

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Transcript of the Meeting of the  
CHARTER REVISION COMMISSION  
held on Wednesday, December 8, 2004  
Hunter College West  
68th Street and Lexington Avenue  
Borough of Manhattan

AR-TI RECORDING COMPANY, INC.	
305 Madison Avenue	142 Willis Avenue
Suite 405	P.O. BOX 347
New York, N.Y. 10038	Mineola, N.Y. 11501
(212)349-9692	(516)741-5235

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 AMALIA BETANZOS

9 STEPHEN FIALA

10 DALL FORSYTHE

11 DAVID CHEN

12 MARY McCORMICK

13 STEPHANIE PALMER

14 Also Present:

15 TERRI MATTHEWS, Executive director

16 BRIAN GELLER, Analyst

17

18

19

20

21

22

23

24

25

1                   CHAIRPERSON FUCHS: Good evening. I'd like  
2                   to call our session of the New York City Charter  
3                   Revision Commission to order, please. First of all,  
4                   thank you, everyone, for attending this evening and a  
5                   special thank you to President Raab of Hunter College  
6                   and to her staff and especially to Paulette Enriquez for  
7                   helping to host this evening at Hunter College and for  
8                   making this space available for the City for this  
9                   meeting of the Charter Revision Commission.

10                   This is the first of three baseline meetings  
11                   that we will be holding and these are public meetings as  
12                   opposed to public hearings. Public meetings actually  
13                   have the public observing as opposed to asking questions  
14                   and we will have some expert testimony for all these  
15                   three baseline meetings. We will be holding hearings  
16                   later on and I will provide information about that at  
17                   the end of the session.

18                   We welcome comments from everybody in this  
19                   room, from your friends and neighbors and anybody else  
20                   you would like to inform about the work of the Charter  
21                   Commission. You can contact us at our website,  
22                   www.nyc.gov/charter. The website is up and running.  
23                   You can actually send us a message directly from the  
24                   website, you can send a message to me as Chair, you can  
25                   send a message to the executive director, Terri

1 Matthews, who is here tonight and you can sign up on the  
2 website to receive e-mails and if you're interested in  
3 signing up this evening to receive e-mails, there is a  
4 sheet going around. Ruth Gen and Abby, you just might  
5 raise your hands. Somewhere in the corner of the room  
6 is the sheet that will allow you to sign up and receive  
7 e-mails from the Charter Commission. On the website you  
8 can also access the meeting schedule and transcripts  
9 from previous meetings.

10 We are trying to make the information as  
11 accessible as possible to the broadest public that we  
12 can reach and we, as I said, welcome everybody's  
13 comments, questions, interests and as well as expertise  
14 on this particular Charter Revision Commission.

15 This evening, the subject of our expert  
16 testimony will be fiscal stabilities and issues related  
17 to the sunseting of the Emergency Financial Control Act  
18 of the State Government and we're very, very fortunate  
19 today to have the City's Budget Director, the Director  
20 of the Office of Management and Budget of the City of  
21 New York, Mark Page, to testify before the Commission.

22 Is Mark here? Great. I'd just like to  
23 invite him to come up. Briefly, Mr. Page is as I said  
24 the Director of OMB for the City of New York. His  
25 responsibilities are far reaching. He monitors and

1 forecasts, I'm going to say he personally monitors and  
2 forecasts City revenues and expenses, analyzes the  
3 economy, evaluates agency management and improvement  
4 initiatives, issues bonds in the public capital market  
5 in conjunction with the City Comptroller. He has been  
6 with the Office of Management and Budget since 1978 and  
7 he's been the director since 2002. He serves on a  
8 variety of Authorities and he received his BA from  
9 Harvard University and his law degree from NYU.

10 It is a pleasure to welcome Mark Page to  
11 speak before the City Charter Revision Commission.  
12 Thank you.

13 MR. PAGE: Thank you. My tenure in City  
14 Government happens to coincide, so far at least, with  
15 the kind of second generation version of the Financial  
16 Emergency Act. There was a first generation enacted in  
17 1975 and major revisions, actually, in the spring of  
18 1978 when I started working as a lawyer for the Budget  
19 Bureau in January before that. So I was at least  
20 present, I don't know how involved, particularly, with  
21 the substance of what was done that spring, and along  
22 with others who were there, I guess I continued to be  
23 somewhat amazed that the structure that was devised that  
24 spring in terms of a rolling four-year plan and the  
25 standards and procedures that accompany it, has actually

1 worked as well as it has since then, through a number of  
2 different mayors, a number of different economic cycles,  
3 different agendas of mayors. New York City has achieved  
4 23 years of balanced operating results. Which is  
5 unusual for a Government entity, and I guess I'd like to  
6 sort of go back to the mid-70's in terms of what this  
7 system is and its nature as a creature of State law as a  
8 practical matter which has been picked up here and there  
9 in the City Charter, but not I think in the  
10 comprehensive arrangement that is, I think, fairly  
11 clearly and sort of understandably, and that's perhaps  
12 only because I'm a lawyer, so I think that this stuff is  
13 understandable that others might not.

14 If you look at New York City in 1975, I  
15 mean, as we all know there's this great moment when New  
16 York City has had a substantial amount of short-term  
17 debt outstanding, and some of it is bond anticipation  
18 notes issued for legitimate capital purposes, but a lot  
19 of it is notes in anticipation of tax revenue or in  
20 anticipation of State aid of one kind or another, which  
21 were sold, the proceeds were used to pay operating  
22 costs, the revenues didn't materialize, the note comes  
23 due and so the obvious thing to do is to sell another  
24 one, because then you have the money to pay off the one  
25 that comes due. This is a very satisfactory pattern, it

1 continues fine until somebody decides they're not going  
2 to buy the next note at which point it ends rather  
3 abruptly which results in the 1975 experience of New  
4 York City and none of this is a surprise to any of you,  
5 but with an operating budget of \$12 billion, there was a  
6 question as to how many notes stopped rolling, the  
7 answer was six billion which is a lot, a sudden,  
8 unexpected, unplanned for expense to accommodate.

9 Everyone is surprised to remember the City  
10 couldn't accommodate it and couldn't pay the notes when  
11 it came due. That was upsetting to people who might  
12 consider lending more money to New York City. And the  
13 first sort of State approach to that problem was the  
14 creation of the Municipal Assistance Corporation for the  
15 City of New York. If you are actually compelled for  
16 whatever reason to read the MAC Act as adopted by the  
17 New York State Legislature in 1975, you would find  
18 there's a whole lot of small print in there that  
19 actually talks about how the City is supposed to behave,  
20 how it's supposed to relate to the credit markets,  
21 restrictions on short-term debt, the issue of RANs and  
22 TANs, which is basically how the City had financed with  
23 cash an ongoing and growing operating deficit through  
24 the early 1970's and perhaps earlier than that.

25 MAC was primarily, however, a cure for

1 access to the credit markets; it was this thing of  
2 breaking off basically sales tax revenue from New York  
3 City. MAC could issue debt for which the payment would  
4 come from the sales tax and it was sales tax before the  
5 sales tax actually got into the City. So the lender,  
6 investor in a bond didn't have to trust City Government  
7 to pay interest and principal on debt instead of this  
8 week's police payroll, the money went to MAC, MAC didn't  
9 have a police payroll so it wasn't so hard for them to  
10 pay debt service, and then downstream with MAC, whatever  
11 surplus they might have went to the City and, you know,  
12 fell into this dubiously managed box.

