
4 and move forward, away from what we've gotten, other
5 branches of Government could maybe join us in
6 understanding the need for changes for everyone's sake.

7 MS. MATTHEWS: But, that procurement which
8 is subject to the old rules and technology is actually
9 underway. It's a question of getting the technology
10 professionals on board to design the system. But that
11 is underway. It just doesn't happen overnight.

12 COMM. ARCHER: When you mentioned about the
13 report coming out, does it also break it down by
14 agencies?

15 MS. MATTHEWS: Oh, yes. What I can do is
16 e-mail it to you, we can do it as soon as tomorrow,
17 basically.

18 COMM. FAILA: Just two quick questions.
19 With respect to the authorizing the Mayor to designate a
20 DCAS ACCO -- are there agencies that don't have their
21 own ACCO's?

22 MS. MATTHEWS: They all have ACCO's.

23 COMM. FAILA: But some can't perform it as
24 well as DCAS could?

25 MS. MATTHEWS: There are some agencies where

1 all the ACCO does is procurement. The smaller agency
2 they're doing double and triple duty. You'll have the
3 ACCO also do personnel, you know, because it's a small
4 agency and there's not enough staff to go around to
5 separate the functions.

6 COMM. FAILA: I note in the briefing paper,
7 and in your comments you said this was one of them the
8 Council didn't like.

9 MS. MATTHEWS: They didn't.

10 COMM. FAILA: Am I correct in interpreting
11 this that it says the Mayor may designate additional
12 agencies. I'm assuming, then, there are presently
13 agencies which the Mayor can designate, DCAS -- what I'm
14 trying to get at, if that's the case, the Council's
15 argument is somewhat undermined. If we're doing it for
16 some and not others I would like to know what the
17 reasoning is.

18 ^ ** MR. FISHER: There are some agencies
19 where DCAS the authorized to provide services which is
20 currently authorized under Local Law. We can list the
21 agencies. I believe OATH is one of them.

22 MS. MATTHEWS: Procurement. By whom
23 procured, 329.

24 MR. FISHER: No, it's in the DCAS provisions
25 of the Charter.

1 COMM. FAILA: I didn't mean to put you on
2 the spot tonight. Would it be possible to put together
3 a list of those that are presently --

4 MR. FISHER: It's a short list, it's right
5 here.

6 OATH, Office of Administrative Trials and
7 Hearings and the Board of Standards and Appeals. It's
8 Section 829 of the Charter. I think the proposal was to
9 substantially expand that authority to encompass a
10 variety of small agencies, instead of just those two.

11 COMM. FAILA: How are these agencies
12 designated? Is this a Charter adoption or a Local Law?

13 ^ ** MR. FISHER: This is a Local Law in
14 1996. When DCAS was created as a former department of
15 personnel and DGS this was part of a Local Law that
16 created DCAS, the Council did approve that.

17 COMM. FAILA: The second one related to the
18 security-related contracts, the white paper talks about
19 disclosing sensitive information.

20 Following up or piggybacking on what
21 Dr. Forsythe has said, with respect to time sensitivity,
22 it would seem to me that in post 9/11 world, getting
23 certain security-related goods can be critical, and
24 therefore you'd want to have some type of a system in
25 place that won't have you taking out ads three times in

1 a row. There are some things we're going to need. Is
2 there any study on that, and if so, can we get them?

3 MS. MATTHEWS: There are current vehicles,
4 the emergency procurement is currently what we're using
5 and it's what agencies are using --

6 COMM. FAILA: It works?

7 MS. MATTHEWS: It does work.

8 COMM. FAILA: So the Council has no problem
9 with that, with your declaring an emergency.

10 MS. MATTHEWS: You know, it's interesting,
11 because it's sort of -- it's something that we should
12 investigate.

13 COMM. CROWELL: Last year's provision was
14 really, again, forward thinking about when you have to
15 make, do procurements for technology or even designs for
16 specialty equipment that may be security-related and the
17 need to keep those things in a manner that's not going
18 to be exposed to the general public, where they could
19 understand a certain strategy in terms of protecting the
20 public safety or, you know, safeguarding against
21 biohazards or things like that.

22 So I think it's very specific as to what the
23 product is.

24 COMM. FAILA: Was a Local Law, was a bill
25 ever advanced, or was a hearing held on this, a

1 rationale given?

2 COMM. CROWELL: It was part of the ballot
3 initiative.

4 COMM. FAILA: Subsequent to that?

5 COMM. CROWELL: No.

6 MS. MATTHEWS: All I was trying to get at
7 is, it was on the ballot, it didn't pass. When we
8 subsequently negotiated with the Council, we were trying
9 to figure out what things we wanted, what things they
10 wanted. This was clearly something that we couldn't
11 negotiate with them. For reasons --

12 COMM. FAILA: It's okay, I was one of them.
13 It doesn't matter.

14 MS. MATTHEWS: It just struck them wrong in
15 some way, even though I understand that we're using the
16 emergency procurement vehicle for all of these, I think
17 the thought was that this vehicle would just be more
18 explicit, that, when you use the emergency procurement
19 it sort of gets lumped into this category of things and
20 this was to be more explicit, that we're addressing this
21 particular issue in this way. It doesn't mean we're
22 exposing ourselves in current practice.

