

CHARTER REVISION COMMISSIONER
PUBLIC ISSUE FORUM - TERM LIMITS

BROOKLYN BOROUGH HALL
BROOKLYN, NEW YORK

MAY 25, 2010

(TRANSCRIBED FROM A DVD RECORDING)

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BISHOP MITCHELL G. TAYLOR

1 COMMISSIONER GOLDSTEIN: Good evening. My
2 name is Matthew Goldstein. I'm Chairman of the
3 New York City Charter Review Commission. I am
4 pleased to welcome you to Brooklyn Borough Hall
5 and to thank our wonderful Borough President,
6 Marty Markowitz, and his Chief of Staff and our
7 fellow Commissioner, Carlo Scissura, for
8 graciously hosting this evening's forum.

9 First a word about our location tonight. I
10 think all of you are rather breathless of walking
11 into this extraordinary room. For two
12 generations this chamber served as a courthouse,
13 and before that, prior to the City's
14 consolidation in 1898, it housed the Common
15 Council of the City of Brooklyn.

16 The history of this room reminds us that
17 just as our City has changed and evolved, our
18 government does, too. And herein lies the
19 foundation of this Commission's work; that is to
20 examine the City's Charter and to recommend to
21 the voters improvements to that Charter.

22 Like the consolidation of over a hundred
23 years ago, which united greater New York under
24 one common government, we look anew at ways to
25 strengthen and enhance our City's current

1 structures and its government. In order to do
2 that, we must first hear from you, the public,
3 which is why we are here tonight.

4 Tonight, the Commission launches the first
5 of its issues forums. Over the next month, these
6 forums will take the Commission into all five
7 Boroughs as we seek a greater understanding of
8 issues the public has brought to the Commission's
9 attention as warranting further study.

10 Tonight, in Brooklyn, we are discussing term
11 limits. The rest of the schedule is as follows.
12 On Wednesday, June 2, we will be discussing voter
13 participation, and the venue for that will be at
14 Lehman College of the City University of New
15 York, and that's located in Bronx. On Thursday,
16 June 10, our topic is government structure, and
17 that will be housed at Staten Island Technical
18 High School. On Wednesday, June 16, we look at
19 public integrity, and that will be at the City
20 College of New York in Harlem. And on Thursday,
21 June 24, land use, and that will take place at
22 the Flushing Library in Queens.

23 Tonight, the Commission will hear from three
24 national experts on the topic of term limits.
25 Each one will make a presentation and then the

1 Commissioners will have an opportunity to ask
2 questions. Then we will allow the public to
3 comment on tonight's subject, which can be done
4 through the microphones in the center of the
5 aisle, and there will be others on the periphery
6 of the room. Let me stress that in order to
7 accommodate all of the speakers I would request
8 that you keep your remarks germane to the forum's
9 issue, term limits. There will be other
10 opportunities, including public hearings, to
11 discuss other issues you would like the
12 Commission to examine. And while I am on the
13 topic of limits, I should ask that we want to
14 hear from everyone. And in order to do so, please
15 keep your remarks to no more than three minutes
16 as a courtesy to the rest of the speakers who
17 wish to be heard. And if you have more extensive
18 comments, you can certainly submit them in
19 writing through our Web site and to the
20 Commission through its E-mail address, which we
21 will share with you throughout the evening.

22 The Commission's ongoing goal is to enhance
23 outreach and public access, so allow me to recap
24 some of the outreach efforts already made and
25 currently being pursued. The Commission held

1 public hearings in all five Boroughs in April to
2 solicit suggestions and opinions from New
3 Yorkers. We deeply appreciated the participation
4 of the public throughout the hearings, and we
5 remain committed to an open and welcoming process
6 of public engagement. Staff has been very busy
7 reviewing all submissions and will continue to do
8 so throughout the next few months. The issue
9 forum schedule was sent by E-mail blast to over
10 44,000 citizens, who subscribe to the listserv
11 NYC.gov, as well as an additional 1,800
12 individuals comprising representatives from
13 Community Boards, civic and community groups,
14 not-for-profits, as well as elected officials and
15 City Council members and staff. We also reached
16 out to over 1,800 press conferences from every
17 major media outlet to help encourage both
18 attendance and coverage. I am very pleased to
19 announce another Commission first. As we continue
20 to expand our outreach to the public and to the
21 diverse communities of this great city, I would
22 like briefly to show a few samples of the new
23 public service announcements produced by CUNY TV
24 under the supervision of Jay Hershenson and Bob
25 Isaacson and with very strong collaboration from

1 Matthew Gorton. These will be, which you'll see
2 in a minute, which will be distributed to
3 numerous media outlets, including television
4 stations, and made available on the Commission's
5 Web sites and through E-mail blast. This will
6 provide you with yet another way to inform the
7 public about our work and to encourage opinions
8 on the matters before us.

9 So, if we can roll the tape, as we say.
10 Let's take a look at some of these PSA's.

11 (PSA announcements played for the audience.)

12 CHAIRMAN GOLDSTEIN: As a reminder, our Web
13 site contains hearing schedules, transcripts, and
14 videos of previous hearings and meetings, along
15 with a downloadable copy of the current City
16 Charter and directions to meeting sites.
17 Translations are offered in various languages,
18 and the Commission's work is also available on
19 Facebook at NYC Charter Revision, and Twitter, at
20 "CityCharterNYC", part of our extensive and
21 growing use of technology to reach all New
22 Yorkers.

23 Additionally, tonight's staff will be
24 monitoring the Commission's Facebook page during
25 this forum, and we encourage those joining via

1 Web cast to make their positions and opinions
2 known. We will seek to make these issue forums as
3 interactive as possible.

4 Before we get started this evening, I'd like
5 to again thank our Executive Director, Lorna
6 Goodman, who is seated in the audience, along
7 with our Research Director, Joe Viteritti, who is
8 seated over there; our General Counsel, Rick
9 Schaffer; Ruth Markovitz, who I know is in the
10 audience someplace right next to Lorna; and all
11 of the wonderful staff associated with making
12 these events as interesting and as informative as
13 we can.

14 Now, for the benefit of our guest panelists,
15 I would like to ask all of the Commissioners who
16 are here today to introduce themselves, and I'll
17 start all the way at the end with Ken Moltner.

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

20 COMMISSIONER CASSINO: Hi, Tony Cassino.

21 COMMISSIONER DAVID CHEN: I'm David Chen.

22 COMMISSIONER FIALA: Steve Fiala.

23 COMMISSIONER BETTY CHEN: Hello. I'm Betty
24 Chen.

25 COMMISSIONER SCISSURA: Carlo Scissura.

1 Welcome to Borough Hall, and our Borough
2 President is here. Thank you for hosting us this
3 evening.

4 COMMISSIONER FREYRE: Good evening. Angela
5 Mariana Freyre.

6 COMMISSIONER BANKS: Hi, I'm John Banks.

7 COMMISSIONER CROWELL: Anthony Crowell.

8 COMMISSIONER HART: Ernie Hart.

9 COMMISSIONER PATTERSON: Katheryn Patterson.

10 COMMISSIONER TAYLOR: Bishop Mitchell Taylor.

11 CHAIRMAN GOLDSTEIN: Did we exhaust the
12 table?

13 I'm going to introduce the subject of term
14 limits. Then I will introduce our very
15 distinguished panelists to get us going this
16 evening. But before we do that, we're pleased to
17 invite our Borough President Marty Markowitz up
18 to the microphone to say a few words.

19 BOROUGH PRESIDENT MARKOWITZ: Of course, I'm
20 delighted that Chancellor Goldstein is here and
21 members of the Charter Revision Commission.
22 Quite a few of you are Brooklynites as well, I
23 might add.

24 I want to thank all of you for your
25 dedication in listening to the voices of critical

1 issues like the one before you today, term
2 limits. I must share you with that I have never
3 found term limits to be good government, not at
4 all. I believe the voters should always be able
5 to decide for themselves who will represent them,
6 and that the most effective term limits we could
7 possibly have are also known as elections.

8 I served in the State Senate for 23 years
9 and ran for office 11 consecutive times. And I've
10 run three times now for Borough President. And at
11 any time the public could have said "You're
12 fired." Every election allows voters to term
13 limit out any of their elected officials.

14 The problem with term limits is they do not
15 allow public officials to really become experts
16 to gain a real working knowledge of their
17 position and the subject fields over which they
18 proceed or legislate and to see major projects
19 through to completion.

20 Quite to the contrary, limiting service to
21 two four-year terms turns elected public
22 officials into perpetual job hunters planning
23 their run for another public office almost by the
24 moment they get elected. Or eying the private
25 sector for opportunities. These job hunters are

1 far less inclined to take a stand against special
2 interests who may be giving them their next job.
3 And let's be honest. In a term limit scenario
4 eventually the ones who know the most about
5 government are the unelected bureaucrats, who may
6 be wonderful and competent, but who at the end of
7 the day are not directly accountable to the
8 voters; and who is the only ones with what we
9 call institutional memory end up having vastly
10 more influence over voters' lives than those
11 elected to serve and to carry out the people's
12 wishes.

13 Public officials should have an opportunity
14 to learn and to ascend to hold positions of
15 leadership -- for example, as chairs of
16 committees -- and to work on long-term solutions.
17 Frankly, this is the only way to ensure that the
18 bureaucracy of government remains accountable to
19 the will of the people.

20 I recommend that the Commission put the
21 following choice on the 2010 ballot. Either
22 maintain the current limit of three terms or
23 abolish term limits entirely. I also ask that the
24 Commission leave the critical issues of land use
25 procedure and the Chartered roles of Public

1 Advocate, Borough Presidents and Community Boards
2 to be taken up the following year to be
3 considered only after full study and further
4 extended public comment.

5 Thank you for being here and choosing
6 Brooklyn Borough Hall for this hearing.

7 CHAIRMAN GOLDSTEIN: Thank you very much,
8 Mr. Borough President.

9 BOROUGH PRESIDENT MARKOWITZ: Thank you,
10 Chancellor.

11 CHAIRMAN GOLDSTEIN: Let me open these
12 proceedings by introducing briefly our three
13 panelists, starting on my left and your right,
14 Richard G. Niemi, is the Don Alonzo Watson
15 Professor of Political Science at the University
16 of Rochester. Professor Niemi specializes in
17 voting behavior, legislative term limits and
18 civic education. His current research includes
19 projects on college student voting, state
20 legislative elections, and voting machines and
21 ballot design. He's the coauthor and editor of a
22 new edition of the highly respected
23 "Controversies in Voting Behavior" and of the
24 widely known compilation "Vital Statistics on
25 American Politics 2009 Through 2010." He is also

1 co-editor of a comparative volume on "Voting and
2 Elections Comparing Democracies of Three"; a work
3 on "Usability Aspect of Voting Machines and
4 Ballot Design"; "Voting Technology: The
5 Not-So-Simple Act of Casting a Ballot"; and
6 "Institutional Change in American Politics: The
7 Case For Term Limits."

8 Professor Niemi is the 2010 recipient of the
9 William H. Ryker University award for excellence
10 in graduate teaching.