13 MAC worked for a while. It actually didn't  
14 have sufficient market access to cover the need in terms  
15 of refinancing the City's then overdue notes. And the  
16 Financial Emergency Act was an effort to address not  
17 just the structural credit problem in New York City, but  
18 the fiscal management problem, and it's I think kind of  
19 interesting for that reason.

20 The basic theory was that the State created  
21 this oversight board, basically run by elected officials  
22 in their official capacity. It's the Governor, it's the  
23 City Comptroller, the State Comptroller, the Mayor.  
24 That's four out of seven members who are in fact elected  
25 Government officials and then three private members

1 appointed by the Governor. I mean, as a model, it's not  
2 that you're looking for people to volunteer to serve on  
3 this board. Yes, the three private members but the real  
4 weight of the board is actually elected officials in  
5 their Governmental capacity.

6 And then in '75 and then as revised in 1978,  
7 you have this idea that you're going to impose a fiscal  
8 planning structure on the existing budget and financial  
9 management process in the City. It doesn't supersede  
10 the basic budget scheme in the Charter. The Mayor  
11 proposes an executive budget, the Mayor dictates the  
12 revenue estimate that can be relied on under the  
13 Charter, the City Council adopts a budget, it can be a  
14 modified version of the executive budget. By adopting  
15 it, they authorize spending a certain amount of money.  
16 They can look to the Mayor's revenue estimate and then  
17 under the Charter they have to balance the budget, as  
18 has been true long before the mid-'70s by the level of  
19 property tax they impose.

20 So you have authorized spending, revenue  
21 determined by the Mayor and this extra amount levied in  
22 the property tax. It has to be balanced, that's what  
23 the Charter says.

24 The Financial Emergency Act said, well,  
25 besides that, we're going to require that the Mayor

1 submit a financial plan which has reasonable estimates  
2 of expected revenue and provides for everything that  
3 you're going to have to spend and after a transition  
4 period up front of phasing out a deficit using MAC to  
5 finance it, shows in the current year balance in terms  
6 of what you forecast in revenue and what you expect to  
7 have to spend to meet all your legal obligations for  
8 spending.

9           The standard is imposed at the beginning of  
10 the year and to begin with, the estimates of revenue and  
11 the provision for expenses had to be approved by the  
12 Control Board before the year began, effectively, but  
13 then it requires the Mayor not just to have set up that  
14 construct in June for the year beginning July 1st, but  
15 to watch what happens, and, one, you can't enter into  
16 contracts or issue debt or spend something that's not  
17 consistent with the plan as it's in effect, but, two, if  
18 revenues change or expense requirements change, you  
19 actually have to keep the plan in synch with those  
20 standards of it's got to be a reasonable forecast of  
21 revenues. If the bottom falls out of the economy in  
22 October, you can't stay with the forecast that you had  
23 back in June, you actually have to lower revenues and  
24 you have to maintain balance. So somehow or other  
25 you've got to spend less, so that it's an ongoing, live

1 standard which is sort of enforced with not just this  
2 idea that you're setting up forecasts at the beginning  
3 of the year, you have to operate such that at the end of  
4 the year, when you hire, as the Act requires, an outside  
5 auditing firm to look at what you actually did in that  
6 fiscal-year period, looking back at it, on the basis of  
7 those audited financial statements, you show that you  
8 spent no more than you took in, in actuality n that  
9 fiscal year. Spent, took in, well, those are supposed  
10 to be current revenues and current expenditures as  
11 defined under generally accepted accounting principles.  
12 Generally accepted accounting principles when that  
13 standard was put in the Act sounded to some of us as  
14 this sort of arcane kind of chant or something that  
15 could be placed upon something that was going to make it  
16 real. It's because none of us were accountants.

17           Having worked with this for a long time, the  
18 audited financial results of New York City for a number  
19 of years have shown a surplus of current revenues over  
20 current expenses on what's now approaching a \$50 billion  
21 operating budget, of \$5 million, as reported in October  
22 of every year. That suggests if you think about it for  
23 ten seconds that there must be some flexibility in these  
24 standards. But, nonetheless.

25           That backward looking edit on performance is

1 I think for large municipal entities pretty much unique  
2 to New York City, and it exists in the Financial  
3 Emergency Act as a backward looking standard, I mean,  
4 it's certainly not as well developed in the Charter as  
5 it stands.

6 The Control Board as the oversight body  
7 stayed in effect with, again, the Mayor basically being  
8 obliged to propose financial plans to them, to  
9 periodically modify financial plans to reflect changes  
10 in the revenue outlook or if an unexpected expense  
11 showed up, to demonstrate how that was going to be  
12 accommodated, perhaps by reducing other expenses  
13 ongoing. The Control Board, until 1986 was also obliged  
14 to review and approve contracts and debt issuances  
15 before they became binding obligations. Again, for  
16 consistency with this ongoing plan, it meant that there  
17 was a continuous fiscal negotiation between the Mayor's  
18 office and the Control Board and its staff for what were  
19 reasonable assumptions and expenses that really could be  
20 accommodated within this defined universe of a financial  
21 plan.

22 Although in the language of the Act, there  
23 is this phrase that budgets are supposed to be  
24 consistent with the financial plan, practice in recent  
25 years has sort of caught up with that standard and the

1 budget modification process defined in the Charter,  
2 which has the Mayor proposing budget changes in the  
3 course of a year, this is subject to approval by the  
4 City Council, that's pretty much happened, although  
5 certainly for the first decade or so of operation under  
6 this Act, the ongoing amendment process of the financial  
7 plan and the Mayor's responsibility to operate within it  
8 and achieve balance was a circuit that to a large degree  
9 was independent of the City Council's review and  
10 approval of changes. The Act has inherent in it very  
11 broad Mayoral Powers for impoundment, if you want to  
12 look at it that way, because it has a very clear mandate  
13 that operations must be consistent with the plan and  
14 must provide balance, even if the appropriations aren't  
15 reduced, if the revenue goes down, in theory, I mean,  
16 the Mayor is legally required to reduce spending to keep  
17 the two sides lined up.

18                   Since 1986, the Control Board has been in  
19 what's known as sunset. The criteria originally put  
20 into, or put into the Act in 1978 when this was going to  
21 happen required that the City show it had three years of  
22 balanced budgets, it no longer had federal guarantees of  
23 City debt outstanding; that the State and City  
24 controllers had certified that the City had access to  
25 the credit markets sufficient for its needs. I guess we

1 were generally in compliance with the Act, which  
2 ultimately means that we had in effect and were  
3 maintaining financial plans that had reasonable revenue  
4 estimates, that provided for what we had to spend, and  
5 that we were living inside that.

6 Those operating standards continue to apply  
7 to New York City and continue to be a responsibility of  
8 the Mayor, even in sunset. The consequence of a failure  
9 to adhere to those standards of operation is that the  
10 Control Board in theory comes back into a control  
11 period, which basically means preaudit; that they have  
12 to approve the financial plan and approve contracts  
13 before the City could operate under them, rather than  
14 simply standing back a step and watching that the City  
15 is holding on to those standards.

16 At the moment, the Charter has in it in  
17 various places mandates having to do with a financial  
18 plan or a four-year financial plan. It does not have  
19 explicitly in it the standards of estimation that are  
20 supposed to govern those plans, although there's  
21 obviously a lot of outside comment by more than just the  
22 Financial Control Board staff as to whether our general  
23 budget assumptions are reasonable at any given moment.