23 COMM. CROWELL: There was certainly adequate
24 safeguards and oversight built into the proposal. ^ **
25 the Council wasn't explicitly in the Council, it has

1 general oversight in things, but it got caught up in
2 politics.

3 COMM. PALMER: I have a question concerning
4 qualifications for City purchasing officials. I
5 understand that in the early '90s there was something
6 called the Procurement Training Institute?

7 MS. MATTHEWS: It still exists, with the
8 Mayor's Office of Contract Services, that's part of this
9 initiative, it was sort of occasioned by this law where
10 MOC is working with people at DCAS, the Procurement
11 Training Institute is housed at DCAS, they have an
12 employee training group -- yes -- and they're engaged in
13 the process, there's a committee of ACCO's, it's a big
14 collaborative effort to try to identify where the short
15 comings have been in the course work, trying to sort of
16 make it more responsive to what the needs are.

17 For example, if I'm not mistaken, there were
18 courses, people outside of the City were using PTI
19 courses, because they weren't City specific, which kind
20 of was odd, considering we had a whole bunch of City
21 people who needed City specific training. So we're
22 looking, that effort is underway with the Mayor's Office
23 of Contracts and DCAS to study and they're developing
24 courses right now.

25 COMM. FORSYTHE: There's another way to do

1 this, that Anthony's question sort of triggered some
2 point in my mind about, that I've watched some
3 innovators who seemed to use technology as the leverage
4 point, I've watched Gino do that, Mary do that, often
5 what they do is try to go out and get the best
6 technology they can, and then work from there outward
7 trying to do that. Obviously, there are big
8 corporations, other Governments, other people that have
9 to do pretty much the same stuff that we do.

10 I thought one of the great master strokes of
11 the Bloomberg administration was getting off the shelf
12 software to do 311 and if there is some off the shelf
13 systems that could do this, then you could hedge it
14 around with the different protections and concerns that
15 you need to embody to do what you want to do in City
16 Government, that would be sort of cool.

17 MS. MATTHEWS: What I think I can do is sort
18 of put together that whole process, with my hat as
19 deputy counsel to Deputy Mayor Shaw, we had meetings
20 with DoITT and OMB and what we have is, it's part using
21 off the shelf, but it's also architecture, because
22 instead of designing like FMS, a system for New York
23 City that is citywide, what we have -- what I think I
24 need to do is bring you all up to speed, but every
25 agency's got a different system and instead of forcing

1 them all to -- apparently by waiting long enough and not
2 designing our own system, because the ICPIMS there was
3 an effort by the Dinkins administration and their
4 efforts to design a citywide system, because we waited
5 so long between off the shelf products and the ability
6 of architecture to sort of knit them all together, to
7 allow them to talk to each other, we can actually get
8 there sooner than having one system designed.

9 But I think what I need to do is sort of,
10 maybe we can make a presentation, if you would like or
11 we could do a memo.

12 CHAIRPERSON FUCHS: Maybe we should get a
13 memo first, then bring in Gino.

14 COMM. FORSYTHE: That would trigger a whole
15 new approach to Charter writing, meaning that you need
16 to buttress, not to repair and patch up law.

17 ^ ** COMM. BARRIOS-PAOLI: We need to really
18 make a big differentiation between whatever rules govern
19 procuring goods from the ones that procure services,
20 because I think part of the problem is that we really
21 get ourselves tied up in knots is we try to apply the
22 same kinds of rules to buy tires and to procure foster
23 care and it becomes a very difficult thing to do. You
24 do a lot of unnecessary things, in either one of them.

25 MS. MATTHEWS: Well, wearing this other hat,

1 we think, we hope, we've tried to make changes in
2 administration. There was this tendency at one point to
3 treat everybody the same. For example, there was this
4 general procurement policy rule that you had to do a new
5 RFP every three, six or nine years depending on what
6 kind of services you had. Regardless of whether there
7 was competition in that particular area, that was just
8 sort of this procurement rule as though, it was like
9 procurement professionals on staff who thought, well, we
10 must encourage competition, and so they just kind of had
11 this rule and applied it.

12 We don't do that anymore. And so it's an
13 administrative, and so the effects of that will be seen
14 in the turnaround time, because we're no longer blindly
15 requiring agencies to do a new RFP if there really isn't
16 a need for it at that time.

17 So I think it's actually modulating what you
18 do administratively, and there is a sensitivity at MOC
19 now, it's not one size fits all. What works in
20 construction doesn't necessarily work -- we're treating
21 them differently and that's the change, actually. There
22 was a drive to treat everybody the same and we don't do
23 that any more.

24 COMM. PALMER: Wasn't there at one time a
25 chapter governing procurement rules to deal with human

1 services and that got tossed out?

2 MS. MATTHEWS: In the last administration
3 when the PPB sought to simplify the rules, things swing
4 back and forth. You can see how -- you had this -- I
5 can talk about this all night, but you might not be able
6 to stand it.

7 CHAIRPERSON FUCHS: You won't, don't worry.

8 MS. MATTHEWS: 1989 happened, the Charter
9 changed and then it went from the Board of Estimate to
10 this new process and you created the PPB and MOC, didn't
11 exist before, and the drive was to create rules that
12 didn't exist anymore, so they created a big book.

13 COMM. PALMER: Is it Chapter 10?

14 MS. MATTHEWS: It was at the end of the
15 book. And before I understood this, I remember
16 thinking, it didn't make sense to me and apparently it
17 didn't make sense to a lot of people. So when they were
18 trying to streamline the book, because it was really
19 big, it was confusing, and everything, you see problems,
20 you try to fix it and it was sweeping the baby out with
21 the bath water.