11 Seated next to him is Patrick Egan. Mr. Egan
12 is an Assistant Professor of Politics and Public
13 Policy at the Wilf Family Department of Politics
14 at New York University. Professor Egan
15 specializes in public opinion, political
16 institutions and their relationship in the
17 context of American politics. He is co-editor of
18 the volume "Public Opinion and Constitutional
19 Controversy" as well as numerous papers,
20 including "Issue Ownership and Representation: A
21 Theory of Legislative Responsiveness to Public
22 Opinion and Opinion Leadership, Backlash and
23 Delegitimization: The Supreme Court ruling in
24 public opinion."

25 Professor Egan served as an assistant at the

1 Mayor of policy and planning for the City of
2 Philadelphia under then and current Governor of
3 Philadelphia Edward Rendell. He was a visiting
4 professor of Princeton University Center for
5 Democratic Politics from 2006 to 2007.

6 And lastly, Gregory Carl Schmidt serves as
7 General Counsel for U.S. Term Limits, the
8 grassroots organization that for well over a
9 decade has been the premier advocacy group for
10 term limits nationwide.

11 A frequent writer of legal technical works
12 and public policy studies. Mr. Schmidt has
13 appeared on radio and television and has been
14 published and quoted extensively in various news
15 and other media outlets.

16 I'd like to start with Mr. Schmidt.
17 Mr. Schmidt, if you could manage your remarks to
18 10 to 12 minutes. Then we'll hear from Mr. Egan,
19 and then we'll hear from Mr. Niemi.

20 MR. SCHMIDT: Thank you, Mr. Chairman. Greg
21 Schmidt is my name. If I could approach the
22 Commission?

23 CHAIRMAN GOLDSTEIN: Sure.

24 MR. SCHMIDT: While I begin my remarks, I'd
25 like to describe the handout type I've given you.

1 The first page of the handout is just a
2 description of the basic characteristics and
3 variations of term limits around the country. And
4 then you'll see another page, American cities
5 with term limits contrasts the 10 largest cities
6 of America, 9 of which have term limits. You'll
7 see a page describing the process which got us
8 here today with regard to term limits, and that
9 is the voter initiative that enacted term limits
10 in the Council action that altered it. And then
11 the final page you'll see the original term
12 limits language, 2008's Council-enacted
13 extension; and then two alternatives for a voter
14 initiative. Alternative A being restoration of
15 the voter-enacted term limits, and alternative B
16 being an application of two terms but making it a
17 lifetime ban.

18 You'll see from the handout that of the
19 largest cities in America they're just about
20 evenly split between lifetime bans and
21 consecutive term bans; and that the average and
22 then typically the term limits are eight years
23 for either one.

24 Now, to begin my remarks I guess I'm going
25 to start at the end of what I intended to,

1 because the esteemed speaker before me made some
2 remarks that I think need to be addressed right
3 away.

4 Term limits is not without its critics. Some
5 claim term limits is undemocratic because it
6 limits voters' choice. It is disingenuous for
7 detractors to argue that term limits have a more
8 limiting effect on voter choice than other
9 barriers that are built into this system, some of
10 which are countered by term limits. Term limits
11 comes from a long tradition, and the electoral
12 system is full of qualifications and
13 disqualifications. Upper and lower age limits
14 definitely restrict voters' choice. In my state,
15 a Judge cannot run for re-election after age 72.
16 Of course, the President cannot run until he
17 reaches a certain age. And add these to residency
18 requirements. Some cities are required three
19 years' residency. This definitely restricts a
20 choice by tens, maybe hundreds of thousands of
21 people. And then add that to the de facto
22 disqualifications that the awesome power or the
23 awesome advantage of incumbency imposes, because
24 it practically disqualifies a challenger who has
25 to an incumbent for lack of resources, lack of

1 name recognition, access to the media. The
2 ability to exploit advantages of office and
3 constituent services, operation, communication
4 services resource and suck up all the money, all
5 the oxygen in a race are virtual
6 disqualifications. Ironically, those who claim
7 term limits is undemocratic don't mention that it
8 was the people themselves who enacted term limits
9 through the process of direct Democracy. And that
10 no Democratic election has ever repealed term
11 limits.

12 Others argue that term limits robs
13 government of experience and talent. But ask any
14 incumbent if when they ask for your vote in their
15 own first election if they believed they had the
16 experience and ability to serve as an effective
17 legislator from Day One of their first time in
18 office. If they did not believe in their ability
19 to hit the ground running on Day One, then they
20 would not have been able to mean it when they
21 looked in your eyes and asked for your vote that
22 first time.

23 The elitist mentality against term limits
24 denies the basic assumption of Democracy that the
25 people are capable of self-governance.

1 Restricting a hundred people or less out of
2 talent pool of 10 million and requiring them to
3 take a one-term timeout every two terms in office
4 is a burden the people can bear. Mostly the
5 incumbents and their minions seem to mind.

6 The best example of the benefit of long
7 incumbent experience is the U.S. Congress.
8 Period. With their lack of accountability, their
9 near hundred percent reelection rate, the U.S.
10 Congress is an example of why term limits is
11 necessary. Term limits actually gives the people
12 more choices by allowing challengers a decent
13 chance to enter into public life. People who
14 would otherwise be deterred.

15 I'd like to tell you about term limits in
16 America. Term limits has a ancient origin, but in
17 America term limits really began with the
18 Articles of Confederation, which provided one
19 six-year term for the president and vice
20 president, and barred the president from seeking
21 reelection. As for the delegation, no person
22 could serve more than three years of every six
23 years. The Pennsylvania Constitution, 1776,
24 imposed tenure limits at four years in seven. The
25 Delaware Constitution set a single three-year

1 limit for governor. The Federal Constitutional
2 Convention omitted mandatory term limits from the
3 U.S. Constitution not as a rejection of term
4 limits, but because the principle of rotation was
5 considered a custom well-established and
6 respected by informal rules of propriety not
7 requiring legal restrictions. President
8 Washington established a two-term tradition that
9 prevailed until Franklin Roosevelt's four
10 elections in the last century inspired the 22nd
11 amendment in 1951, the limit on tenure of
12 presidents to two terms.

13 Thomas Jefferson insisted on limiting the
14 tenure of office due to the danger which might
15 arise to American freedom by continuing too long
16 in the office the members of the Continental
17 Congress.

18 George Mason said, "Nothing is so essential
19 to the preservation of a republican government as
20 a periodic rotation."

21 Mercy Otis Warren complained, "There's no
22 provision for rotation in the new Constitution
23 nor anything to prevent the perpetuity of office
24 in the same hands for life, which by a little
25 well-timed bribery will probably be done."

1 One Court in America in the 1800s, in 1879,
2 in a case of Goral vs. Beer (phonetic)
3 interpreted a term limits law. The judicial
4 interpretation of the term limits law limiting a
5 sheriff to two consecutive terms was described by
6 the Court "the probable object of which was to
7 prevent him from prostituting the office for
8 purposes of reelection."

9 William Pitt, Prime Minister, British Prime
10 Minister centuries before, said, "Unlimited power
11 is apt to corrupt the minds of those who possess
12 it."

13 Now, a primary purpose of representative
14 Democracy is to provide limited government. A few
15 private citizens in America would disagree with
16 the notion limiting to some extent the role of
17 government, power of the government officials.
18 Some public officials privately embrace an
19 opposite view, once they get accustomed to the
20 power, fame and opportunity which attend public
21 office. The American experiment was conceived to
22 restrain, divide and circumscribe political power
23 such a way as to provide the full benefits of
24 government while controlling the scope and cost
25 of government and the power of officeholders.

1 Term limits is just one tool in the toolbox of
2 American citizens determined to govern
3 themselves. A tool to make government officials
4 more accessible and accountable to the public,
5 more representative to the plight and concerns of
6 ordinary citizens.

7 Long-term legislative experience may allow
8 an officeholder to develop some specialized
9 experience and expertise. But governments,
10 governance is not brain surgery, and the jaded
11 institutional attitudes that can result are not
12 worth the price. Incumbents tend to change their
13 views predictably over time. They become
14 defenders of the budget. They tend to support
15 more government spending as their tenure
16 increases. They lengthen their sessions,
17 increase staffs and budgets, take a larger role
18 in government management, often stepping outside
19 of the scope of the legislative branch. They
20 become important, sometimes even self-important.
21 Term limitations may decrease the likelihood
22 their representatives will lose touch with their
23 constituents.

24 Term limitations prevent elected officials
25 from becoming so accustomed to power, so familiar

1 with government and its functions, that they
2 develop corrupted values and beliefs that are out
3 of step with the public they represent and forget
4 that they are servant, not master.

5 Term limitations encourages qualified
6 citizens to seek out public office, open
7 elections every two terms, institutionalize the
8 competition of good ideas. Challengers can enter
9 the process undeterred by the prospect of certain
10 and crushing defeat at the hands of an invincible
11 opponent. And campaign contributions are not
12 automatically sucked up by an incumbent who looks
13 to donors like the only safe bet. Thus candidates
14 for office are not always inside players, but are
15 often citizens who have proven abilities in other
16 levels of government or in the private sector.

17 Term limits removes the obstacle of the
18 entrenched incumbent once in awhile so capable
19 outsiders can aspire to public service.

20 Before term limits the only time there would
21 be an open seat was when a legislator retired,
22 was caught up in a scandal. Consider whether in
23 the absence of an open seat you would have had
24 the opportunity to run a serious campaign with
25 any likelihood of successful fundraising.

1 Incumbents sucked up all the donations, all the
2 oxygen, all the earned media, all the
3 endorsements. Before term limits it would have
4 been a long-shot challenger at best, and a crank
5 at worst, for risking much to run a campaign with
6 little hope of winning, marginalized for having
7 the audacity to raise your voice. If you waited
8 your turn and waited for the incumbent to retire,
9 the incumbent would have the influential in
10 anointing his or her successor. And if you were
11 picked one election you and other junior
12 legislators would have looked forward to a decade
13 or so of obscurity before getting a relevant
14 committee post or leadership position. You might
15 have spent a lifetime waiting for that chance,
16 kissing the rings of a few senior leaders, and
17 your issues may have come and gone before you had
18 any influence. Term limits produce swifter
19 changes in power in response to demographic
20 changes in the District and put more minorities
21 in office.

22 Before term limits, the lag time between a
23 change in district and the change in leadership
24 was basically the length of a career, absent a
25 scandal. With term limits it's a few years.

1 Term limits make better campaigns, and
2 better campaigns make better leaders. Candidates
3 who win competitive elections have been battle
4 tested and voters can be confident in them
5 because they know his or her views on issues and
6 watch how they conduct themselves under pressure.
7 A challenger or an incumbent facing limited
8 reelection prospects is going to be more active,
9 a responsive candidate, less likely to dodge
10 challengers in debates and candidate forums; more
11 likely to make appearances to take a stand on
12 campaign issues.

13 Voters barely follow a campaign that's over
14 before it begins, but competition brings out the
15 best in voters and in candidates. Term limits
16 are necessary for free, open, fair and
17 competitive elections, which give people real
18 choice of leadership and a sure genuine
19 representation.