24 I think, just one other observation, which  
25 has -- isn't directly related to the mechanism of

1       whether the Control Board as we now know it stands  
2       ultimately in judgment, whether control period or a step  
3       back of whether we're performing properly under this  
4       financial planning structure, but is an offshoot of it.  
5       New York City has four-year financial plans. I think  
6       people have kind of absorbed that as part of the  
7       woodwork. I mean, it's almost assumed that of course  
8       we'll always have four-year financial plans, but are I  
9       think taken seriously to a surprising degree.

10                       We have these 23 years of balanced operating  
11       results, but I think that most people when they think of  
12       New York City and budgets instantly think operating  
13       deficits. The deficits are in the years two, three and  
14       four of our four-year financial plans, and almost  
15       invariably they're there. Part of that is perhaps that  
16       it's very easy to run out year after year the costs of  
17       doing business and the inflation in costs of doing  
18       business. On the revenue side, it's more of a guess in  
19       terms of what the actual result will be. If the  
20       consequences of going out of balance are serious,  
21       there's perhaps some careful bias in the revenue  
22       forecasts, although, I mean, many people would tell you  
23       that they're always wildly conservative. Well, if you  
24       look at New York City over the last few years, they're  
25       not. For the first couple of years of this

1 administration every time we did another iteration of  
2 the financial plan, the revenue forecast was coming  
3 down, as a matter of fact.

4 In any case, the importance of those out  
5 years in this four-year structure I believe have enabled  
6 New York City in an odd way to have the debate and  
7 anguish over resources for services versus tax burden  
8 and what you can get out of other levels of Government,  
9 in front of where we are. The fact is there's huge  
10 debate over budget resources in New York City. Well,  
11 there's debate about most things and this is important  
12 to people, why wouldn't there be? But generally, it's  
13 how you deal with the forecast imbalance and by the time  
14 you actually get to the middle of June before the year  
15 beginning July 1st, in an odd way the war has been  
16 fought, everyone's exhausted and we're exhausted enough  
17 so that I think it works surprisingly well that people  
18 are willing to make compromises and deal with what  
19 resources are genuinely there, so that we have this  
20 enviable record of actually having adopted budgets by  
21 the beginning of our fiscal year, which are balanced  
22 when adopted on this forward-looking standard, and, as  
23 I've said, actually through rather assiduous maintenance  
24 and continuous adjustments through the years have also  
25 in retrospect achieved operating balance.

1                   The Financial Control Board has also  
2                   functioned as the standard, as setting the standard of  
3                   how the City will report on itself and what information  
4                   will be available on an ongoing basis. Again, it's  
5                   something that's built into the woodwork now and pretty  
6                   much taken for granted, but it was the subject of  
7                   considerable rancor and debate when the grooves were  
8                   being developed in the late '70s and early '80s.

9                   Although the financial plan itself is a  
10                  couple of pages, it's very high level, it does not  
11                  purport to dictate program choices by any means, but the  
12                  amount of information that goes with each iteration of  
13                  the plan in terms of documentation and assumptions is  
14                  very extensive, and the reporting against the plan that  
15                  the City does, we have what's known as financial plan  
16                  statements which come out, each year the City lays out  
17                  its budget plan on a monthly basis, it tracks how its  
18                  actuals compare to that forecast and on a month's lag  
19                  basically publishes and reports on how it's doing. That  
20                  is a publicly published presentation of what OMB spends  
21                  an enormous amount of time doing, which is continuously  
22                  watching to see when we're getting out of synch, so that  
23                  you can make the adjustments you need to as you go  
24                  along.

25                   It's worked, I think surprisingly well, as

1 I've said. How to maintain the effect and usefulness of  
2 this structure going forward is I guess the question  
3 before us now as a practical matter.

4 I can ramble on forever, but perhaps you  
5 have questions that would be more useful.

6 CHAIRPERSON FUCHS: We're open for comments  
7 and questions from the Commissioners. First of all,  
8 thank you so much for an extraordinary presentation.  
9 Bob?

10 COMM. ABRAMS: I thought that was an  
11 outstanding presentation, as the Chair has indicated.  
12 Very articulate, very understandable and very helpful  
13 historically.

14 What do you recommend to us? Some of the  
15 financial controls from the original legislation are  
16 going to expire. Do you believe that wholesale we  
17 should retain everything that has been in place for the  
18 last couple of decades or should some provisions be  
19 sunsetted and be allowed to expire?

20 MR. PAGE: At this moment, I don't have a  
21 perfect answer to that question, quite honestly. I  
22 think that there is a value to the four-year financial  
23 management structure that is laid out in one place in a  
24 fairly focused fashion in the Financial Emergency Act  
25 that doesn't have to be there. It could be somewhere

1 else, quite honestly. I think that there's value to  
2 this backward-looking balance standard.

3 Most governments are required to have  
4 budgets that are balanced when they're adopted. Budgets  
5 are always forecasts, as a practical matter, that's the  
6 nature of this business, but having a backward-looking  
7 test, I think puts a whole different light on fiscal  
8 management for a Governmental unit. That GAAP balance  
9 standard, I mean, it's extremely arbitrary and it's sort  
10 of a blessing and a curse, frankly, together. The fact  
11 that you have to line up current revenues and current  
12 expenses in each fiscal-year period becomes a very  
13 arbitrary snapshot in terms of your operations. It is  
14 definitely an enforced discipline.

15 It does mean that if, as is often the case,  
16 you get to the latter part of June and agencies may not  
17 spend more than their appropriated ceiling for the year,  
18 so the nature of budgeting and authorization to spend  
19 through appropriation, if you can't go over, chances are  
20 you're going to go under. So you find at the end of the  
21 year you haven't spent as much as authorized to be spent  
22 for operations, and on the revenue side, if you know  
23 that it's going to be acutely embarrassing to come out  
24 short, I mean, you run out of money on June 15th, what  
25 do you do for the next two weeks, the chances are you're

1 going to be a little over.

2 So customarily, New York City has more  
3 resources available at the end of the year than it has  
4 to spend in that year. If you leave those resources so  
5 that they are reflected in your audited financial  
6 statements for that year, that's very nice for the  
7 balance sheet, but the money having come in as a current  
8 revenue in year one and shown up in your audited  
9 financials, can never balance a current expense in a  
10 future year. It can only be a current revenue one year.  
11 Okay, it was a surplus that year, well, that's nice, but  
12 now it was a billion dollars. I'd love to spend a  
13 billion dollars, it came out of the tax base, why can't  
14 I spend it? Well, because I have to balance current  
15 expense against current revenue, can't do it.

16 So we go to extraordinarily -- well, we work  
17 very carefully at the end of each year to make certain  
18 that basically that doesn't happen, that you find  
19 expenses which you might not have had to cover in that  
20 year, but that you could cover in that year and that  
21 will benefit you in the future, and you move them back  
22 to use the resources at the end of June, when you're  
23 still in that year, so that they become current expenses  
24 in that year and you can match them.

25 But it's a little tense as a process,

1       because the fact is, you have to do this by the end of  
2       June and you don't have your audited results until the  
3       end of October and there are a lot of variables. I  
4       mean, there are a bunch of tax revenues that come in in  
5       July and August which accrue back as revenues to the  
6       prior June 30th. It's a bit of a tightrope. That box  
7       is a difficult. As soon as you think about varying  
8       it, how would you vary it in a way that wouldn't upset  
9       people's confidence in this model? I mean, that's sort  
10      of an interesting question to me.