22 By eliminating that chapter and saying it's
23 all the same -- we're trying to figure out where it's
24 different. I don't know that the PPB needs to do
25 another chapter. It's just a sensitivity that -- so

1 we're there, and I don't know that that's the kind of
2 thing you need to do in Charter. The sense is, if you
3 do it administratively and by rule, you can be more --
4 because once it's in the Charter it's kind of hard to
5 change if it turns out it was a bad idea.

6 CHAIRPERSON FUCHS: One of the things we
7 would like everybody to think about when they take all
8 of this reading home with them is what really is
9 appropriate for the Charter. So we're offering a lot of
10 background here, Teri is offering a lot of background
11 here, knowing that much of this is background and not
12 necessarily something that the Commission really wants
13 to address, but I don't think we could figure that out
14 unless we sort of understand the whole process itself.

15 So when people have more time to think this
16 through -- part of the reason for presenting this
17 particular piece today, it was left over from the last
18 Commission. Some work got done in the Council, not
19 everything got done and it wasn't obvious from our last
20 meeting whether or not there was anything left here, and
21 it's an issue, as many of you know, is something very,
22 very important to the contract/provider community in the
23 City of New York, both in human services and in
24 non-human services contractors. It's sort of critical
25 for doing business with the City, and so this is why we

1 wanted to bring it up in this context.

2 Are there any more issues that -- so we
3 don't have to drop this.

4 MS. MATTHEWS: No.

5 CHAIRPERSON FUCHS: We want to just start
6 this conversation. Are there any other issues that
7 anybody else wants to address at this point? We will
8 try and do and either we'll bring it up at the next
9 meeting or you'll send directions to either me or Teri
10 so we can get a view of whether there is anything of
11 substance here that needs to be addressed by the
12 Commission.

13 And if there are things that you think are
14 important that aren't Commission issues, we'll move them
15 forward to the appropriate places in City Government to
16 have them addressed over there, so it's not like it will
17 be falling into a black hole, but we're aware of that
18 sort of balance here. Not everything we realize will be
19 a Charter Commission issue, ultimately.

20 Is there anything else on procurement that
21 people wanted to bring up at this point?

22 Okay. Thank you.

23 What we thought we'd do, sort of, for the
24 final substantive part of the meeting, and this is
25 really about beginning a very, very broad conversation,

1 so I don't want anybody to get nervous. When you looked
2 at this document you received, we know there's no
3 possibility we could cover all of this in any sort of
4 serious way in this short period of time. But we wanted
5 to assure you that we're prepared to do the homework
6 that the Commission assigns us, and so this was our sort
7 of good faith effort to start, and what I thought I
8 would just do briefly is, for the record, actually
9 present some of this material and then really ask
10 Commission members for a first cut of comments on things
11 that they would like to see more research done on and
12 where they would like to see us to sort of continue
13 probing in these areas. The way the memo was done,
14 obviously, are very, very short bullet points to give
15 everybody a flavor of issues.

16 I'll try to go through some of these fairly
17 quickly, not really covering everything in this memo,
18 and if I don't mention something that you're
19 particularly interested in from looking at this memo,
20 feel free to bring it up immediately.

21 So what we did here, and we hope this would
22 be useful to the Commissioners, is organize past Charter
23 Revision Commission proposals into the three areas that
24 we had been charged by the Mayor to look at, and as I
25 said, this is not exhaustive, but rather the beginnings

1 of the conversation and we thought this would be a
2 helpful way for us to sort of get started.

3 The first area was in fiscal responsibility,
4 very broadly construed, and there were quite a few
5 proposals considered by past Charter Revision
6 Commissions in this area, and some of the more
7 interesting ones, I'll just, and these are, I'm just
8 saying interesting in a very non-judgmental way. It's
9 just interesting, and if you find other things
10 interesting, we're open to everybody's definition of
11 "interesting" here.

12 The first thing was considered in both the
13 1999 and 2003 Commissions, which was essentially that
14 making the City Council in some sense a more
15 responsible, and I put that in quotes, City Council.
16 There's a whole literature on what does it mean to be a
17 responsible Legislature, and part of that literature --
18 I know Dall is laughing at me -- part of that literature
19 suggests that when you legislate for new programs, that
20 you should not authorize them until you identify the
21 funding in the budget for those programs. And this is a
22 particular, I think interesting issue.

23 It is, as Lilliam points out, that goes to
24 the heart of the unfunded mandate question. We in the
25 City are victims, and I will say that for the record, of

1 unfunded mandates by the State and the Federal
2 Government of which we have a lot of trouble
3 controlling, obviously, given the nature of the Federal
4 system, and the Constitution of the United States, which
5 I would amend, by the way, if anybody asked.

6 COMM. CROWELL: To do what?

7 CHAIRPERSON FUCHS: On unfunded mandates.
8 Well, people have asked me in other hats, so we'll just
9 leave that one alone.

10 But here in City Government we can address
11 this issue of unfunded mandates in the City Charter and
12 sometimes the Legislature is excited about legislating,
13 and doesn't really think through the implications of
14 legislating, particularly in an environment when often
15 doing this is a zero sum game, meaning that if you put
16 this in here and you want it seriously implemented, it
17 requires that you take money from someplace else.