20 In 1994, one of the worst years ever for
21 incumbent candidates, the national average
22 reelection rate for incumbents seeking reelection
23 was still 92 percent for state senators and 90
24 percent for state representatives. One hundred
25 percent of incumbents won their Senate races in

1 the nine States. Michigan, my state, incumbents
2 enjoyed a 97 percent reelection rate in the three
3 decades before term limits. The reelection rate
4 for the New York City Council Members was 88
5 percent in 2009. Now, that's low for the City
6 Council of New York, and that had something to do
7 with the activities that resulted in the altering
8 of term limits to three terms, not two. In 1997,
9 in 2003, 100 percent of Council Members who
10 sought reelection in New York City won.

11 The unnaturally high reelection rate of
12 incumbents are due to so many different
13 manufactured incumbent advantages that reforming
14 those advantages one by one would be an exercise
15 in futility. Especially since those reforms
16 would come from incumbents themselves. Such
17 reforms generally written by incumbents, and
18 they've proven these barriers for challengers
19 while creating the appearance of reform. This is
20 what happens when the fox watches the chicken
21 coop. Term limits are the key to breaking the
22 deadlock on campaign reform issues. Longtime
23 incumbents, it can be assumed, will not vote
24 against their own careers and pecuniary
25 interests, campaign finance, media access, voter

1 registration and other privileges. Lame ducks,
2 who know that they will not be in office when
3 these reforms take place, have less incentive to
4 protect advantages of incumbency.

5 Term limitations broke up the
6 seniority-based standing committee system through
7 which a handful of the most entrenched senior
8 incumbents controlled the progress of all
9 legislation. These titans of the legislature
10 ruled as Caesars, for they controlled the flow of
11 legislation through committees. This process
12 limited access to government. They abused their
13 institutional memory to control the legislative
14 agenda, make backroom deals and broker power. Now
15 officeholders find themselves in positions of
16 influence to influence policy in their first
17 terms and are leaders by their second term.
18 They're allowed to lead before they languish in
19 obscurity so long that they forgot why they
20 wanted to be in the legislature in the
21 first place --

22 CHAIRMAN GOLDSTEIN: Mr. Schmidt, could I ask
23 you if you could finish up, please.

24 MR. SCHMIDT: Term limitations ultimately
25 limit the ability of elected officials to bend

1 the instrumentalities of government to their own
2 will. They use their acquired power in order to
3 push private agendas and exert their own influence
4 on incumbents. They reduce the muscle of elected
5 officials, can produce cronyism and potential
6 abuses of power. An officeholder who is not
7 constantly considering his or her re-election can
8 focus on the overall all interest of the city.
9 Term limited officeholders spends less time
10 campaigning, more time doing his job.

11 Term limitations reduce the influence of
12 special interests since career politicians have
13 less time to build long-term relationships with
14 contract lobbyists and sponsors. Short of
15 potential for holding office, same office
16 continuously, gives reason for special interest
17 groups and individuals to make long-term
18 investments in politicians' careers. So a term
19 limit politician is less beholden to special
20 interests than major contributors represent.

21 Let me conclude by saying that, you know,
22 the powerful cling to power. That's human
23 nature. Term limits does not change human
24 nature; it curbs it by altering the pressure to
25 chase reelection. The pressure to be reelected

1 can cause officeholders to run for political
2 cover rather than make hard choices in the open.
3 They create escape valves for themselves so they
4 can change their position, delegate important
5 duties to subcommittees and the bureaucracy, but
6 leave strings attached so as not to lose
7 authority, only responsibility. Term limits
8 counteracts the loss for power to the benefit of
9 citizens.

10 CHAIRMAN GOLDSTEIN: Thank you, Mr. Schmidt.
11 Mr. Schmidt, we're going to have to conclude, if
12 you don't mind. We'll get back to you.

13 I'd like to move on to Dr. Egan now.
14 Patrick Egan, please. Thank you.

15 DR. EGAN: Good evening. I have some
16 prepared handouts for the Commission as well, if
17 that could be distributed to everyone.

18 CHAIRMAN GOLDSTEIN: We have them up here.

19 DR. EGAN: You have them.

20 CHAIRMAN GOLDSTEIN: They've been
21 distributed.

22 DR. EGAN: I'll be referring to some data I
23 have there a little bit later.

24 It's great to be here, and as said earlier,
25 I'm a professor of politics and public policy of

1 NYU. I come to you today as a political
2 scientist who studies representation; that is,
3 the study of the relationship between citizens
4 and their elected officials. I'm also here today
5 as a former appointed official from another one
6 of our nation's big cities, Philadelphia, where I
7 served as a deputy mayor of policy and planning
8 under former Mayor Ed Rendell; and last,
9 certainly not least, I'm here today as a fellow
10 New Yorker who shares the concern of everybody
11 here for the future of this great, wonderful,
12 kind city we call home. And as the sole New
13 Yorker sitting on this panel, I will provide some
14 local perspective on some of the research
15 regarding term limits; and in doing so I'm going
16 to make one pretty strong recommendation to the
17 Commission, and that is that to the extent that
18 you take up term limits, I would recommend that
19 members of City Council be permitted to serve
20 more terms in office than citywide elected
21 officials, and, in particular, more terms than
22 the Mayor, and I'll explain why in a minute.

23 As you will no doubt learn in a minute from
24 Dr. Niemi's testimony, much of what political
25 scientists know about term limits comes from

1 studies of state governments rather than local
2 governments. And this is partly because term
3 limits are actually quite unusual at the
4 municipal level. A recent survey of municipal
5 governments by the nonpartisan International City
6 County Management Association of U.S. local
7 governments found that only 9 percent of
8 municipal governments place term limits under
9 chief elected officers or officials, and only 9
10 percent limit the terms of their Council members.
11 This is a pretty rare thing to have term limits
12 at the local level.

13 Now, as Mr. Schmidt said earlier, term
14 limits are more common in our nation's big
15 cities. But in many ways it doesn't really make
16 sense to compare New York City to other cities,
17 and that's because of our sheer size. As you
18 know, we've got 8.4 million people -- at least
19 according to 2008 census estimates -- and that
20 population figure puts us in the ranks of the
21 nation's post populace states. Making them a
22 more appropriate comparison group than other
23 cities.

24 As shown in the table accompanying my
25 testimony, which I would encourage you to have a

1 look at right now, if New York City were a state,
2 we would rank number 12 in terms of population.
3 And if you're like me, you're probably wondering
4 what other big cities would look like, and rest
5 assured that they'd be far down the list. So Los
6 Angeles is next most populace city in the United
7 States, it would only be at number 27, and no
8 other city would even crack the top 40. So what
9 that means is that states are kind of a better
10 comparison group in terms of thinking about term
11 limits and actually all kinds of government
12 activity than many of the nation's big cities.

13 Now here's the thing. Unlike New York City,
14 most of the largest states do not have limits on
15 the number of terms their legislators may serve.
16 And that's kind of ironic, because it's fair to
17 say that our legislators, that is, our City
18 Council members here in New York City, have much
19 harder jobs than most state legislators. Compared
20 to these states, each of which has two
21 legislative houses, the number of legislators in
22 New York City who were available to serve
23 constituents and oversee the government's budget
24 and activity is startlingly small. For example,
25 there are 160,000 New Yorkers for each city

1 Council Member. A figure that is larger than for
2 every state except California. You'll see that
3 on the table at the back of the testimony as
4 well. And if each City Council Member were
5 responsible for overseeing, say, an equal share
6 of the New York City budget, these shares would
7 be more than \$1.6 billion each. Again, this
8 example of budgetary responsibility or oversight
9 dwarfs that faced by legislators in any state
10 except California. Thus the typical member of
11 the New York City Council is responsible for
12 serving more constituents and monitoring more
13 government programs than the members of all but
14 one of our nation's 50 state legislatures. And
15 the government of that state, California, is
16 routinely cited as among the worst in the nation
17 in terms of overall performance partly because of
18 term limits.

19 So these are big responsibilities that our
20 legislators have here in New York. And in
21 handling them, the New York City Council is at a
22 disadvantage relative to the executive branch of
23 City government. Any mayor of New York City
24 controls the vast information gathering resources
25 of the executive branch. The Mayor is able to

1 appoint numerous staff, many of themselves are
2 experts on local policymaking, and with one of
3 the largest councils of any big city in the
4 nation, the New York City Council faces what we
5 like to call a collective action problem. Any
6 effort to oppose or oversee the executive branch
7 must be coordinated among 51 Council Members.

8 Now, many local observers, I think probably
9 many people in this room, believe that City
10 Council has decreased in stature vis-a-vis the
11 Mayor in recent years. And there's good reason to
12 think term limits are partly to blame. Research
13 by political scientists -- which again you're
14 going to hear in great detail in a minute -- has
15 shown that the adoption of term limits in the
16 states, and even when applied equally to the
17 executive and legislative branches, is typically
18 accompanied by a decline in the legislative
19 branch's power, expertise and oversight.

20 Back to California, for example, where term
21 limits not only led to high turnover of the
22 legislators, which is something that I suppose
23 you'd want if you like term limits, they were
24 also accompanied by high turnover of legislative
25 staff. Fewer bills were introduced and passed

1 into law. And then throughout the country where
2 states have adopted term limits, the legislature
3 acts more like a rubber stamp than a check on the
4 governor. It makes fewer changes to the budgets
5 proposed by the executive branch, for example.
6 And knowledgeable observers in these states
7 report a decline in the power of these
8 legislatures relative to the governor and the
9 bureaucracy.

10 So these disparities between the executive
11 and legislative branch makes -- help explain why
12 of the twenty most populace states 14 have placed
13 limits on the number of terms the governor can
14 serve but only six have placed limits on the
15 number of terms there legislators may serve.

16 So if the relevance of all this information
17 hasn't become clear let me allow to make it so.
18 And that is I think we can all agree that the
19 challenges faced by the City Council here in New
20 York are bigger than those faced by legislators
21 in almost every state in the country. And a law
22 that mandates that this body rid itself of
23 accumulated expertise at regular intervals
24 inevitably makes this challenge even greater.
25 Term limits have exacerbated the relative

1 disadvantage faced by City Council in its
2 relationship with the Mayor.

3 Now, many New Yorkers, ironically some of
4 the strongest proponents of term limits, agree
5 that the power of the executive branch has grown
6 at the expense of that of City Council. And
7 ironically again, term limits are one of the
8 reasons why this is so. So although it certainly
9 wasn't a popular move, it is likely that the
10 extension in 2008 of the number of terms that may
11 be served by members of City Council from two to
12 three has helped reduced the disadvantages that
13 Council finds itself relative to the executive
14 branch. It increased the amount of time that
15 Council Members have time to build relationships
16 with one another and their constituents and
17 allowed Council Members to acquire the expertise
18 and experience needed to become experts on
19 specific aspects of local policy.