11                   And then, I guess the other overarching  
12      question -- and maybe, I mean, maybe you could. You  
13      could look at that column in the audited financial  
14      statements and you can see whether you have a cumulative  
15      surplus in it. Maybe you could authorize to spend  
16      cumulative surplus in it. If you have money in one year  
17      that's available in the future, that could go into your  
18      GAAP balance. It opens other doors in terms of how you  
19      might operate that get more complicated.

20                   I guess the other general question is, we're  
21      very used to the standards we operate under in this  
22      four-year plan and the information we're obliged to  
23      publish and the level of care that goes into forecasts  
24      of revenues, making certain that we've actually covered  
25      everything we have to spend. And the existence of the

1 Control Board itself was the origin of creating those  
2 grooves. Do you need something of that kind, even if  
3 ideally it actually doesn't have to ever use its voice,  
4 that would be an ongoing, live assurance that your  
5 standards would be adhered to, and I don't really know  
6 the answer to that, either, but it's certainly I think a  
7 question in here.

8 A further question is, New York City's  
9 Government is very, I mean, it has a very strong  
10 executive as a practical matter in terms of how it  
11 operates. The Financial Emergency Act actually in  
12 overall fiscal management adds a considerable additional  
13 weight to executive strength and responsibility for an  
14 outcome. How do you deal with that concept going  
15 forward?

16 CHAIRPERSON FUCHS: Steve?

17 COMM. FAILA: Thank you. Madam Chair. Let  
18 me, Director Page, let me associate myself with the  
19 Chair's remarks and Commissioner Abrams' remarks and  
20 thank you for your testimony. You gave a very good and  
21 thorough overview of the Financial Emergency Act of '75  
22 and I think that we have now had a sufficient amount of  
23 time, giving the number of economic cycles, bull markets  
24 and bear markets, we've seen how this plays out, and  
25 there's no question that New York City under this Act

1 has one of the best budgetary systems, I would assume,  
2 of any municipality, or State Government for that  
3 matter.

4 I had a question and I throw it out there,  
5 and I don't expect you to give an answer, because you've  
6 pretty much summed it up, but the question that I had  
7 related to those principles or provisions which  
8 presently exist or have existed prior to the control  
9 period ending, which have not been incorporated into the  
10 Charter as of yet, and those areas that you would like  
11 to see studied and possibly expanded. If we could  
12 rewrite it, if we could take the provisions from '75,  
13 those that have been incorporated into the Charter  
14 language and those that remain outstanding, and then you  
15 could tweak it based on the lessons we've learned over  
16 nearly three decades, what would they be?

17 Rather than put you on the spot, because you  
18 gave a very eloquent answer, maybe you could think about  
19 that, and if you have anything, submit it to us. But if  
20 I could segue into an area that we've touched on in our  
21 three hearings, because you touched upon it somewhat,  
22 and it's maybe a stretch for me, but I want to link it  
23 to your remarks, because I think it's something that  
24 would serve the people of New York very well, and  
25 ultimately the elected officials of New York very well.

1 Your last statement related to the powers of the Mayor  
2 and accountability over spending and programmatic  
3 initiatives.

4 Here's the question I have, if I may pose  
5 it, and again, if you want time to think about it, take  
6 it as a rhetorical question.

7 I have maintained for now, I guess nearly a  
8 decade, while I was on the Council and I've been out for  
9 almost four years, this observation: Under our model,  
10 we have, with the Ravitch and Schwarz commissions  
11 created a Government where the Mayor and the City  
12 Council are co-equal branches of Government. The City  
13 Council's Powers were expanded enormously in areas of  
14 budget and land use. And here we are all these years  
15 later operating under this great model on paper, and  
16 this is my personal opinion, I do not speak for this  
17 Commission nor anyone on it, but I believe that in  
18 addition to any technical language that we would want to  
19 look at with respect to FEA principles, we should look  
20 at something else, and I'd like your thoughts on if you  
21 believe it's as big a problem as I do.

22 We operate with a close to \$47 billion  
23 budget, is that accurate?

24 MR. PAGE: A little more than that.

25 COMM. FIALA: Most of that budget, neither

1 the Council or the Mayor can do a damned thing about.  
2 There are federal mandates and state mandates and we  
3 have the unusual additional burden that no other  
4 municipality has of a 25 percent share in Medicaid.

5 So you have this tiny thing to argue over  
6 and the additional variables being thrown at us. The  
7 CFE is \$5 plus, and if Speaker Silver is correct, and  
8 we're going to pick up 25 percent of that share, those  
9 are additional mandates that are going to be imposed on  
10 the Mayor and the City Council, who have very limited  
11 authority with respect to taxing.

12 So what is your position when a financial  
13 plan is adopted or a budget is adopted based on  
14 financial plans and as you indicated, you want to stick  
15 to that, that's the intent, you want to stay to it as  
16 closely as possible, but midway through, halfway  
17 through, the Legislature acts in a manner that creates  
18 its own unfunded mandates.

19 I'll take two and I'm sure I'll get attacked  
20 back at home for this. Yesterday they overrode a veto  
21 for nurses in Catholic schools and it's going to cost  
22 \$7.5 million. I know this because before I left  
23 Councilman O'Donnell and I took five million from other  
24 areas and funneled it into that program. We offset, we  
25 found the money. This body didn't do that.

1                   Yesterday they also passed a ferry bill  
2                   which I support in concept, but it's going to cost five  
3                   million, so \$12.5 million of money not in a plan, yet  
4                   who has to find it? Well, there are two avenues. The  
5                   Mayor can cut or he can propose future increases in  
6                   revenue, or it can wind up in the courts and it seems to  
7                   me the threat and the public must understand this, more  
8                   and more as legislatures act irresponsibly by creating  
9                   mandates but not having to define where the money will  
10                  come from -- nurses are very popular. No one in their  
11                  right mind would say they weren't, but it's a lot easier  
12                  to stand there and create the program than it is to find  
13                  a way to pay for it.

14                  I have not spoken to the Mayor, but I doubt  
15                  very much he's opposed conceptually to it, but I imagine  
16                  the issue of the 12.5 million is a problem because it's  
17                  got to come from somewhere. So these things wind up in  
18                  the courts, we see it with CFE and special masters.

19                  Would it then, not be a benefit for us to  
20                  have a frank discussion with the people over the next  
21                  year and possibly put before them a simple question, and  
22                  that is, that we finish the equation. I was a City  
23                  Councilman and with every bill there was attached a  
24                  fiscal impact statement and it said Steve Faila, this is  
25                  going to cost a hundred million dollars and I voted yes

1       because it was very popular, but I didn't care where the  
2       money came from. So it went over to the Mayor, at this  
3       time was Rudy Giuliani, and it was his turn to be the  
4       bad guy. But I got to say I did this, and I didn't have  
5       any of the accountability.

6                   Should the City Council or any legislature  
7       in theory, just as the Federal Government has, have the  
8       requirement to not only have a fiscal impact statement  
9       since we're studying it anyway and they have people  
10      studying, but if they want to create new programs,  
11      identify the funding streams.

12                   MR. PAGE: Well, I've obviously worked for  
13      the Mayor's office for some time, so my answer is  
14      somewhat predictable. But I guess it's kind of  
15      two-fold. One is, that I think that to a considerable  
16      degree, you know, motivated by the mess of the  
17      mid-1970's and I think to a large degree enabled by the  
18      fiscal management structure that came out of it, New  
19      York City is extraordinarily good at making the  
20      necessary adjustments to accommodate mandated spending,  
21      wherever it may come from, so that we'll basically move  
22      heaven and earth to achieve a balanced operating result,  
23      having paid what we're legally obliged to pay for.