18 This could be a very broad conversation,
19 could be a very short conversation, but it's one that
20 came up twice so we just wanted to bring it to the
21 Commission's attention.

22 Some things are much simpler and much more
23 direct, like the second fiscal responsibility issue,
24 lengthening the amount of time between pension fund
25 audits from two years to something longer; three years,

1 four years, five years, and I won't do a lot of detail
2 on these, and we can go back to many of these, both
3 tonight and in future sessions.

4 I want to really make clear that this is not
5 to close down discussion on any of these issues at the
6 early stage in our process.

7 The 2001 Commission considered a proposal to
8 clarify the formula for Borough Presidents, 5 percent of
9 the expense budget allocation. Right now it's very
10 open. I stopped right there. Good.

11 To codify basic principles of the Financial
12 Emergency Act, and we will be covering that in great
13 detail at our next meeting, so that one is definitely on
14 the agenda.

15 Require periodic joint reporting on the
16 status of the City's infrastructure by the Department of
17 Design and Construction and the Department of City
18 Planning. These are all very straightforward kinds of
19 proposals.

20 A little more complicated, limit year to
21 year increases in City-funded spending to inflation
22 rates, subject to a joint lifting by the Mayor and the
23 Council of the cap on that funding stream, and require
24 agencies to explain when agency budgets exceed inflation
25 rates. This is, you know, a very constraining kind of

1 proposal. That is not particularly interesting to me
2 personally, but as I said, we're trying to be open here,
3 as this was brought up by someone, it went on the ballot
4 in 1999.

5 COMM. CROWELL: What is this?

6 CHAIRPERSON FUCHS: Spending cap.

7 Another issue on the '99 ballot that failed
8 was requiring at least 50 percent of the surplus revenue
9 to go into budget stabilization and emergency fund for
10 emergencies that are jointly determined by the Mayor and
11 the Council or to prepay debt service costs.

12 COMM. FORSYTHE: The way the Financial
13 Emergency Act works now you can't really use funds from
14 the debt stabilization reserve fund, anyway. That's
15 something you can consider when you talk about that.

16 CHAIRPERSON FUCHS: This is something we
17 really want MOC to consider when we have our discussion.

18 Require at least two-thirds vote of the
19 Council when passing a Local Law or resolution imposing
20 a new tax or increase in an existing tax. An override
21 of a Mayoral veto of such law would require a 4/5ths
22 vote. Again, another constraining issue failed on the
23 ballot initiative of 1999.

24 Then finally, in this area, amend budget
25 modification provisions to increase the dollar threshold

1 for Council approval from 50,000 to \$150,000, considered
2 in '99, but not put on the ballot.

3 Administrative -- I'll go through this
4 quickly, now. Administrative law reform considered in
5 1999 and 2001 to eliminate the Hardship Appeals Panel,
6 and frankly, I don't know what that is.

7 MS. MATTHEWS: That's related to the Board
8 of Standards and Appeals.

9 COMM. CROWELL: No, no, that's the Landmarks
10 Preservation Commission.

11 COMM. RAAB: It came as a result of some of
12 the religious tension. This is a way to allow the Board
13 to look at what Landmarks was doing and to my
14 understanding this only relates to property, and it was
15 never convened. But it lives, it's actually something
16 worth talking about. It's a strange animal to have a
17 panel that can override a regulatory commission in the
18 City, a separate panel. You don't have that for City
19 Planning, you have DSA City Planning agendas.

20 COMM. CROWELL: You go to Court.

21 COMM. RAAB: That's right, first you go
22 here, then you go to Court. It was a political --
23 initiative.

24 CHAIRPERSON FUCHS: The Office of
25 Administrative Trials and Hearings, OATH, and not

1 agencies determine procedural rules for all its actions.
2 Appointing Chief Administrative Law Judge for set terms,
3 instead of at the pleasure of the Mayor and consolidate
4 some City tribunals under OATH. And we'll hear more
5 about that from the Deputy Mayor.

6 As everyone knows, there are many City
7 tribunals all over the City, that most people don't even
8 know exist, and the regulatory mechanisms for them are
9 quite disparate and this is one of the issues that the
10 Deputy Mayor will address.

11 Grant the Conflicts of Interest Board
12 subpoena power to investigate allegations independent of
13 the Department of Investigation.

14 Permit open proceedings of the Conflict of
15 Interest Board. Assure funding for the Conflict of
16 Interest Board. These are all Conflict of Interest
17 Board issues. Clarify that the Conflict of Interest
18 Board members can act as lobbyists on behalf of
19 themselves before the City. As I said, these are just
20 proposals, nobody is coming in either opposing this or
21 supporting this at this point in time.

22 Require conflicts training for all public
23 servants and coordinate the City's administrative
24 justice system.

25 COMM. FORSYTHE: Is that conflict of

1 interests training?

2 MS. MATTHEWS: Yes.

3 CHAIRPERSON FUCHS: Coordinate the City's
4 administrative justice system, which we will hear about
5 from the Deputy Mayor.

6 Grant hearing authority for the Department
7 of Consumer Affairs, that was on the ballot in 2003 and
8 it failed.

9 Finally on operations efficiency groupings,
10 there's a lot in here, which we can look at as many of
11 these as we see fit. And a lot of them have to do with
12 land use issues, so I'll try and sort of mention those
13 all at once.