20 So term limits are generally a popular
21 notion, and I think everybody at this table will
22 agree with that. You can cite public opinion poll
23 after public opinion poll, both nationally and in
24 New York City, saying that voters love term
25 limits. And the Commission will probably find

1 itself wondering if they should put or you should
2 put, sorry, a proposal putting a proposal
3 regarding term limits before the voters. And if
4 you do so, I want to encourage you to proceed in
5 a way that levels the playing field between City
6 Council and the executive branch and that is by
7 allowing members of Council to serve more terms
8 than the Mayor. Doing so will help restore the
9 balance of power between Mayor and City Council
10 to its rightful place, thanks.

11 CHAIRMAN GOLDSTEIN: Thank you very much, Dr.
12 Egan. We'll hear now from Dr. Niemi. Welcome.

13 DR. NIEMI: Thank you. Pleasure to be here.
14 Even though as pointed out, I'm not from New York
15 City but I from New York State at least.

16 As has been pointed out with the term limits
17 having been passed in a lot of states -- 21
18 states as a matter of fact -- in the 1990's,
19 although for various reasons they're in effect in
20 15 states now, a series of studies was conducted
21 starting in the mid-1990s and continuing for a
22 number of years by university researchers, and by
23 members of the legislative service organizations
24 to try to assess their effects. And I'd like to
25 summarize briefly some of the findings of these

1 studies.

2 I think we can make pretty good inferences,
3 by the way, about how these extend to City
4 Councils, but the problem here is that there are
5 significant differences between legislatures and
6 the executive branch. But let me first say what
7 I think some of these findings are from the
8 research that's been done.

9 First of all, term limits don't change the
10 kinds of people who run for office. There
11 occasionally has been a speedup in turnover that
12 led to representation of minorities and women,
13 for example. But in general, throughout the
14 country there has not been a noticeable change in
15 the demographics of the state legislative
16 composition owing to term limits. There is also
17 no change in the kinds of people in their sense
18 of interest in politics and in political careers.
19 Term limits have not resulted in state
20 legislative elections in citizen, so-called
21 citizen legislators coming out for office.
22 Legislators in the states do seek other jobs in
23 politics. For example, those in the lower houses
24 of state legislatures often try for the upper
25 house when their terms are coming to an end; or

1 they think they're going to be; or they know
2 they're going to be ended in a few years.

3 Because there are relatively few
4 congressional seats relative to even the upper
5 houses of any of the state legislatures, state
6 senators try to move in all sorts of positions, a
7 few even back to the lower house, some to staff
8 positions, some to local offices and so on. So
9 the interest in the orientation of the kinds of
10 people who have run for state elections for state
11 legislatures after the advent of term limits has
12 not changed.

13 The evidence is mixed about whether term
14 limits result in competitive elections and/or
15 more turnover. There are more open-seat
16 elections when one has term limits almost by
17 definition, and open seats are generally
18 competitive, so that's contributed to greater
19 competition. But likely candidates also know
20 that they can simply wait out the incumbents. So
21 often what happens is competitive races are
22 avoided in between the time a legislator begins
23 and the time he or she is termed out. So this
24 tends to decrease competition.

25 With respect to turnover, term limits do,

1 certainly do increase rotation in office. But one
2 important caveat in all of this is that term
3 limits don't seem to reduce the power of
4 incumbency in elections, and incumbents do
5 continue to have lots of advantages when they
6 run.

7 Term limits do change power relationships
8 between branches of the government. This has been
9 alluded to. But the point I would make is that
10 they sometimes do so in unexpected ways. It does
11 appear that term limits on the state legislative
12 branch do weaken the legislature vis-a-vis the
13 governor. One would expect the same sort of thing
14 to be true of City Councils if they're term
15 limited.

16 However, with respect to lobbyists the
17 situation is more complicated. Lobbyists have
18 more information and considerably more
19 information relative to new legislators, and,
20 therefore, one would expect that this would
21 increase their power. But term-limited
22 legislators are often less tied to lobbyists
23 partly because they're more skeptical of them,
24 especially at the beginning, and that tends to
25 decrease their power. It's also been difficult

1 for lobbyists, because while they may have more
2 information, they lose the kinds of connections
3 and contacts they've had that they developed over
4 a period of years with legislators who would have
5 been in office for some time, so that tends also
6 to decrease their power. So in some respects
7 term limits do change power relationships, but
8 not always in the way that one would expect.

9 Next, there's no clear evidence that public
10 policies have gotten better or worse under term-
11 limited legislatures. That's a very difficult
12 thing to study. Trying to figure out what is
13 better and what is worse legislation is subject
14 to all sorts of difficulties. And yet, some
15 political scientists have tried to figure out
16 whether it is the case that what comes out of the
17 state legislatures when they're term limited is
18 less adequate than for those state legislatures
19 that are not term limited. And as best they were
20 able to determine, it does not appear as if the
21 laws passed by term-limited and nonterm-limited
22 legislatures were that different.

23 How have states coped with the term limits?
24 This is something that was of considerable
25 interest, particularly to the people in the

1 legislative service organizations. As we pointed
2 out in what we wrote, term limits in the states
3 seem to be here to stay. It was already pointed
4 out that the people have not repealed term limits
5 in elections when they have been asked that. And
6 so it looks as if term limits are going to be
7 around in state legislatures for quite some time.
8 So what have the states done in response to this?

9 In term limited legislatures what they've
10 done particularly is to develop better training
11 processes so that new legislators can in fact hit
12 the ground running, having been prepared through
13 organizations within individual states to know
14 how to do routine things like introduce bills, to
15 have bills get written, how to run committee
16 hearings, all these sorts of things.

17 There are also programs for earlier
18 identification of and training of leaders so that
19 one doesn't get to a position where suddenly the
20 speaker of the house, let's say, is term-limited
21 out and the person -- one either doesn't know who
22 is in line or the person in line has little
23 experience. There's been this practice of
24 identifying them earlier, giving them some
25 training, shadowing current leaders, so that when

1 there is turnover the new people in charge have a
2 greater amount of experience.

3 So now, how does this apply to executive
4 offices? Most of the results would, I think,
5 characterize City Councils. Some I think would
6 apply to members of the executive branch. I don't
7 think that imposing term limits would
8 significantly change the type of people who would
9 try to become mayors, for example, nor would it
10 change the competitiveness of elections other
11 than in the way it has for legislators. However,
12 it seems as if the nature of executive offices,
13 one person rather than a body that depends on the
14 division of labor into committees and the need
15 for cooperation of possibly a large number of
16 people often being full-time whereas legislative
17 positions often are not, having more staff who
18 can be called on to serve them, mean that the
19 learning curve for executives is faster. In
20 addition, being the Mayor of a large city or
21 state governor is typically not an entry level
22 job, though it can be. So do term limits weaken
23 the executives, and if they do is that a bad
24 thing? They probably do weaken executives. We all
25 know the term "lame duck" and what it means. Yet,

1 here is where it's probably most relevant to note
2 or to repeat in fact that the President is term
3 limited as are governors in about two thirds of
4 the states. That in itself suggests that the
5 leaders of the executive branch are different,
6 and over the years a judgment has been made that
7 executives' terms should be limited. But one can
8 counter that argument with other data, namely,
9 most cities, as we've heard, don't have term
10 limits. About 34 states currently have term
11 limits for governors, usually two consecutive
12 terms, but in the latest survey I could find -- I
13 think this is the one that Dr. Egan was referring
14 to -- under 10 percent of City Councils have term
15 limits. For mayors the percentage may be somewhat
16 higher, but still fairly low. In a sample of
17 cities in California in 2001, less than one in
18 five had term limits. So with those counter
19 arguments that seems like a good place to end.

20 CHAIRMAN GOLDSTEIN: Thank you very much, Dr.
21 Niemi. We appreciate your testimony.

22 I'd like to now open this up for a number of
23 Commissioners who have asked to speak and to make
24 statements and query our panelists. Let me start
25 with Commissioner Fiala.

1 (The audio component of the DVD at this
2 point was low.)

3 COMMISSIONER FIALA: Thank you, Mr. Chairman.
4 Let me thank the panelists for their
5 participation, informative. You all have your
6 views. I have mine. I have a question for each
7 of you, it's two tier. (Inaudible)

8 The term limits movement of the 1990s were
9 the result of the American people being angry
10 toward their government and looking for some kind
11 of workable solution that would yield some
12 positive changes. And proponents of term limits
13 postulated a number of things. Each of you have
14 articulated them. The idea of the citizen
15 returning to their farms originally, this whole
16 notion, right, of citizen legislator, right? The
17 notion of limiting, curtailing, diminishing power
18 of special interests over the government entity.
19 The desired end of expanding opportunities to
20 create a more diverse legislative body. These
21 were all things that were postulated.

22 The first question relates to whether or not
23 this question is settled. Are we largely settled
24 on whether or not term limits have proven to be
25 the panacea that they were purported to be by

1 proponents throughout the 1990s? Secondly, it
2 seems to me that there are certain foundational
3 questions of governance that necessitate the
4 consent of the governed. There are foundational
5 issues that are in the constitution, in the
6 Charter, that require that the people themselves
7 approve of. Do term limits rise to that level?
8 And specifically with respect to New York City in
9 1993 and 1996, the people, through referendum,
10 enacted term limits and reaffirmed their desire
11 to have term limits. In 2001 the City
12 legislature, and I was part of it, majority of
13 the Council Members wanted to abolish term
14 limits. That was killed in the Council. And then
15 in 2008, the City legislature again put forward a
16 bill to amend the term limits law from two to
17 three. There's a stated policy that the City of
18 New York has term limits.

19 The question I have for you, that second
20 question, relates to if that be the case, in your
21 view, your experience, would this body have the
22 authority to incorporate into the Charter
23 specific language to codify into the Charter the
24 prohibition of the city legislative branch of
25 government from undoing term limits, from

1 changing the will of the people, is that
2 something that you think could be codified? And I
3 remind you that there is court precedent in this
4 area. This is not an easy question for us to
5 wrestle with. The courts have ruled that the city
6 legislatures have the authority to overrule voter
7 referendum.

8 I'm asking your opinion with respect to the
9 New York City Charter and whether or not you
10 think such language could be incorporated into
11 the Charter to prevent future actions from taking
12 place that took place in 2008?

13 MR. SCHMIDT: As to whether term limits is a
14 panacea (inaudible) no one ever promised that
15 term limits was the be all and end all to good
16 government or any panacea whatsoever. It's just
17 one tool in the toolbox of good government.
18 Voters still have to do the heavy lifting. Term
19 limits just lets them do it without having one
20 arm tied behind their back.

21 Now, I'm going to basically reserve answer
22 on the second one, because I've got two New York
23 lawyers here, and I'm a Michigan lawyer. But
24 I'll say Honduras, I believe, put in their
25 constitution that term limits could not be

1 overturned by a City Council -- by a legislative
2 referral.

3 COMMISSIONER FIALA: Did you say "Honduras"?

4 MR. SCHMIDT: Honduras, which has been in
5 the news lately because of the term limits issue.

6 CHAIRMAN GOLDSTEIN: Dr. Egan, do you want to
7 go next?

8 DR. EGAN: Sure. Unfortunately, I'm having
9 to forego the second question, because that as
10 you just mentioned is a very complicated issue of
11 local government and state government law, so I'm
12 going to pass on talking about that, because I
13 wouldn't be able to speak to it with the
14 requisite expertise.