24                   That can be an open ticket for the kind of  
25      action you're talking about. Because if a bill is

1 passed that is going to cost \$12 million or \$50 million  
2 or what have you, the sort of fiscal management side of  
3 the house is going to do its very best to still deliver  
4 the balanced operating result, even if it means pinching  
5 a whole lot of other places or raising fees or pushing  
6 taxes or what have you.

7 This question of one-sided budgeting, I'm  
8 one of the Mayor's sort of requested appointments on the  
9 MTA board and in the MTA's capital plan, beginning this  
10 January 1st, the four of us didn't vote to endorse the  
11 capital plan, as the four Mayoral people on that board,  
12 not because the capital plan doesn't actually make  
13 sense, it doesn't provide for things that would be good  
14 to have and probably sensibly prioritized, at least the  
15 basic core programs certainly, but because how can you  
16 have a budget that's only one side? I mean, the fact is  
17 -- this is really what you're raising. The budget is,  
18 the substance of it is the connection between the  
19 resources that you can get your hands on and your  
20 priorities in what you want to spend them for. And it  
21 makes no sense one-handed.

22 I mean, you look at the spending priorities,  
23 well, that's fine, but if you don't hitch it to how are  
24 you going to pay for this, I mean, there's no reality to  
25 it. There's a lot of tension in this equation. Nobody

1       wants to pay taxes and everybody wants more service, and  
2       if you don't have both sides of that equation in mind as  
3       you take actions of what you are looking to budget, I  
4       mean, you have a problem, and you're right, you have a  
5       problem in terms of the legislative mandate for more  
6       nurses or a particular, you know, lead abatement program  
7       in housing, you name it.

8                        So, yeah, you need to get the two sides  
9       locked in somehow, because that's what political, what  
10      Governmental unit budgeting is about. It's a very  
11      political process, but it's one that is political on  
12      both sides, the spending and the revenue.

13                      CHAIRPERSON FUCHS: Dall?

14                      COMM. FORSYTHE: I want to thank you in  
15      presenting that, I thought it was very, very clear, your  
16      presentation. I had a few comments. One that relates  
17      in part to Steve's question, but also something you said  
18      earlier which I hadn't thought much about, but the sort  
19      of implicit powers of impoundment that the Mayor has  
20      based on the ability to modify the financial plan and  
21      the necessity to maintain operating budget is part of  
22      the answer of what happens to unfunded mandates which is  
23      they don't get implemented as quickly as funded  
24      mandates.

25                      In other levels of Government, the Federal

1 Government and the State Government, there have been  
2 judicial decisions or political battles about  
3 impoundment and the Executive's ability to impound and  
4 typically those have ended up limiting the ability of  
5 the Executive to impound funds in a way that doesn't  
6 sort of fit the New York City model. So that may not be  
7 a helpful approach in the long run. I mean, I think the  
8 City probably does well not to get in explicit battles  
9 about impoundment because judges can do all kinds of odd  
10 things.

11 MR. PAGE: In general, the impoundment or  
12 the sort of pulling back on spending discretion that the  
13 Mayor exercises is not sort of to pick out particular  
14 programs that he disagrees with and to defund them. The  
15 practice is quite strongly to be quite sort of even  
16 handed about not spending.

17 COMM. FORSYTHE: I understand. It sounds  
18 like you had mentioned a few things that you did think  
19 -- I mean, I know you spoke well of the entire fiscal  
20 regime and its value for the City over the years, and  
21 especially the four-year plan which is in the city  
22 Charter, but also some of the more detailed reporting  
23 requirements that the FCB has required but that might  
24 need our attention as we sort of think about how to keep  
25 some of the valuable parts of the system going after the

1 Financial Emergency Act goes. The backward looking  
2 balance standards, and perhaps as you at least implied  
3 with some sort of consequences so that it actually  
4 matters at the end of the year whether you met it or  
5 not. It's one thing to have the standard, it's another  
6 thing to have something happen if you don't meet it,  
7 which is quite normal in other governments.

8 The question about more explicitly standards  
9 of estimation, I thought that was useful, that that's  
10 not in the Charter, it could be easily done, I suppose,  
11 and then somewhere along the line the question of the  
12 division of labor among monitors of the financial  
13 Control Board disappears, and in raising that, I've  
14 asked Ester, for example whether that division of labor  
15 ought to include discussion about the audit committee.

16 More and more in the corporate world there's  
17 discussion about the role of audit committees. This has  
18 sort of spilled over not always in a terribly helpful  
19 way in the non-profit world, but the question of audit  
20 committees and what their value is, is something that  
21 might be worth at least some exploration.

22 I did have a question. The question is how  
23 much of this is worth doing in City Charter, how much of  
24 this do you think needs to be specified as well or  
25 instead in State Government and this I guess is a

1 question about how the bond holders and other people who  
2 lend the City money would feel about those standards if  
3 they were only in the City Charter.

4 MR. PAGE: Obviously a big driver of the  
5 system we now have was this whole question of credit  
6 market access and trying to regain it. And, you know,  
7 New York City issues debt with a final maturity of  
8 30 years plus, so that a fiscal management standard that  
9 is, that can be amended by a legislative action has a  
10 different impact, presumably, than one that can't. I  
11 mean, one of the things we've been living with in the  
12 Financial Emergency Act is that along with enacting this  
13 management scheme, the State authorized the City to  
14 include as a term of City bonds effectively a covenant  
15 running from the State to the purchaser of the City bond  
16 saying basically that the State wouldn't amend the kind  
17 of essential pieces of the Financial Emergency Act, the  
18 GAAP balanced standard being one of them.

19 It's worrisome when you put something like  
20 that in place for fear you've established a standard  
21 that you're not going to be able to live with 15 years  
22 down the road when there's another 15 years for the  
23 covenant to run. Theoretically you can refinance all  
24 the debt without the covenant in it, but that's a little  
25 cumbersome. On the other hand, if the investor thinks

1 he's relying heavily on this standard, it obviously  
2 gives him or her confidence that the standard will be  
3 there until he's paid back.

4 That works, that kind of covenant that  
5 effectively locking State law in by attaching it to  
6 outstanding debt is a very common concept with respect  
7 to State law and bonds and in New York State I mean,  
8 it's very familiar, it's a sort of trusted, understood  
9 device. Although you might be -- it's possible that you  
10 can think of ways of doing at least something  
11 approaching that with a Local Law, it's much less  
12 familiar, and I don't know, my experience of people who  
13 invest in municipal bonds is that originality and  
14 excitement is not what they're looking for.

15 COMM. FORSYTHE: Thank you.

16 COMM. RAAB: I want to echo everyone's  
17 comments on Mark's excellent presentation and brag a  
18 little bit. He is a professor at Hunter College when  
19 he's not taking care of the City's finance, so there may  
20 be others --

21 MR. PAGE: Adjunct, please.

22 COMM. RAAB: There may be those who want to  
23 take your courses. I guess following up on Dall's  
24 questions, in addition to the bond holders, are there  
25 any other private actors; banks, underwriters, who may

1 have concerns with the expiration of the Act and may be  
2 looking for this Commission to have a particular kind of  
3 discussion?