14 By the way, I hope you've all noticed that
15 some of these proposals conflict with each other in
16 terms of what people wanted from them. So it's not
17 obvious that we weren't correct in not putting some of
18 these proposals forward in the past, frankly, and on the
19 other hand, I think there are some interesting things
20 here.

21 So reform of the Uniform Land Use Review
22 Process, considered in '98 and 2001. That's ULURP.

23 Permit the Council review of special permits
24 only when City Planning Commission fails to approve
25 applications by at least two-thirds vote.

1 Permit the Mayor to veto Council
2 modifications in action on special permits, as well as
3 veto the entire special permit.

4 Limit scope of the Council review of the
5 CPC. Modification to a particular action, to the
6 modifications themselves, instead of an entire action.
7 That would be basically unpacking the scope of the
8 Council's review and making them do it in a more
9 particularistic kind of way. Kind of like line item
10 veto, more doing these CPC modifications.

11 Exempt minor street grade changes from
12 ULURP. So we have, we go from the large to the small,
13 here.

14 Exempt office space acquisitions by the City
15 from ULURP.

16 Make HIV AIDS Services Administration a
17 Charter agency. We're moving out of ULURP, if people
18 are not paying attention, I want you to notice. There
19 are a couple of other ULURP things in here a little
20 later on to make sure everybody is paying attention.

21 Allow subleasing of surplus City land,
22 leased property from ULURP. You can see, when the big
23 issues around ULURP, reform ULURP got unpacked in some
24 fundamental way to some specific kinds of reform for
25 ULURP, and that's what these issues reflect.

1 Make certain CPC requirements biennial
2 instead of annual.

3 Merge back office functions of the City's
4 five pension systems, and that's a big, big issue in
5 terms of efficiencies and savings. Right now there are
6 five different back office functions.

7 Have DCAS perform functions of the
8 Department of Records and Information Services, which is
9 essentially a merger of two agencies.

10 Merge the Taxi and Limousine Commission with
11 another agency. It's kind of funny --

12 COMM. BARRIOS-PAOLI: Any one of them?

13 CHAIRPERSON FUCHS: If you stop at that
14 point, you would think it was any agency. But that
15 wasn't the proposal.

16 -- with which it shares overlapping
17 functions. That was the one in 1999 and 2001, and in
18 2003 was a specific merger with DOT.

19 MS. MATTHEWS: Apparently there's more than
20 DOT that it could go with.

21 CHAIRPERSON FUCHS: That's right. We could
22 talk more about that.

23 Revise the Charter to reflect the current
24 DOT operational structure, and some of these are I think
25 just cleanup, important cleanups to the Charter that

1 given our mandate, we can do here if we so choose.

2 Institute a process for a standing Charter
3 review process, as opposed to being able to do Charter
4 review every year or two years, that we would institute
5 a process where Charter review would come under the
6 State --

7 COMM. CROWELL: It's not permitted under
8 State law.

9 CHAIRPERSON FUCHS: But you considered it.

10 COMM. CROWELL: Yes, I spent several hours
11 writing it up.

12 CHAIRPERSON FUCHS: We might not want to
13 spend a lot of time with this particular proposal,
14 because legal counsel tells us that it's not legal. But
15 it doesn't prevent the Charter Revision Commission from
16 considering it for extensive periods of time.

17 MR. FISHER: It's useful to know that not
18 all of these proposals have to be looked at in all of
19 their forms. That would come up if people want to
20 proceed.

21 COMM. CROWELL: As you go along, I can tell
22 you which ones aren't legal.

23 CHAIRPERSON FUCHS: Maybe if we backtrack
24 and find out what the Commission is interested in, if it
25 turns out it's your view that it's not legal for the

1 City to engage in it, that would be useful.

2 COMM. CROWELL: This is useful, to see what
3 is discussed.

4 MR. FISHER: Exempting office space, there
5 actually is already an office space acquisition
6 procedure, which could be viewed as a form of ULURP, but
7 I think the 1999 Charter Commission already exempted it
8 from ULURP. Some people thought that wasn't good
9 enough, so that's what this means.

10 We can explore these in more detail.

11 CHAIRPERSON FUCHS: Some of these which are
12 in Administrative Code or Executive Orders from the
13 Mayor, the proposal to put them in Charter is to really
14 codify and institutionalize them and basically protect
15 them from the vagaries of the political process.

16 That sounds like political science 101.
17 Sometimes it works.

18 COMM. FORSYTHE: That sounds like the
19 Charter Commission isn't a political process.

20 CHAIRPERSON FUCHS: Is it? Well, this one
21 is unusual, then, right?

22 The general reform of the Board of Standards
23 and Appeals. Abolish the Board of Standards and Appeals
24 and empower DCP to perform certain of its functions.

25 Create centralized franchise functions

1 within the appropriate agency.

2 Make appointments to Boards and Commissions
3 coterminous with appointing official. That's kind of
4 amazing, right, specifically for the CPC.

5 Merge Office of Payroll Administration and
6 the Financial Information Service Agency. Some of these
7 are here because they're in the Charter, folks, so one
8 option is to take some of these things out of the
9 Charter altogether, too, in a cleanup, in a kind of
10 cleanup proposal, which I'm not advocating either way,
11 but that's why they're here.