15 I think political scientists would say that
16 evidence about whether term limits have achieved
17 what their proponents have hoped they would is
18 quite mixed, and I think Dr. Niemi spelled it out
19 quite well that we're not seeing a different kind
20 of legislator. And we're not seeing different
21 kinds of electoral competition when incumbents
22 are running. The relationship between lobbyists
23 and legislators and the executive branch has
24 changed, but we're not quite sure in what
25 direction. And then one thing that we also know

1 is that in many places where term limits have
2 been approved by voters, they are still quite
3 unhappy with their state governments and their
4 state legislatures. Now, that's also true in
5 many places where term limits haven't been
6 approved by state voters, namely, here in
7 New York State. So the evidence is mixed on that
8 count. But I think the -- it is, I think, term
9 limits are one of those things that are very
10 simple, they're very appealing in a certain kind
11 of principled fashion to the everyday citizen.
12 But their effects are a lot more complicated and
13 perhaps less satisfying than might meet the eye.

14 DR. NIEMI: I would say two things about
15 that first point. That no, I would say no, pretty
16 clear, no, term limits have not been a panacea.
17 On the other hand, I would also add that I don't
18 think term limits have been a disaster, and so
19 you can read that both ways.

20 With respect to the second point, I'm not a
21 lawyer in any state, but I would guess -- so I
22 don't know definitively, but I would guess that
23 the City, a City Council could pass some sort of
24 law saying that the will of the people should not
25 be ignored, that term limits should be kept in

1 force. But it would seem to me that if they can
2 do that, then a Council at some later time could
3 take just the opposite action.

4 CHAIRMAN GOLDSTEIN: Let me turn to
5 Commissioner Moltner.

6 COMMISSIONER MOLTNER: Thank you, Mr.
7 Chairman. Commissioner Fiala raised the issue in
8 his second question, and I'd like to take it out
9 of the realm of the law and put it into the realm
10 of what I'll term morality.

11 The public has expressed -- and the realm of
12 process, maybe that's the better way of putting
13 it, because as has been stated before, whether
14 one agrees or disagrees with term limits, the
15 public, I believe, has clearly expressed its
16 concern -- at least insofar as what occurred in
17 New York City -- as to the process by which it
18 was done.

19 We had a Court case by our intermediate
20 Appellate Court called Goldin years ago in
21 which -- in 2003 in which the Appellate Court
22 said in an analogous context, "We're ruling on
23 the legality of what the City Council has done,
24 but we do not consider the morality of it," which
25 is why I used the word "morality". I kind of

1 take it from that case.

2 So going from the court of law as it were,
3 to the Court of public opinion, and as
4 Commissioner Fiala said, as we know, given there
5 were two referenda on this issue, can the panel
6 members comment in terms of process and what the
7 implications might be of not returning this issue
8 to the voters?

9 DR. EGAN: You're asking us to tread on the
10 waters of what political scientists like to call
11 normative political theory. I'm not going to
12 claim to be an expert or a wise person on that.
13 But I guess one way that I'd like to think about
14 this is we live in a representative Democracy and
15 not in a direct Democracy. So there's something
16 that we feel sort of vital and kind of authentic
17 about a vote of the people, about a referendum.
18 But you have to remember that the principles that
19 our government and nation were founded upon
20 actually were precisely opposite that of, you
21 know, unlimited rule by majority voters; that our
22 Founding Fathers put representatives in place to
23 often cool the tempers of voters and to
24 deliberate in a fashion that can't be done in the
25 general public. And so, all that is to say that

1 I'm not coming down on one side or the other, but
2 that I think it's our instinct to kind of
3 privilege the votes of 50 percent of our citizens
4 plus one as some, you know, premier or most
5 highest source of authority. And that's actually
6 not necessarily the case when you look at how
7 people have thought about representative
8 Democracy for over the ages.

9 DR. NIEMI: I don't have a lot to add to
10 that, but I think that it is the case that when
11 voters see that they have done something and then
12 it's overturned, whether by courts and whether by
13 courts on technicalities as happened in some
14 state legislative cases of term limits; or for
15 other sorts of more substantive arguments; or for
16 whatever reason, that probably encourages people
17 to be still more cynical. They were cynical, as
18 has been pointed out they were cynical in the
19 '90s, still are cynical, that's why term limits
20 have been passed; and for bodies then to -- other
21 bodies to then say that "Well, they voted but
22 we're going to override that or ignore what the
23 voters have passed," I think can only help to
24 make voters even more cynical.

25 MR. SCHMIDT: If I could comment on this. I

1 think there's no reason not to place such
2 language in a new city charter -- in a new
3 proposal. One, make it hard for future council
4 to go this extra step. And if they're intent on
5 overturning the voice of the people once again,
6 then let the council sue to put this on the
7 ballot and find out whether the legal doctrine of
8 preemption allows the council to, with the
9 majority vote, overturn the will of the people.

10 CHAIRMAN GOLDSTEIN: I'd like to recognize
11 Commissioner Banks.

12 COMMISSIONER BANKS: Good evening, gentlemen.
13 Like Commissioner Fiala, he was a Council Member,
14 I was a staff member in the Council in '93 and
15 '96 when the first two referenda were put
16 forward. And I was chief of staff in 2001 when
17 the Council voted not to put the measure of term
18 limits to the full Council for a vote. The
19 committee defeated the measure.

20 My understanding at the time and now was
21 that one of the goals of term limits was to
22 increase voter participation, to encourage people
23 to get out and elect news representatives. And it
24 seems that all three of you gentlemen have
25 indicated that that is, at a minimum,

1 inconclusive that that is in fact what had
2 happened.

3 So, Mr. Schmidt, you referred to this as a
4 tool. Need we continue to hammer this issue to
5 death and in fact might we not seek other methods
6 to increase participation and encourage people to
7 get involved?

8 MR. SCHMIDT: Well, as I previously stated,
9 there are so many advantages of incumbency, that
10 all but disqualify challengers that to address
11 them one at a time, especially allow the
12 legislature, the City Council, to address them as
13 I described the fox watching the chicken coop, I
14 think it's going to be an exercise in futility.
15 For instance, the idea of term limits reducing
16 competition because people sit out until there's
17 an open seat. Well, gosh, they might as well sit
18 it out with almost a hundred percent reelection
19 rate amongst Council Members. Why not wait until
20 an open seat is up? I do think that the people
21 need to continue to hammer on term limits, and
22 people want them, that's what the people chose,
23 far be it from anyone to tell them differently.

24 COMMISSIONER BANKS: The mere fact the people
25 choose a particular public policy issue doesn't

1 necessarily mean that's the right way to
2 legislate or run our city or government.

3 MR. SCHMIDT: That's how we decide things in
4 America. Otherwise resorting to sticks and --
5 attention --

6 COMMISSIONER BANKS: Aren't there three ways
7 in which we run America?

8 MR. SCHMIDT: Yes, but what I'm saying is the
9 people have a voice. Initiative process allows
10 the people a voice. Listen to the people. The
11 people have spoken.

12 COMMISSIONER BANKS: The people also wanted
13 segregation at some point during our history, and
14 the courts and the legislature decided that
15 wasn't what should be. So should we ignore
16 reason simply because the people want it?

17 MR. SCHMIDT: Well, that's not a example --

18 COMMISSIONER BANKS: I think it's a pretty
19 good example.

20 MR. SCHMIDT: I don't see any relevance to
21 that to term limits. Term limits restricts about
22 a hundred people, and it tells them to take one
23 term time out every two terms.

24 COMMISSIONER BANKS: I believe it restricts,
25 I believe it restricts all registered voters from

1 voting for people who are currently in office.

2 MR. SCHMIDT: Well, compare that to the fact
3 that without term limits there's no sense even
4 running everyone as a challenger.

5 COMMISSIONER BANKS: Do you think that
6 (inaudible name) believed that?

7 MR. SCHMIDT: I don't.

8 COMMISSIONER BANKS: Do you think that Arlen
9 Specter believes that?

10 MR. SCHMIDT: You know, you can say --

11 COMMISSIONER BANKS: That a "Yes" or "No"?

12 MR. SCHMIDT: -- you can cite -- Congress
13 has never been term limited, they never will be,
14 very likely. Unless they limit the terms on
15 themselves. When you change parties, you know,
16 that's the kind of a scandal that can even get a
17 long term entrenched incumbent --

18 COMMISSIONER BANKS: How about Blanche
19 Lincoln?

20 MR. SCHMIDT: I'm sorry?

21 COMMISSIONER BANKS: Blanche Lincoln. John
22 McCain. Chris Dodd. Harry Reid.

23 MR. SCHMIDT: You're citing aberrations when
24 the fact is.

25 (Inaudible cross conversation.)

1 COMMISSIONER BANKS: There are a hundred
2 senators. Off the top of my head I came up with,
3 let's see, three, four, six. 6 percent off the
4 top of my head are anomalies, according to you.

5 MR. SCHMIDT: Well, then, why don't you
6 expand that over 20 or 30 years? Now you're back
7 up to 99 percent.

8 COMMISSIONER BANKS: I don't want to belabor
9 it, because other Commissioners might want to
10 have questions, but I think that it's something
11 that we need to continue to delve in, and I
12 appreciate your candor and engaging the
13 conversation.

14 DR. NIEMI: Excuse me, if I may suggest, one
15 of the things that one has to be a little careful
16 about in looking at figures of how many
17 incumbents are reelected is also looking at how
18 many incumbents choose not to run because they
19 might not be reelected or they might have a very
20 difficult time.

21 COMMISSIONER BANKS: The folks I mentioned,
22 in particular, Chris Dodd, I think is in that
23 circumstance.

24 DR. NIEMI: Sure.

25 CHAIRMAN GOLDSTEIN: Let me acknowledge

1 Commissioner Anthony Cassino.

2 COMMISSIONER CASSINO: Thank you,
3 Mr. Chairman. And I don't know if this is a
4 question for our panel or to our fellow
5 Commissioners. We had the Brooklyn Borough
6 President speak here, and our panel speak here,
7 and it was interesting that none of them touched
8 on what is I think is the 800-pound gorilla in
9 the room, which is the referendum issue that has
10 been brought up here, because it does color our
11 whole conversation here. We're talking here about
12 whether you think it's been successful or not,
13 whether two terms or three terms, or mayors
14 getting more terms or not getting as many terms
15 as the City Council. And I would suggest that
16 we're asking the wrong question. I think that my
17 opinion is that the question is not whether it's
18 been successful or not, or whether it is
19 successful. In my opinion, the question is
20 whether or not we are going to revisit the issue
21 that occurred in the legislature, or the City
22 Council over the issue of overturning term limits
23 and expanding their terms. And also as somebody
24 so eloquently put it in Staten Island, whether
25 we're going to close the loophole.