4 MR. PAGE: I think it's interesting in a way  
5 there's been so little public focus and discussion on  
6 this topic. 2008, well, I mean, that's several years  
7 out at this point. It's just coming up as the back year  
8 of the City's four-year financial plan, and it may be a  
9 testament to the fact that people don't generally look  
10 ahead very far, I don't know. You know, there's sort of  
11 mild discussion on the topic, interested parties would  
12 presumably be the agencies that rate New York City  
13 credit. There are particularly mutual funds of various  
14 kinds that hold substantial amounts of City debt and  
15 some individual investors who presumably would be, or  
16 you would expect would be professionally awake to this  
17 topic.

18 We are generally given credit by analysts in  
19 the business of rating how particular borrowers perform,  
20 to being fiscally well managed. I mean, they may be  
21 nice about other factors about New York City, but  
22 generally the management side is a plus. It's  
23 conceivable that we're actually dealt a little bit more  
24 slack on this at the moment. Because of that, they  
25 actually think we'll think of something sensible to do

1 before we fall off the edge of the cliff. I don't know.

2 CHAIRPERSON FUCHS: Any further comments or  
3 questions?

4 COMM. McCORMICK: I have a question and,  
5 again, it was a wonderful presentation. This question  
6 is about the relationship between the financial needs  
7 and our access for capital and the implications of the  
8 system that we created for the program and the  
9 operations of City agencies and while it works very  
10 well, what you've described, I do think that from an  
11 operational point of view the period of time between,  
12 say, January or June for a lot of non-profit agencies  
13 that have contracts with City Government is one of great  
14 difficulty, and I would be interested if you had any  
15 thoughts about what we could recommend that would  
16 preserve what you've talked about, but would also ease  
17 that burden on the ability or the inability of  
18 contractors with City agencies to plan, because they're  
19 not really, to the extent the City can plan it's  
20 wonderful. To the extent that nonprofit agencies that  
21 are trapped and cannot make reasonable plans, I think it  
22 adds a burden that maybe we could address somehow.

23 MR. PAGE: I don't believe that it's the  
24 financial management structure that we've been talking  
25 about that causes the problem that you are observing. I

1 think in the long run those agencies along with really  
2 the rest of us are better served by fiscal management  
3 that doesn't have nasty surprises in it and doesn't dig  
4 itself into holes of running a current deficit that then  
5 requires not just the difficulty of prospectively  
6 squeezing the two sides together, but also correcting  
7 the mess that you've just made behind you.

8 I think that that's actually helpful to  
9 everybody. I think that the question of whether  
10 resources will be available for a given not-for-profit  
11 agency that basically provides public services for the  
12 City in the following year has a lot to do with the  
13 dynamics of the political process between the Mayor and  
14 the City Council, and how that process is expressed in  
15 the budget cycle. And it's clearly a significant topic.  
16 I don't know how -- and we're thinking about, maybe  
17 there is some structural way of addressing it. I don't  
18 -- it's not addressed in the stuff I've been talking  
19 about, and offhand I don't know the answer. It's  
20 certainly an interesting question.

21 CHAIRPERSON FUCHS: Dall?

22 COMM. FORSYTHE: Just a comment and a  
23 further question. The comment is I think the State  
24 creates a lot more chaos for non-profits than the City  
25 because of there -- is that -- yes, I see heads.

1                   COMM. McCORMICK: That is true. There's no  
2                   debate there.

3                   COMM. FORSYTHE: There are ideas like  
4                   forward funding that the Federal Government looks to  
5                   that might allow some better degree of planning, but  
6                   then you wouldn't get to do all the wonderful cash flow  
7                   borrowing -- lending that you --

8                   COMM. McCORMICK: Love to be out of  
9                   business.

10                  MR. PAGE: Out of that business.

11                  COMM. FORSYTHE: But to go back to a related  
12                  question or maybe underlying question. One of the  
13                  things that's unusual about New York City's budgetary  
14                  process is the idea of a preliminary budget that's put  
15                  forward in January. Most local governments I think put  
16                  forward an executive budget and then go forward to enact  
17                  a budget. Are you satisfied with that process? Do you  
18                  think it's a useful part of the process or are there  
19                  times when you think that there's something that should  
20                  be reconsidered?

21                  MR. PAGE: I think that's definitely a  
22                  useful part of the process, as a matter of fact. As a  
23                  practical matter in the last few years we've really  
24                  started planning for the next year kind of as the dust  
25                  settles in early July on the current year. The first

1 quarter financial plan modification which customarily is  
2 sort of bringing assumptions up to date after you know  
3 your results for July, August, September has actually  
4 become the first major step towards how you're going to  
5 close the gap between forecast spending and revenues in  
6 the year beginning the following July.

7 I think that the -- well, in the current  
8 first quarter modification lays out a very tentative gap  
9 closing program for '06 which includes a reduction in  
10 spending in '05, the year we're now in of \$300 million.  
11 It's not because we think we're going to run a deficit  
12 this year, it's because we think we need to start  
13 building the excess of resources in this year so we can  
14 pull expenses back from next year as a head start on how  
15 are we possibly going to balance next year. I think the  
16 most extraordinary example of how far forward New York  
17 City is operating and how real people perceive the next  
18 year's budget problem to be is the fact that the  
19 property tax was increased by 18-1/2 percent basically  
20 as a decision in the November before the year beginning  
21 the following July 1st and implemented in January,  
22 again, not because we were going to run an operating  
23 budget deficit in that year, but because the  
24 understanding was that if you didn't act for the next  
25 year until you got there, you were going to have to do

1       such drastic adjustment that in reality you had to step  
2       ahead.

3                   I mean, both of the examples I'm using are  
4       actually stepping ahead of the preliminary budget.  
5       They're actually in the fall before that January. I do  
6       think they're a testament to the degree to which this  
7       multi year forecasting model that encompasses this year,  
8       but in an odd way this year is kind of old hat by the  
9       time you get into it. The debate has become well, now,  
10      what are you going to do next year. It really, it's  
11      taken hold very strongly for us. Many of us don't  
12      really think of this whole operation as a fiscal year by  
13      fiscal year, it's a much more continuous planning  
14      process. It does, as observed earlier -- we're good at  
15      it, which in a way makes us more vulnerable to being hit  
16      with mandates for spending by the local Legislature,  
17      which at least is here, so that they're seeing what's  
18      happening, or, I mean, other levels of Government which  
19      just land you with stuff that has to be paid for without  
20      having to hang around for what it takes to do it.

21                   CHAIRPERSON FUCHS: David?

22                   COMM. CHEN: I guess every time there's a  
23      budget crisis immediately New York City will be reminded  
24      that we are known as the City of the have and have nots,  
25      and when you think about the have, you always thought

1 about tax revenue coming from Wall Street. We may not  
2 love Wall Street until we find out how much they pay on  
3 the revenue base.

4 On the other hand, non-profits are big  
5 spenders. I don't know what the revenue base shift over  
6 the last 30 years has been in terms of Wall Street  
7 continuing to the revenue base. Obviously it must have  
8 shifted, I don't know the numbers and Wall Street is not  
9 getting any less volatile. So knowing that nonprofit  
10 the union, collective bargaining have fixed cost pretty  
11 much and you have this very volatile situation, without  
12 a four-year plan, and no specific standards on the  
13 estimate, wouldn't you think that having a financial  
14 control act helps as a buffer to provide some stability  
15 between the battle between the City Council and the  
16 Mayor in terms of legislating things you can't pay for  
17 but you're shifting the issues?