12 Empower the Fire Department to oversee
13 building inspections.

14 Clarify role -- as you can see, we put
15 everything in, we weren't keeping anything from you.

16 Clarify role of the Board of Corrections to
17 make it purely advisory.

18 COMM. BARRIOS-PAOLI: You can see what
19 people were thinking, right?

20 CHAIRPERSON FUCHS: Limit the role of the
21 Art Commission.

22 Conform the Charter Commission definition of
23 "veteran" to that in other laws and alter the
24 composition of the City's Veterans Advisory Board.

25 Eliminate the Preliminary Mayor's Management

1 Report. That's the PMMR. And there's a very I think
2 interesting discussion around that in 2003. It failed
3 on the ballot, but that doesn't mean we can't look at
4 that again.

5 Merge of Department of Juvenile Justice and
6 the Agency for Children's Services.

7 COMM. BARRIOS-PAOLI: That's because you
8 separated them a few years ago.

9 CHAIRPERSON FUCHS: Somebody separated them.
10 I didn't.

11 COMM. BARRIOS-PAOLI: In 1979.

12 CHAIRPERSON FUCHS: We're going to go back
13 to those. There is this balance between centralization
14 and decentralization and the pendulum swings and after
15 you take these agencies apart, some people actually
16 figure out that they might have been better off staying
17 at one whole agency because the coordination then
18 becomes extremely difficult. So this was one example
19 that came up in 2003.

20 Reform the Equal Employment Practices
21 Commission.

22 Divide the Department of Environmental
23 Protection into the water utility agency and the
24 environmental agency. So here in one example there's a
25 merger, then in this other example there's a split.

1 Split the agency.

2 And then finally, move the bridge
3 engineering and construction from DOT to DDC.

4 Okay, so if we left anything out, this goes
5 back to only '98 and we will be giving you more of these
6 proposals for your review. Please feel free to share
7 anything we've missed with us, and I just want to, I
8 don't want to keep everybody extremely late tonight, but
9 I would like to begin a conversation around a couple of
10 the issues that people would like to put on the table
11 for us to address in more detail now. So one thing we
12 could do is really ask those Commissioners who see
13 things in this list that they really think we should be
14 considering, because this will help us also when we put
15 together the baseline reports to make sure we address
16 the issues in more detail that Commissioners have a
17 particular interest in.

18 COMM. McCORMICK: Ester, what I think would
19 be helpful to me is if these could be categorized and
20 what are the ones that are cleanup that people think
21 ought to happen? Some that are just there for
22 information, but make no sense and then what are the
23 general issues like ULURP? I mean, there are three or
24 four things here, but do they touch upon the concerns
25 that people have here today.

1 CHAIRPERSON FUCHS: Correct, that's very
2 important.

3 COMM. McCORMICK: I don't know ULURP enough
4 to know that, but I'd like to know what's out there that
5 should be addressed by the Charter or might possibly be.

6 CHAIRPERSON FUCHS: So we can do that, we
7 can organize the issues in that way, but we also thought
8 if anyone on the Commission had some particular interest
9 at this point, and that we know it's current because
10 you're here in the room, that would be important to us
11 to know.

12 COMM. FORSYTHE: I could either tell you or
13 scribble them in the margins, depends how you want to do
14 this.

15 CHAIRPERSON FUCHS: Give us a couple now.
16 Give us your top three, how is that? Because I know you
17 probably have more than that, and anyone can send to me
18 or Teri any more detailed information they want to get
19 to us before the next meeting.

20 COMM. FORSYTHE: It's a little more than
21 three.

22 CHAIRPERSON FUCHS: I see your margin.

23 COMM. FORSYTHE: The financial emergency
24 stuff we're going to be doing and the budget and
25 stabilization go with that. For reasons that escape me,

1 the notion of increasing the budget modification limit
2 to 100,000 is probably a very good idea. It probably
3 was established when the budget was a lot smaller and
4 now it's a lot bigger.

5 CHAIRPERSON FUCHS: That's a good point.

6 COMM. FORSYTHE: The Hardship Appeals Panel
7 is of interest to religious organizations, because the
8 Archdiocese and probably every church worries about
9 those things when Landmarks considers them and I have an
10 arcane but very really interest in the Preliminary
11 Mayor's Management Report, and the rest of the Mayor's
12 Management Report.

13 COMM. GRAYSON: Your issue is in retaining
14 it?

15 COMM. FORSYTHE: I think it should be done
16 away with. I think it's foolish to try to publish data
17 more than once a year and I thought it was kind of goofy
18 to do it. The arcane portion is I don't know anybody
19 cares very much about these things, except maybe the
20 Office of Operations and strange people like me who
21 worry about this.

22 CHAIRPERSON FUCHS: But that's why you're
23 here.

24 COMM. FORSYTHE: Thank you.

25 CHAIRPERSON FUCHS: We want to make sure to

1 address that. Does anyone want to add to the particular
2 things that Dall put forward before we address new
3 issues?

4 COMM. CROWELL: Maybe on the Mayor's
5 Management Report I'd like to understand a little bit
6 better about what we're doing technologically in
7 reporting. I think there's some stuff on the web that
8 could be used that we're already doing.

9 COMM. FORSYTHE: All the more reason you
10 don't need a stand-alone report.

11 COMM. CROWELL: It becomes outdated the
12 minute it's published.

13 COMM. ABRAMS: It might be a good idea to
14 see the Mayor's Management Report.

15 CHAIRPERSON FUCHS: Let's get everybody a
16 copy of the Mayor's Management Report and the
17 Preliminary Management Report. You don't want the big
18 copy? It's pretty now. Lynette has made sure there's
19 pretty art work.