1 And I side with our fellow Commissioner
2 here, Mr. Fiala, who when he was in the Council
3 was able to block the vote in 2000 when the City
4 Council was looking in many of its attempts to
5 overturn the will of the people who voted twice.
6 By the way, the second vote, the second
7 referendum, answered the question of three terms.
8 The second referendum specifically was about
9 whether it should be two or whether it should be
10 three terms as opposed to two. So it answered
11 that question as well. And Mr. Fiala said,
12 "Twice the voters cast their vote. They weren't
13 polls, they were votes, and in America votes are
14 sacred."

15 So, my thought is I think it's interesting
16 that when especially elected officials come here
17 and speak about the issue, and they've spoken
18 about it to us in the past, they rarely ever
19 mention the issue of the referendums. They talk
20 about the benefits, the pros and the cons, and
21 I'm sure we all have various opinions on that.
22 And I just think it's the wrong question.

23 CHAIRMAN GOLDSTEIN: Thank you, Commissioner
24 Cassino. Let me recognize Commissioner Scissura.

25 COMMISSIONER SCISSURA: Thank you. First of

1 all, I just want to, before I ask my question, I
2 do want to say that I know this distinguished
3 panel has been called experts and we really
4 appreciate that. But as I've said in the past, I
5 think the experts on this issue are New Yorkers.
6 So I would ask that if we're going to ask some
7 more questions that we try and wrap it up
8 quickly, because I know there are many New
9 Yorkers that want to be heard.

10 So I just have a quick question for Dr.
11 Egan. I think I'm interested to hear a little bit
12 about your position on allowing the Council an
13 extra term over the Mayor, but really
14 specifically in regard to -- we talked about it a
15 little early, yes -- with regard to the Borough
16 President, Marty was here earlier, the Public
17 Advocate, I think Public Advocate de Blasio is
18 here, the Comptroller, and where do you see them?
19 Do you see them in a two-term with an executive,
20 or do you see them in a three-term with the
21 legislature?

22 DR. EGAN: I think it's a good question that
23 probably requires the collective wisdom of a body
24 like this to sort of think about the relative
25 power and roles of those offices. So as we know,

1 since the previous Charter reform, the Borough
2 Presidents are almost look more like legislatures
3 and advocates than having a particular amount of
4 executive authority. And in that sense, they act
5 as monitors, overseers of the broader city
6 government apparatus in a way that is somewhat
7 akin to City Council. And the same, of course,
8 can be said for the Public Advocate, the
9 Comptroller.

10 At the same time, those offices enjoy the
11 kind of sole authority that comes with being a
12 elected official to being the only elected
13 official elected to your particular position. And
14 so they don't face the same kinds of
15 disadvantages or collective action problems that
16 City Council and other legislators face. It would
17 require a bit of kind of determining to which of
18 those roles they're more likely to fall, on the
19 executive side or the legislative side, and to
20 the extent that you determine that, I think that
21 then tells you which way to go in terms of their
22 relative length of terms.

23 CHAIRMAN GOLDSTEIN: Thank you for that. Let
24 me now turn to Commissioner Taylor.

25 COMMISSIONER TAYLOR: Thank you, Chair. I

1 just want to ask the panel, do you feel that
2 there has been enough public education on term
3 limits to the population? I mean, because I know
4 that someone said the vote is sacred, it is. And
5 I think that people understand the general
6 principle and practice of term limits. But do
7 you feel over your studies in the time that
8 you've researched this that there has been enough
9 public education on the pros and cons of term
10 limits?

11 DR. NIEMI: I think there could always be
12 more education. I think on almost any issue we
13 could have more, more education. I do think that
14 voters have pretty firm opinions about this. But
15 we've seen time after time similar results across
16 similar states over various periods that even in
17 the same state over multiple elections. I don't
18 think that further education is going to do a
19 great deal to change attitudes on it. So, yeah,
20 there always could be more. But I don't think it
21 would make a great deal of difference.

22 COMMISSIONER TAYLOR: Interesting follow-up,
23 Chair. That's interesting, because most people
24 that I have polled and asked about the Charter
25 Revision Commission asked me was it a bus rental,

1 so most people that I asked about term limits
2 have no idea what it will do both pros -- so I
3 guess the direct question is do you think in New
4 York City -- maybe I should ask Professor Egan,
5 because he's a New Yorker, but do you think that
6 New Yorkers have been given enough public, enough
7 information to really decide whether term limits
8 is good either way?

9 DR. NIEMI: Could I make one comment?

10 COMMISSIONER TAYLOR: Okay.

11 DR. NIEMI: One of the few things I think
12 the political scientists have determined
13 unequivocally over the years since we've had
14 public opinion surveys, good public opinion
15 surveys, is that a lot of people are very
16 ignorant of various aspects of government. The
17 seminal example I would cite doesn't actually
18 come from a survey but the novelist James
19 Michener was asking in Philadelphia about the
20 electoral college and got comments about it was
21 up the street a few blocks, it was okay if you
22 couldn't afford Harvard, and things of that sort.
23 So there's a great deal of ignorance, whether in
24 New York City or Philadelphia or anyplace else in
25 the country.

1 DR. EGAN: To think about New York, and this
2 level of a kind of mystery people encountered in
3 public affairs is not limited -- it can happen
4 anywhere. So when I said I was coming here to
5 testify today I had several people who follow
6 politics who said, "Yes I'm very concerned and
7 interested in the charter schools issue." So it's
8 a similar kind of story. So I think actually in
9 New York City term limits, there's a couple
10 things. One thing is, term limits is something
11 very easy to understand at a basic level, right?
12 Somebody gets to be in office for a certain
13 amount of time and they can't run again. And
14 there's something that emotionally I think
15 appeals to probably all of us about that, that
16 we -- and we carry these principles of a citizen
17 legislature, the idea that anyone can run for
18 office and do the job of governing; and there's
19 something emotionally and perhaps intellectually
20 appealing about that sort of rotation in office.
21 And I think actually New York City is sort of
22 unique in that we have had so many different
23 encounters with this issue, whether it's in the
24 legislature or in referenda. But where you come
25 down on that I think has to do with the extent to

1 which, and this is a very, you know, difficult
2 question to explore, which is the extent to which
3 you want to look at sort of the nuances of the
4 implications of term limits. I mean, we do this
5 for a living as political scientists. We think
6 about the pros and cons and look at where the
7 chips fall empirically and that's quite doable.
8 But most people don't really have the time or the
9 interest to do that. So then the question
10 becomes to what extent are we satisfied with the
11 level of knowledge -- and, you know, people know
12 something -- with the level of knowledge as the
13 basis for making a decision as a citizenry,

14 MR. SCHMIDT: As a former charter
15 commissioner myself in Saginaw, Michigan I feel
16 your pain. We had elected to a charter
17 commission and you got more people in the
18 audience than we had in three years put together.
19 But there's never, there's never enough
20 education, and I think it be would a very good
21 idea for you to put on your Web site access to a
22 very great educational source and that's U.S.
23 Term Limits' Web site, USTL.org. And more study
24 too is needed. For instance, the issue of whether
25 term limits, limits the power of the legislature

1 vis-a-vis the governor. The study that's been
2 done is based on the opinions, facts based on the
3 opinions of legislators. I don't think anybody
4 ever asked governors what they thought. I don't
5 think they talked about the budget and with the
6 figures that were done, because I've read his
7 book, the term-limited states, the answers on a
8 scale of 1 to 7, term limited legislatures said
9 that the governor had an enhanced power at a rate
10 of 4.5 on a scale of 1 to 7. In nonterm-limited
11 states, on a scale of 1 to 7, the level was 4.1.
12 So there was a difference of point 4 in a scale
13 of 1 to 7 of whether these legislatures thought
14 the legislature had lost power vis-a-vis the
15 governor. I don't know that's significant enough
16 to base upon that this whole proposition that
17 because of that loss of power relative to the
18 executive branch that the legislature should get
19 three terms instead of two. Doesn't make sense to
20 me.

21 CHAIRMAN GOLDSTEIN: Let me turn to
22 Commissioner Cohen and then I'll ask Commissioner
23 Patterson. Commissioner Cohen.

24 COMMISSIONER COHEN: Thank you, Mr. Chairman.
25 We talk in terms of term limits, obviously,

1 because of the particular moment in time that we
2 find ourselves. But I wonder whether the more
3 pertinent question is duration in office. And so
4 I wanted to ask you about length of terms with
5 regard to the executive and the legislature and
6 particularly because the Charter, as we have it
7 now, already has something that I know that I
8 find personally very confusing, namely, that
9 there are some two-year terms for the Council
10 interspersed among the four-year terms; and even
11 though I'm reading it I still don't understand
12 what the pattern is supposed to be, although
13 theoretically it's tied to the census in some way
14 about redistricting in a prompt manner. Anyway,
15 right now, what we have is a mix of fours and
16 twos in a pattern that I would think very, very
17 few New Yorkers know about. And so my question
18 you to is about instead of saying two terms and
19 three terms, should we be talking about four
20 years and six years and eight years? Should we be
21 thinking about two-year terms but more of them? I
22 can imagine that when we talk about shorter terms
23 that's going to bring up a lot of other
24 consequences, both intended and not, in the
25 electoral process. But I wanted to throw out

1 that question of time as opposed to just term of
2 office.

3 DR. EGAN: I'll take a first stab of that.
4 In terms of the arguments and ideas I've
5 presented today, actually the important thing is
6 time. So that if you're interested in the
7 relative expertise of the executive and
8 legislative branches, that tends to come with
9 time and not with additional elections that would
10 go with the number of terms that are associated
11 with the time. My focus or my concern would be
12 about the total amount of time amassed under term
13 limits by either of those two branches. I would
14 be glad to focus my arguments on that.

15 DR. NIEMI: I come at this from a little
16 different position and don't relate it so much to
17 term limits, but I think it's an excellent
18 question. And I think myself the problem with
19 two-year terms is that the people are constantly
20 running. And my own view is that terms --
21 certainly for Congress, for example, which is
22 where it's occasionally come up -- ought to be
23 four years. This creates a problem, as you
24 pointed out, when you have ten-year censuses and
25 you can't go four and four and get to ten. So you

1 might have to do four and six, for example, if
2 you wanted to somehow accommodate the census and
3 yet have four-year terms. But I think it's an
4 important point that ought to be thought about.

5 COMMISSIONER COHEN: I'm sorry, what about
6 five and five?

7 DR. NIEMI: I'm sorry?

8 COMMISSIONER COHEN: Ten is divisible by
9 five.

10 DR. NIEMI: One could do that, one could do
11 that.

12 COMMISSIONER FIALA: Mr. Chairman, could I
13 just for point of clarification for those
14 watching? I can respond to
15 Commissioner Cohen's --

16 CHAIRMAN GOLDSTEIN: Please.

17 COMMISSIONER FIALA: The two- and four-year,
18 I, for example, would have been permitted to
19 serve for a total of six years, one four and one
20 two. My colleague in the Council, the current
21 minority leader, got a total of up to eleven
22 years. That's a quirk of the Charter that was
23 adopted in '89. In 2002, the City Council
24 corrected that quirk. The reason for the two-year
25 is that the census provides us with an

1 opportunity and responsibility to redraw the
2 lines. If it were a four-year, it's conceivable
3 then that a Council Member would take office in
4 the middle of a decade. So, the two and the fours
5 isn't as complicated as it reads. Actually,
6 right now, under present law, you are permitted
7 to have up to three terms for a total of twelve
8 years. Total of twelve. Prior to that it was a
9 total of eight years. It could be a combination
10 of two-two-four or four-four. But it went from a
11 total of eight to a total of twelve. So the two
12 and two is really just a function of allowing the
13 Districting Commission to draw the lines and get
14 a Council Member into the new lines on the front
15 end of a new decade as opposed to in the middle.