18 By having this plan in place, won't it serve  
19 as some sort of a buffer that you just know that  
20 something's set up ahead of time, then you don't have to  
21 battle it every year when it's up and down or forward  
22 just on the perception part.

23 MR. PAGE: I think there's a value in that.  
24 I mean, just for your information, in terms of the  
25 securities industry, it's now about four percent of the

1 jobs in New York City. It's about 25 percent of the tax  
2 revenue. And the shift over the last thirty, forty,  
3 whatever, I mean, if you go back to the late '30's,  
4 it's probably gone on progressively since, New York City  
5 like most local governments collected property tax  
6 revenues, I don't know, over 95 percent of its revenue.  
7 And the property tax is now about, I don't know, I think  
8 it's \$12 billion or something and the operating budget  
9 is about 50 and tax revenue is probably 26, \$28 billion.  
10 So property tax which is fairly predictable and steady  
11 has gotten to be a smaller and smaller percentage.  
12 Income and transaction taxes are a much larger  
13 percentage, and a major source of income, both corporate  
14 and individual, in New York City is the securities  
15 industry. Yes it's volatile, but thank goodness it's  
16 here.

17 COMM. ABRAMS: Madam Chair, sitting here for  
18 the past hour my mind went back to the middle '70s when  
19 I was Borough President of the Bronx and sat on the  
20 board in the middle of a fiscal process. I thought not  
21 just now and tonight but over the past number of years  
22 that history has not been kind to an extraordinary  
23 leader or as generous as it should be to an  
24 extraordinary leader whose leadership helped create  
25 everything we have talked about in the last year and

1 that's Governor Hugh Carey. He had great courage and  
2 leadership in putting together a fiscal plan,  
3 notwithstanding tens of thousands of protesters in  
4 Albany wherever he would be in New York City, recruiting  
5 Felix Rohatyn to be the first Chair of the financial  
6 Control Board, I think he was the Chair --

7 MR. PAGE: Yes.

8 COMM. ABRAMS: And it was an extraordinary  
9 display of vision, courage and commitment and what we've  
10 talked about thus far shows that it was the right set of  
11 actions for the right time and I think what we're  
12 talking about, not just for the last 25, 30 years, but  
13 perhaps well into the future as we seek to ingrain in  
14 the Charter many of these provisions.

15 I for one, Mr. Page, we'd like to see you  
16 try to submit to us specific proposals that we would  
17 entertain that would be placed on the ballot for the  
18 people to consider and to vote on next November, so if  
19 among your other duties and responsibilities you can  
20 seek to try to give us as much guidance as possible in  
21 terms of specific proposals, I think it would be very,  
22 very helpful to us.

23 CHAIRPERSON FUCHS: I think we got more than  
24 we expected today, in fact, from this -- this evening,  
25 from Mark Page's presentation. The members of the

1 Commission have received memos on background material on  
2 the Financial Control Board and the Fiscal Emergency  
3 Act. I think what I'd like to do at this point is  
4 reiterate what Bob Abrams has suggested which is really  
5 summarize what Mark Page has said to us.

6 He said to us very clearly that what's been  
7 in place for the past 30 years has worked surprisingly  
8 well, and that there are aspects of this act that we  
9 would like to maintain and that is pretty clear from  
10 your presentation and from the research that's been put  
11 together on this issue, and so what we have before us  
12 now is really an issue of what we should do in the  
13 context of the Charter, which is a slightly different  
14 question or Bob Abrams' question slightly reformulated.  
15 So what I'd like to put before you in the spirit of the  
16 Mayor's charge to this Commission, which is to look in a  
17 forethinking -- is that a word? I'm going to make up a  
18 word tonight. To look in a way where we try and in a  
19 sense prevent a future crisis and a catastrophe, to  
20 think about an issue that in fact the bond market and  
21 the public has not really started to think about yet,  
22 before it becomes a crisis.

23 This would be something relatively new for  
24 the City of New York, I think, but in the spirit of  
25 Michael Bloomberg's administration, I think we're here

1 to really address exactly that question as part of our  
2 mandate, and so on behalf of the Commission and the  
3 people of the City of New York, I really want to thank  
4 Mark Page for putting in the time and doing the work to  
5 really set the stage now for considering what we really  
6 should be putting before the public in a Charter  
7 proposal, if anything at all, or should we be proceeding  
8 on this issue in another way, because as our Commission  
9 moves forward, we don't have to do things necessarily  
10 through the Charter, but we can make proposals and  
11 suggestions to other branches of Government to act as  
12 well. So it's pretty clear that something should come  
13 from this Commission in terms of a proposal on this  
14 issue, and now I think we're in a position to make  
15 hopefully some intelligent choices about what we might  
16 put before the public or what we might propose as a  
17 Commission.

18 So thank you very much for I think starting  
19 us off in a very intelligent and thoughtful way on this  
20 issue.

21 MR. PAGE: Thank you very much for having me  
22 this evening. I'd also like to thank Terri Matthews for  
23 the summary of the provisions in the Financial Emergency  
24 Act which you have. Thanks a lot.

25 CHAIRPERSON FUCHS: What we're going to do

1 next is review some of the questions that Commissioners  
2 have presented before us and I'm going to ask Terri  
3 Matthews, the Executive Director of the Commission, to  
4 go over some outstanding issues.

5 MS. MATTHEWS: Hello. You should have  
6 received a copy of this, which was intended to do more  
7 than I'm going to be able to do tonight. There's a lot  
8 more information.

9 The first four items were proposals that  
10 failed at the ballot, but that were still open because  
11 we didn't negotiate a similar provision with the Council  
12 in our large package on procurement. The first one was  
13 a proposal that would have permitted the Mayor to  
14 designate additional agencies for which DCAS could  
15 perform procurement services. The Council objected to  
16 the way it was drafted, because it was broader than  
17 procurement. It was all administrative services, so we,  
18 the staff, think and we would like to submit to you for  
19 consideration, that it's really actually a topic that's  
20 very well suited for the third topic of this Commission,  
21 which is the broad operational efficiencies,  
22 Governmental accountability. It's not per se  
23 procurement. I mean, at some level the Council was kind  
24 of right it, was broader than procurement, so I think  
25 it's no longer a procurement issue, it can go into the

1 broader discussion of Governmental operational  
2 efficiency topic.

3 CHAIRPERSON FUCHS: Does anybody have any  
4 comments on that particular point?

5 MS. MATTHEWS: So we're just deferring it to  
6 another topic. It's not gone.

7 COMM. BETANZOS: We would have time to be  
8 able to discuss it.

9 CHAIRPERSON FUCHS: We're going to discuss  
10 it under rubric three.

11 MS. MATTHEWS: You can discuss it now if  
12 you'd like. It's just, you know, today was a Financial  
13 Emergency Act day.

14 Regarding the proposal that would have  
15 deleted the detail of the report that was authorized,  
16 and authorize the Department of Small Business Services  
17 Commissioner to promulgate rules concerning required  
18 information, this is the employment report that is very  
19 voluminous, the detail is in the Charter. We think that  
20 looking at the Charter that the Commissioner currently  
21 has enough flexibility to, as I say here, he can  
22 prescribe the form and the information and the  
23 employment reports and he can provide appropriate  
24 exemption by rules, so the staff feels at this point  
25 that there's enough flexibility already in the Charter

1 that we don't have to take it up as procurement per se.  
2 The Mayor's Office of Contracts doesn't feel it's  
3 essential to reducing cycle time.

4 Once again, it is something that could be  
5 deferred to the broader topic and if the Commissioner of  
6 DSBS is interested in this, that would be an appropriate  
7 way to deal with this.