20 COMM. FORSYTHE: Anthony's suggestion, if
21 you get a screen and computer, you can show it.

22 MS. MATTHEWS: All of these documents, we're
23 trying to get on the web, so maybe what we can do
24 initially is get you the URL so you can find it and if
25 you want a hard copy --

1 CHAIRPERSON FUCHS: We can send anybody who
2 wants a hard copy. Whoever doesn't want a hard copy,
3 you don't have to get one, and we'll send everybody the
4 URL on the web so you can see it easily.

5 MS. MATTHEWS: We'll send everybody the URL
6 and if you want a hard copy, we'll send it to you.

7 CHAIRPERSON FUCHS: Sometimes people like to
8 have --

9 COMM. FORSYTHE: I'd like to --

10 MS. MATTHEWS: How about this? Tomorrow
11 we'll send out an e-mail and you let us know what you
12 want.

13 CHAIRPERSON FUCHS: Okay, we're good on
14 that.

15 COMM. FAILA: I just want to preface this by
16 saying that there are a number of things on here I'd
17 like to see us address, but I hope that this Commission
18 will come up with something serious to put on the
19 Charter and we'll succeed in having the people vote in
20 favor of the measure, for two reasons. One, because it
21 makes good Government sense and, two, it's a great
22 civics lesson.

23 I don't want to belabor the point because I
24 brought it up in our initial meeting, but what I'd
25 really like to see is discussion, and I've tried this

1 eight or nine years to advance this discussion and that
2 is creating -- you have it listed here, I'll read it
3 over -- limited effectiveness of legislation creating
4 new programs unless funds are actually authorized.

5 If nothing else went on the ballot, if we
6 devoted all of our time just to that, to bypassing the
7 politicians -- let me give you my honest interpretation
8 as a former City Council member. With term limits in
9 this City now, the advancement of a bill is more of a
10 political tool than it is the advancement of an
11 important issue, and personalities utilize that tool in
12 the Legislature, the City Council.

13 Let me just give three examples, that have
14 varying degrees of significant fiscal impact in addition
15 to a whole host of other types of impact.

16 You had the Lead Paint Bill, which never
17 should have passed. It was a political football. Had
18 the City Council been required, as we are, legislation
19 on our desk, fiscal impact statement at the end, billion
20 dollars. That's wonderful, but that's half the
21 equation. If we were responsible for coming up with the
22 offsets to pay for it, maybe a majority of members would
23 have said, I'm not prepared to find those billion
24 dollars in cuts, because this will close, this will
25 close, the senior Sunday lunches will go. But the

1 Legislature has the luxury of passing it and the Mayor
2 is the bad guy and it's not Michael Bloomberg, it's any
3 Mayor from here on out, that's what we have to
4 understand, and the public has to understand it. The
5 chief executive isn't the bad guy or the bad girl --
6 woman. I apologize.

7 CHAIRPERSON FUCHS: We'll take it. Any
8 female chief executive --

9 COMM. FAILA: The City Council a few weeks
10 ago passed, the Mayor came up with a program, I know
11 this because I'm the one in the City Council that
12 advanced it. Nurses in all schools. We came up with a
13 program, what can we afford to do.

14 The City Council for three years has been
15 playing this political football. What do they do, they
16 pass a bill as soon as he passes his. They'll veto his
17 measure, but they don't have to come up with a dime
18 towards the money. Yet they can stand out there in
19 front of the same firehouse and talk about \$3 million,
20 yet they haven't done a damned thing to tell the people
21 what they would take it from. And I really think the
22 people are being duped here. Honest to God, I mean
23 this. If we did nothing else, not for the Mayor, and
24 again -- but for ourselves, for posterity, we teach
25 people that in a democracy it's about choice, it's about

1 competing interests, and these folks that we elect are
2 supposed to reconcile the differences and make
3 intelligent choices, they are not.

4 The campaign finance measure. You know, we
5 can close the firehouses now for three years, which made
6 good fiscal sense and made good fire management sense.
7 They could have come up with the money, but no, we don't
8 have it, but they could come up with a six to one match
9 to pay for their staffs. The public should be outraged
10 and what I'm saying is, sometimes the public needs a
11 tool on their side. The fiscal impact statement is
12 nothing more than a toothless tool. It's great you're
13 telling me as a Legislature it's going to cost a billion
14 dollars, and I can say what do I care, the Mayor is the
15 one who has to come up with it or not come up with it.
16 Even better, because I want his job in three years.

17 So I really want to ask the staff if you can
18 come up with specifics on that, and if we had no other
19 measure, this Charter Commission would do as important a
20 job as the Schwarz and the Ravitch Commission has done.
21 Because post term limits this City is sinking in red
22 ink. The Mayor has little discretionary control,
23 between Medicare and Medicaid and all the mandatory
24 expenses and I haven't seen the Legislature act once
25 against a measure because they've been acting in their

1 self interests.

2 I understand politics, as we all do, but we
3 need a tool to save this City in the long run. So I
4 would ask that that measure be looked at and one other,
5 then I'll zip my mouth.