16 COMMISSIONER COHEN: Yes, but people have no
17 way of knowing that their particular District is
18 in the two-year portion of the cycle --

19 COMMISSIONER FIALA: They're all in the same.
20 They would all be the same. It's a cycle. Every
21 20 years you wind up with this two-two-four,
22 four-four, two-two, that type of deal. But it
23 was corrected in 2002, because as I said, I gave
24 an example of two Staten Island Council Members
25 each a getting different total time. Right now

1 that doesn't happen. Right now everyone is
2 afforded the opportunity for up to twelve years
3 in total.

4 COMMISSIONER COHEN: Okay. I just want to
5 throw out two thoughts as we go forward in our
6 future deliberations on this whole range of
7 issues. One is, as I just mentioned, the number
8 10 is divisible by the number 5. And is not
9 divisible in the same way with the numbers 4 --
10 well, it is by 2, but it brings other issues.

11 Another, the other point that I would like
12 to, you know -- actually I've forgotten the other
13 point. But if I have -- I will throw it out
14 there.

15 CHAIRMAN GOLDSTEIN: Well, 10 is divisible by
16 4, you get 2 1/2. Which always leads me to
17 believe that everybody should take a course in
18 number theory, because it's really very good.

19 Let me move to Commissioner --

20 COMMISSIONER COHEN: I'm sorry, I remembered
21 my other point.

22 CHAIRMAN GOLDSTEIN: Oh, I'm sorry, go ahead.

23 COMMISSIONER COHEN: The other thought I
24 wanted to throw out is if we do go forward with
25 some kind of term limits recommendation, whatever

1 it may be, more or less the same, et cetera, it
2 seems to me that one of the questions that keeps
3 coming up in the discussion about term limits is
4 the -- especially with regard to the relative
5 power of the legislature, is the loss of
6 expertise. And so I would suggest that we should
7 keep in mind the possibility of staggering the
8 terms among the full body of the Council.

9 CHAIRMAN GOLDSTEIN: Thank you, Commissioner
10 Cohen.

11 Let me ask Commissioner Patterson to be
12 recognized.

13 COMMISSIONER PATTERSON: I wanted to talk a
14 little about what is euphemistically called
15 "special interests" and ask your view and how the
16 term limit debate plays into the issue. One of
17 the more compelling argument, at least facially,
18 for term limits is that if a legislator -- and
19 I'm talking primarily about legislators now, not
20 about executive branch -- if a legislator is
21 subject to, let us say, two four-year terms and
22 that's it, that such legislator is less likely to
23 be influenced by special interests,
24 particularly in the second term.

25 New York isn't exactly unique, but it is

1 remarkable in that it has both a recently-passed
2 very, very tough law restricting lobbyists and
3 virtually any entity that does business with the
4 City of New York from making more than relatively
5 small campaign contributions to anybody seeking
6 elected office, whether it's an incumbent or a
7 new challenger. And it is also relatively unique
8 in having a very generous publicly funded
9 campaign finance program. The purpose of both of
10 those is to reduce the financial influence that,
11 as I say, what is euphemistically called "special
12 interests" might have on legislators and that is
13 entirely independent of any kind of term limit
14 restriction.

15 When a legislator is subject to term limits
16 one of the more compelling criticisms is that
17 that legislator spends a significant amount of
18 time looking for his next job.

19 Now, if you take away from the analysis, as
20 I think has been very effectively done in New
21 York, the ability of so-called special interests
22 to get what they want by making generous campaign
23 contributions -- and there are also very strict
24 conflict of interest rules, too, whereby taking
25 junkets down to the Bahamas, the way some of our

1 Congressmen do -- and instead, what happens to
2 the legislator -- when a legislator knows that he
3 or she is facing a guaranteed end of a job as an
4 elected official in a legislative body and
5 there's no other way, let's posit, or a limited
6 access for a special interest exert influence
7 over that legislator's campaign contributions, do
8 you run the risk that a legislator is going to be
9 a little too tempted to look around to see what
10 his next job is after his term of elected office
11 is over? And when I know you've done some
12 studies on what happens to legislators when their
13 term is up. Where do they go? How many of them
14 really do find their next job through people that
15 they may have met in the hallways?

16 DR. NIEMI: Yeah, I'll take that. First, I
17 think you've pretty much answered your own
18 question.

19 COMMISSIONER PATTERSON: I was wondering.

20 DR. NIEMI: That legislators who are term
21 limited out are going to be looking for their
22 next job fairly early on, because they well --
23 for precisely the reason they can't, even if they
24 are a terrific legislator, at some point can no
25 longer keep that job.

1 As to where they go, it is a whole set of a
2 whole array of different kinds of jobs. I
3 mentioned that moving from a lower house to the
4 upper house of a state legislature works pretty
5 well, because there are quite a few state Senate
6 positions, upper house positions. For senators
7 it's harder, because there's no obvious single
8 place that they can go. So staff positions, lower
9 house, city positions, staff positions -- did I
10 mention that? There are just all kinds of things
11 they look for. Yeah, they've got to look for
12 another job, and so that's one of the drawbacks,
13 that's one of the problems that you're going to
14 face with a term-limited legislature.

15 COMMISSIONER PATTERSON: Do they tend to end
16 up still in some sort of capacity on the state
17 payroll as a state employee? Or --

18 DR. NIEMI: Not necessarily on the state
19 payroll. Many of them want to stay in politics.
20 Or you could stay in public service in some way.
21 Perhaps use a less pejorative term than politics
22 tends to be. But they want to stay in some sort
23 of office, some sort of position, maybe not even
24 an elected office, because there may not be one
25 in their area that they can reasonably expect to

1 get. But they often want to be in some sort of
2 public office, public policy position, and so
3 they look for what's available.

4 COMMISSIONER PATTERSON: If you are looking
5 for, let us say, as is currently the case in New
6 York, a twelve-year term limit as opposed to an
7 eight-year term limit, that I guess the argument
8 is that the legislator has a little more time
9 before he or she has to worry about looking for
10 the next job.

11 DR. NIEMI: Sure.

12 COMMISSIONER PATTERSON: Yeah.

13 COMMISSIONER TAYLOR: Chairman, could I just
14 have a follow-up to that?

15 You made a statement earlier, Dr. Niemi,
16 that I think you made a statement, that the kind
17 of -- or either it was this gentleman, I'm sorry,
18 Schmidt, the kind of people that are being
19 attracted to elected offices because of term
20 limits it hasn't changed much, it's still the
21 same types of people. So the question I want to
22 ask, has there been any studies to show what the
23 percentage of those people that may be
24 categorized as career politicians actually stay
25 in politics?

1 DR. NIEMI: There's not been as much of the
2 kind of information as you would like to have or
3 we would like to have in part because even now
4 term limits have not been in effect all that long
5 in that many states. And it's tough to compile
6 that data. So we're pretty certain from surveys
7 of legislators that -- I was the one that made
8 the statement the types of individuals don't
9 change their ambitions, don't seem to have
10 changed at all. Where they actually end up we
11 don't have a lot of good statistics yet.

12 COMMISSIONER TAYLOR: What is your general
13 opinion?

14 DR. NIEMI: My general opinion is they try
15 very hard to stay in public service of some sort,
16 as I said -- and that may be an elected office,
17 that may be something else -- but try very hard
18 and will go into offices that previously would
19 not have -- kinds of positions that previously
20 would not have been considered. Things like
21 staff positions. Moving from being a state
22 senator to a staff member in the state senate is
23 not something that people would have considered
24 some years ago and without term limits would now
25 presumably consider.

1 COMMISSIONER TAYLOR: Thank you.

2 CHAIRMAN GOLDSTEIN: Let me move on to
3 Commissioner Betty Chen, please.

4 COMMISSIONER BETTY CHEN: Thank you,
5 Mr. Chair. We've been cautioned about the
6 unintended consequences of charter revision. And
7 Dr. Niemi, you've been a co-author of a paper on
8 the effects of term limits in the 50 states. And
9 in that paper you talked about the unintended
10 consequences of term limits on the actual
11 behaviors and priorities of term-limited
12 legislators. And to tie that to our current
13 situation here in New York City, in the public
14 testimony in the various hearings in the five
15 Boroughs, we've heard various people talk about
16 their desires for satisfaction on this issue of
17 term limits. And obviously that means different
18 things to different people. And this is a
19 question for Dr. Niemi. If this body, this
20 Commission, were able to structure a question
21 that was somehow the final say on term limits
22 that closed certain loopholes or was some type of
23 "final determination" that was to give
24 satisfaction, what might be some of the
25 unintended consequences of that type of process?

1 DR. NIEMI: I'm not entirely sure I got that.
2 Because you were say what kind of question one
3 would pose? I thought you were going to say what
4 type of question would one pose to --

5 COMMISSIONER BETTY CHEN: It's not the nature
6 of the question. It's that if this body were to
7 pose a question in a referendum that was seen as
8 some type of final say, whether it was
9 eliminating or setting a certain number of terms,
10 or whatever that language was, and closed certain
11 loopholes, if that were to happen, whatever, you
12 know, the language was, what might be some of the
13 unintended consequences of that type of
14 referendum question?

15 DR. NIEMI: I'm not sure on that limited
16 question that there would be unintended
17 consequences. Certainly, one always has to worry
18 about things that come as a surprise, unintended
19 consequences, and when you start changing any
20 sorts of rules about how we govern ourselves,
21 there are always, there's always the possibility
22 that something will crop up that one is uncertain
23 of. I think on this particular issue, you asked:
24 Could you word -- if you were worded a
25 question -- let's see, let me think of it this

1 way. If you were to try to word a question,
2 that's where the problem is, if you tried to word
3 a statement actually, not a question so much, a
4 statement, that people are going to vote on or
5 answer in polls and you're going to regard as
6 rather definitive, then how that statement or how
7 that question is posed is -- can lead to
8 different outcomes. And if you regard that as
9 some sort of unintended consequence then that is
10 your answer, that exactly how the statement or
11 the question is written can have a very big
12 effect on what the outcome is.

13 CHAIRMAN GOLDSTEIN: Thank you. Did you want
14 to say something, Mr. Schmidt?

15 MR. SCHMIDT: There would be no unintended
16 consequence at all if you chose that loophole.
17 Because it would demonstrate your intent to force
18 a future Council bent on another change without a
19 vote of the people to clearly sue the city in
20 order to force the change if they're not going to
21 put the vote to the people. That you should not
22 allow the City Council to refer the measure --
23 after a new amendment takes place.