8 The third one, this is the one that got a  
9 lot of attention at the last meeting. It was the  
10 security, an exception for the requirement of public  
11 notice and hearing for contracts for the purchase of  
12 goods and services when the Mayor determined that the  
13 notice or hearing would disclose sensitive information  
14 that if made public would be detrimental to the security  
15 of the City. And the Council as noted here thought it  
16 was a little broad, overbroad and without sufficient  
17 oversight. And so the thought is do we want to take  
18 this up now, and we've learned from the Mayor's Office  
19 of Contracts that this is a problem, this particular  
20 problem is, it's real, but there's a bigger problem in  
21 this area that is sort of mandated by State law which is  
22 when you're procuring a good it must be competitively  
23 bid and specifications are available to anybody who has  
24 the money to copy them and depending on what the public  
25 works is, you are getting sensitive information,

1       potentially.

2                       So we think that the bigger problem is  
3       actually the State law and that's something that this  
4       Commission by law can't do, so we think that perhaps as  
5       part of a legislative agenda, the Mayor's legislative  
6       agenda, the notice of proposal could be folded into a  
7       much larger one and this problem is not faced just by  
8       New York City, but every local Government. This is not  
9       just us, so it really does require a State solution is  
10      what we think.

11                      And then the last one, this is the last  
12      topic that relates to the prior proposals, was having an  
13      annual procurement report, which is not a hard thing, we  
14      do it anyway, the Mayor's Office of Contracts does it.  
15      We were going to require ourselves to do it. Currently  
16      it's not required, there's only one indicator in the MMR  
17      that's required to be reported, but because it was tied  
18      to the elimination of the PMMR, the whole thing, and the  
19      Council objected to the elimination of the PMMR, we  
20      decided we didn't want to, we didn't need to impose  
21      anything on ourselves and the real issue was about the  
22      PMMR, which as a topic will be coming up in the third  
23      large topic of Government accountability.

24                      So it's not that we're not going to talk  
25      about it, it's just we're going to talk about it as part

1 of a broader discussion about operational efficiency.

2 So these topics are not over. It's just  
3 that they're going either into different parts of our  
4 discussion and with the security I think it's more  
5 appropriate for State legislation. But if you have any  
6 concerns or questions after you've had a chance to  
7 digest this, call us, e-mail me and we can discuss it.

8 COMM. BETANZOS: We will be questioning at  
9 other times dealing very intensely with other parts of  
10 the Mayor's Office to ascertain whether they are doing  
11 this before the State Legislature?

12 MS. MATTHEWS: I'm sorry?

13 COMM. BETANZOS: We would be pushing for the  
14 Mayor's Office to deal with State Legislature.

15 MS. MATTHEWS: Yes. That sort of awareness  
16 when we were discussing at a staff level that this is  
17 kind of an important topic that we do need to push and I  
18 don't think we would be alone. Other local governments  
19 have got to be facing these problems as well.

20 COMM. BETANZOS: I'm surprised they haven't  
21 done it before.

22 MS. MATTHEWS: You know, I could probably  
23 provide progress reports on that effort.

24 COMM. BETANZOS: Very good.

25 MS. MATTHEWS: So after the fourth bullet,

1 we move into some of the questions that came up from the  
2 Commissioners. One of them, and I don't remember who it  
3 was at this point, asked about professional training.  
4 Was that you? Hello. And basically in this, and I just  
5 don't have the vocal capacity to read it, but it is a  
6 summary of what the Mayor's Office of Contracts is doing  
7 on that front. So if you have any questions, if this  
8 spurs any more interest, we can perhaps have Marla come  
9 in and talk to you. That's always an option.

10 The second to last item was the use of  
11 technology to solve sort of the procurement problem and  
12 I mentioned that there was an RFP underway, and  
13 basically, and I think it's a fabulous RFP, so I kind of  
14 basically excerpted what I thought was sort of the  
15 broader description of it and I think it will be very,  
16 you might find it interesting.

17 And if you have questions, we can bring the  
18 people who are working on it here to explain it in all  
19 gory detail.

20 And the last item is both Stephanie Palmer  
21 and Lillian Barrios-Paoli both mentioned the need to  
22 treat human services, contracts and vendors differently  
23 than, say, construction and I was very sad that nobody  
24 had realized that we had been doing that, and so Marla  
25 kindly -- but you know what, it takes a while. We do

1       it, but then it takes a while for it to be felt. A  
2       Government doesn't change overnight, and as you say, in  
3       the not-for-profit world there's a lot going on, it  
4       doesn't always feel like we did it.

5                   COMM. BETANZOS: But it's been a very good  
6       secret.

7                   MS. MATTHEWS: Well it's not a secret  
8       anymore. It's here, Marla identified the administrative  
9       changes, nuances. We've been able to make changes that  
10      make sense. The rules permit a great deal of  
11      flexibility and the question is do you take advantage of  
12      the ability to be flexible and we have. This explains  
13      it. If you have questions, ask and then if enough of  
14      you think that there's a desire to hear from Marla  
15      herself, she'll come and then I won't have to explain it  
16      anymore. So, thank you.

17                  CHAIRPERSON FUCHS: Thank you, Terri. All  
18      of the issues that Terri brought up can be reconsidered.  
19      We felt the staff put together, I think a very useful  
20      memo. Now people will have time to digest it for the  
21      future. Today's agenda was really about the fiscal  
22      issues.

23                  Let me just go over a little bit of  
24      housekeeping business in the spirit of trying to convene  
25      at a reasonable, rather, leave at a reasonable hour

1        tonight. There is a schedule for the Commissioners -- I  
2        don't know if we have it here. Has it gone through  
3        e-mail -- we're going to hand it out, on when the future  
4        meetings are being held. January 19th at 7 p.m. at 22  
5        Reade Street is the next meeting, which we will be  
6        discussing as our next meeting judicial administration.

7                    The third baseline meeting will be February  
8        9th at 7 p.m. also at John Jay College at Columbus  
9        Circle and there we will be discussing bureaucratic  
10       accountability and efficiency.

11                   We expect to be scheduling five public  
12       hearings and at the public hearings we will be accepting  
13       public comment, one in each borough and that schedule  
14       will be released very shortly. It will be up on our  
15       website. We're planning to begin those in the month of  
16       March. Our practice will also be to publish notices  
17       widely in newspapers so the public has an opportunity to  
18       know when we're meeting, and we will send e-mail updates  
19       before each meeting. We also will be posting mailings  
20       from time to time to the mailing list that signs up to  
21       hear from us.

22                   We will also, as I said, provide information  
23       on our website. I'll announce that again,  
24       [nyc.gov/charter](http://nyc.gov/charter) and if you need to contact us by mail we  
25       are now seriously open for business at 2 Lafayette

1 Street on the 14th floor. Our phone number there is  
2 (212) 676-2060, and we're delighted to hear from anyone  
3 who would like to be in contact with us.

4 Before we adjourn, I just want to ask the  
5 Commissioners if there is any new business that we  
6 haven't covered today that anybody would like to bring  
7 up to the Commission.

8 If that is the case, I'd like to accept a  
9 motion to adjourn.

10 COMM. ABRAMS: So moved.

11 CHAIRPERSON FUCHS: Any seconds?

12 COMM. BETANZOS: Second.

13 CHAIRPERSON FUCHS: Thank you, thank you  
14 everybody for attending tonight.

15 (Time noted: 8:49 p.m.)

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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