6 CHAIRPERSON FUCHS: Can I ask if anybody has
7 comments on that and move to the second measure? Amy?

8 COMM. BETANZOS: I would heartily endorse
9 this. I think it goes to the heart of Government, and I
10 certainly support everything he was saying. Having been
11 on the Ravitch and the Schwarz Commission, I thank you
12 for the nice things you said about them.

13 COMM. FAILA: The second thing is I'm going
14 to call it the rainy day fund. You call it something
15 else. We tried this in the Council, when I was co-chair
16 of the budget committee. My understanding was there
17 were some legal ramifications to doing this. We
18 couldn't establish legally a rainy day fund, we could
19 prepay certain expenses for next year. Could we look at
20 the legal aspects of that, because I think that would be
21 a worthy venture.

22 MR. FISHER: Some of it was tied to the
23 emergency act.

24 COMM. FORSYTHE: What happens when you use
25 money from the rainy day fund, it doesn't count as

1 revenue. If it's a hundred million dollars, it triggers
2 the sort of deficits that requires action to restart the
3 financial control.

4 MR. FISHER: It's not consistent with the
5 requirements of the Financial Emergency Act. Not
6 totally inconsistent, unless it's carefully drafted.
7 With the requirements of the Financial Emergency Act,
8 the budget must be balanced using generally accepted
9 accounting principles.

10 COMM. FORSYTHE: I think I just said that.

11 MR. FISHER: Yes, that's another way to say
12 the same thing. There's a way to get around that issue
13 and but it creates another issue.

14 COMM. FORSYTHE: The other thing is that the
15 City has developed exquisitely careful control over the
16 size of the surplus and has figured out ways to do away
17 with all of its surplus after the first year of the
18 surplus. In '81, whenever it was, they figured out
19 exactly how to get rid of it every year and it's usually
20 around \$30 million. They could make it smaller if you
21 want. It's really tough without changing the law, that
22 Financial Emergency Act.

23 COMM. FAILA: Thank you for indulging me.

24 CHAIRPERSON FUCHS: Thank you. It's really
25 important.

1 COMM. FORSYTHE: That will be on the list.

2 CHAIRPERSON FUCHS: Most certainly these
3 issues will be addressed in the fiscal presentation.

4 Anybody else? Amy?

5 COMM. BETANZOS: I'd like to see us really
6 go carefully into the procurement processes. I think
7 it's extremely important, including the Vendex issues.
8 And also, conflict of interest.

9 COMM. ABRAMS: Where on this list is
10 conflict of interest?

11 COMM. BETANZOS: It's in there somewhere.

12 COMM. BARRIOS-PAOLI: Where it says
13 administrative law reform and conflict of interests, I
14 agree with Amy. Appropriateness of authority and issues
15 of funding are important.

16 COMM. BETANZOS: I think a lot people don't
17 really understand, how long the periods where you can't
18 have any relationship with an agency that you come from.
19 They don't know what it is, they don't understand it,
20 and there's a great deal of confusion on that.

21 CHAIRPERSON FUCHS: Anybody else wanted to
22 comment on that?

23 COMM. BARRIOS-PAOLI: I do think that most
24 people that begin in City Government, that come into
25 City Government don't really understand the conflict of

1 interest rules, they really don't, and get into trouble
2 unnecessarily just because of lack of understanding, not
3 for any other reason. There's a lot taken for granted
4 in terms of people knowing all the nuances and
5 understanding what it means and I think it should be
6 that everybody should be told what the do's and don'ts
7 are.

8 This is sort of like not a very exciting
9 thing, but I do think we should look into the
10 consolidation of the administrative judges and all of
11 the different tribunals and just making sure that
12 everybody is operating under the same rules and doing
13 the same kinds of things. Because there is such a
14 divergence between City agencies.

15 CHAIRPERSON FUCHS: That will be part of the
16 Deputy Mayor's focus and we'll make sure that gets
17 covered. We've got Anthony here to help us make sure.

18 Any other comments? Jennifer?

19 COMM. RAAB: Is there anything from City
20 Planning about land that they wanted us to look at? I
21 think given the Schwarz change and what's happened, it's
22 probably time to look at issues of land use in the
23 Charter.

24 CHAIRPERSON FUCHS: We've solicited comments
25 from all City Agency Commissioners and other Mayor's

1 Office staff and we're in the process of collecting
2 comments directly from the agencies, so we're going to
3 present to the Commission also, and I think Susan is
4 going to be doing some of that in her presentation,
5 Susan Kupferman, the work that we put together directly
6 from a City agency, so we've contacted the Planning
7 Commission, Amanda and her staff, and we're meeting with
8 all of the Commissioners, particularly those that have
9 relevant issues here, of whether or not they want to put
10 anything forward.

11 COMM. ABRAMS: I saw her coming in and asked
12 if she had anything to offer.

13 CHAIRPERSON FUCHS: She lent us her
14 beautiful meeting space. Any other comments? Well,
15 thank you, everybody. I just, before we adjourn, I just
16 would like to ask if there's any new business that we
17 haven't covered in this meeting that people would like
18 to see covered? If not, I'd like to ask for a motion to
19 adjourn?

20 COMM. GRAYSON: So moved.

21 COMM. FORSYTHE: Second.

22 CHAIRPERSON FUCHS: All in favor of
23 adjourning? Thank you very much for your time today.

24 (Chorus of "Ayes.")

25 (Time noted: 8:39 p.m.)

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

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