24 CHAIRMAN GOLDSTEIN: We have a little time to
25 take some questions or comments from the

1 audience. We also have an opportunity to receive
2 questions and comments over our Web cast this
3 evening. And then at the end I'd like to make a
4 statement. But before I do that, I think we owe
5 a debt of great gratitude for this very wonderful
6 panel: Dr. Niemi, Dr. Egan and Mr. Schmidt.
7 Thank you very much for joining us tonight. As
8 you can see, your presentations spurred much
9 interest and comments from the members of the
10 Commission, who have a weighty task as we move
11 forward over the next couple of months.

12 Just some guidelines. Remember, we have five
13 open forums where the purpose of those forums
14 after these issues forums will be devoted
15 exclusively to audience participation. So for
16 some of you who may want to talk tonight where
17 there isn't enough time there will be
18 opportunities in this Borough at the end of the
19 issues forums to proceed.

20 I would ask for those of you who do speak to
21 talk into the mike in the center of this room,
22 and limit your questions to no more than three
23 minutes, please. So the mike is open and just
24 please identify yourself. Oh, there is list,
25 thank you.

1 (Some of the speakers' names will appear in
2 phonetic form.)

3 CHAIRMAN GOLDSTEIN: Okay. Let me start
4 with Howard Yurrow.

5 Mr. Yurrow: Thank you, Mr. Chairman,
6 Members of the Commission. Is this one on? I just
7 want to read into the record some of the words of
8 Clyde Haberman in this morning's Times I think
9 that are relevant to the law and the politics,
10 the current situation, the reason why we're here
11 tonight to personalize, it as it were, to New
12 York-ize as I see the issue. It's a short
13 article, I'll just read some selections, and stay
14 within my three minutes.

15 Like it or not, the issue of terms limits is
16 back. This is Haberman. The issue of terms
17 limits for city officials is on the agenda again.
18 So too is the stain created when the Mayor and
19 the City Council subverted voters' will to keep
20 themselves in office for four more years. New
21 Yorkers voted twice in the 1990 to limit the
22 Mayor and to limit major elected officials --
23 sorry, in the City to two consecutive terms. But
24 as Mr. Bloomberg and Ms. Quinn were approaching
25 the end of the line, they exploited the financial

1 meltdown of 2008 to push through legislation
2 overriding the people's expressed will. No small
3 amount of arm twisting, they got the Council to
4 raise the limit to three terms. Never mind poll
5 results that showing that New Yorkers
6 overwhelmingly wanted any proposed change to be
7 submitted to a referendum as in the '90s. Like
8 "The Man Who Came to Dinner," the term limits
9 issue doesn't go away. Now it is in the hands of
10 the Commission, which has several tasks, one of
11 which is to convince skeptical New Yorkers that
12 it is not a wholly owned subsidiary of
13 Mr. Bloomberg. Dramatic pause. On a more
14 substantive level. Panels of 15 members have to
15 figure out what it recommend people at three
16 terms revert to two, stay with three for the
17 Council but restrict the Mayor to two et cetera.
18 Whatever the Commissioners decide, they will act
19 in the shadow of the 2008 Bloomberg-Quinn
20 (inaudible). How they're going to look at it, the
21 issue, is influenced by what happened, says
22 Frederick A.O. Schwarz, Jr., who in 1989 led a
23 Charter Commission that brought about
24 far-reaching revisions. Mr. Schwarz called it
25 very likely that the current panel will insist

1 that any results of the new referendum be undone
2 only by another referendum. In other words, it
3 won't be possible for ordinary legislation to
4 change term limits; that is, for ordinary
5 legislation to override a referendum. Which it
6 generally does not in constitutional law, state
7 and national." In other words -- sorry, Even if
8 the Commission doesn't impose such a requirement
9 it should ensure that no sitting Mayor and
10 Council can subvert the rules to benefit
11 themselves. There should be guidelines that any
12 legislation would apply in this kind of a case
13 only to future officeholders just as the 22nd
14 Amendment to the national Constitution limiting
15 the president to two terms and adopted in 1951
16 one did not apply then to the man then in the
17 White House. Concluding, Randy Mastro, former
18 Deputy Mayor, who led a commission in the 1990's,
19 saw no reason to trust those in power to act in.
20 Good faith if left to there own devices.
21 "Self-interested politicians tend to act in there
22 self-interest," he said. "Process does matter.
23 Mastro added, "and it's an outrage what they
24 did," meaning the Mayor and the Council, "not
25 putting it all back to voters. Once the voters

1 have spoken twice, and decisively, you don't take
2 it away from them a third time." Thank you.

3 CHAIRMAN GOLDSTEIN: I just want to invite
4 our panelists if they would like to leave, please
5 do. Or if you want to stay certainly you're more
6 than welcome. But don't feel obligated if you
7 have something else to do.

8 Michael White is our next speaker.

9 MR. WHITE: Michael White. Noticing New
10 York. Don't make the work of this Commission the
11 height of irony. The hallmark of the Bloomberg
12 administration has been the creation of
13 unchecked power in Mayor Bloomberg as a single,
14 all too powerful individual. One important,
15 unprecedented example, unchecked by the City
16 Conflicts of Interest Board, Mayor Bloomberg did
17 personal Bloomberg, LP business with almost all
18 of the same companies that the City does business
19 with to become the City's richest individual
20 while in office. His wealth increasing more than
21 ten times from the time he began pursuing
22 politics openly in 1997.

23 What do we mean by irony? We mean don't take
24 something the public definitely favors with the
25 implementation of the two-term limit for mayoral

1 office to reverse the Mayor's most infamous power
2 grab and attempt to couple it with the reverse,
3 something the public definitely doesn't want, new
4 Bloomberg grabs at power.

5 The following are additional grabs of power
6 by Bloomberg, which should not be conjoined, with
7 re-implementation of term limits. The so-called
8 nonpartisan elections. This was previously
9 proposed by Bloomberg in 2003 and rejected by the
10 voters. So-called nonpartisan elections favor the
11 wealthy and personally powerful and could assist
12 Bloomberg in his pursuit of his presidential bid
13 for office in 2012. Abolition of the Public
14 Advocate's office. Public Advocate's office is
15 sorely needed, is sorely needed to check upon the
16 Mayor --

17 CHAIRMAN GOLDSTEIN: Excuse me, Mr. White.
18 The rules of engagement here tonight is on term
19 limits.

20 MR. WHITE: I'm talking about term limits.

21 CHAIRMAN GOLDSTEIN: Well, you're not talking
22 about term limits only, so I would ask that you
23 complete your remarks, please.

24 MR. WHITE: Rather than by using the
25 public's antagonism to Bloomberg's overturn of

1 term limits in a ruse to confer even greater
2 power upon Bloomberg, we urge the Commission to
3 focus only on limiting the power of individuals
4 who become Mayor but restoring term limits for
5 that office. We suggest that the current Federal
6 system, which limits terms for president but not
7 for the members of Federal Congress, unlike that
8 system, only the Mayor should be term limited.
9 Among other things, this would help address the
10 imbalance of power between the Mayor and the City
11 Council. The only thing we think that would be
12 fair to consider in conjunction with term limits
13 is the further check and balance on power of
14 incumbents that applies to both the Mayor and
15 members of the City Council included but can be
16 achieved through implementing what is known
17 sometimes as instant run-off elections and
18 sometimes as alternate voting. Such a change will
19 generate challengers and assist them in making
20 all our voices heard important and will make it
21 easier to depose incumbents. This system can be
22 implemented by retaining party primaries and
23 would be cheaper than Bloomberg's idea for
24 nonpartisan elections, which involve multiple
25 elections just for the purpose of run-offs, which

1 under alternative voting would be entirely
2 unnecessary.

3 We note another reason not to term limit the
4 City Council, restoring two-term limits to the
5 City Council in the next, in a future election
6 could result in a further weakening of the City
7 Council by forcing one-time huge turnover of the
8 City Council when these terms -- when the terms
9 of nearly all of the City Council Members thereby
10 expire simultaneously. Thank you.

11 CHAIRMAN GOLDSTEIN: Let me recognize our
12 Public Advocate Bill de Blasio.

13 PUBLIC ADVOCATE de BLASIO: Thank you. Chair
14 Goldstein and Commissioners, thank you. Thank
15 you very much. See, this is fair to people of
16 all heights. It's obviously an inclusive
17 process, Mr. Chairman.

18 I want to commend the entire Charter
19 Revision Commission in particular for your
20 decision to Web cast these hearings and your
21 commitment today on public service announcements,
22 on Charter Revision. I think steps like these
23 will open up the process in an truly meaningful
24 way, and I thank you.

25 Tonight I'm pleased to submit in writing a

1 series of comprehensive recommendations on issues
2 I believe we should consider over the long term
3 in the Charter revision process, but I'll speak
4 only on the issue at hand tonight. This hearing
5 focuses on what I believe should be the only
6 priority for Charter revision this year, giving
7 New Yorkers the final say on term limits. Now, in
8 the fall of 2008, we witnessed one of the
9 greatest challenges to our City's Democracy when
10 term limits were extended without a vote, and in
11 that moment we also saw the determination of New
12 Yorkers to make sure their voices were heard. We
13 saw thousands of New Yorkers organized, testified
14 at hearings, protest at City Hall. We saw the
15 people of the city participate in City government
16 in ways they never had before. Of the myriad
17 issues facing consideration by your Commission,
18 term limits is by far the most thoroughly debated
19 and publicly known in recent years. We owe the
20 people of New York City the chance to finally
21 make their voices heard. Because of the
22 unquestionable importance of this issue and
23 because there has been limited time to foster
24 full public engagement in the Charter revision
25 process, I urge the Commission to only place

1 questions regarding term limits on the 2010
2 ballot and reserve action on all other issues and
3 items until 2012, the next major election. And I
4 think there are two fundamental and specific
5 questions involving term limits that should be
6 considered for the ballot. 1. Should be the City
7 Council and the Mayor lose the authority to
8 legislate changes to their own terms and (2)
9 should executives, including the Mayor and
10 Comptroller and Public Advocate, be restricted to
11 a limit of two terms and the City Council be
12 limited to three terms? And crucially on these
13 issues and all that will be looked at ahead, I
14 think it's absolutely important in 2010/2011 that
15 all questions on the ballot need to be very
16 specific, they need to be separated, they need to
17 be clearly worded. We cannot have, in my
18 opinion, omnibus questions that combine disparate
19 items.

20 Term limits should be addressed this year,
21 and I would say that all other items, including
22 some that I'm proposing tonight in a written
23 testimony that I care deeply about should be held
24 for 2012. I very much believe that includes an
25 issue of great contentiousness, nonpartisan

1 elections.

2 Finally, I'd like to say we've had a
3 vigorous petitioning effort through my office.
4 This is just some of the four thousand signatures
5 that we've collected and we're submitting the
6 Commission tonight. And this calls for a
7 continuing to make the Charter revision process
8 is as open and democratic as possible. I know
9 you share these goals, and I look forward to
10 working with you to achieving them. The people of
11 this city have shown time and again they want
12 their voices to be heard, and I urge this
13 Commission to find each and every way we can to
14 make sure that happens. Thank you very much.

15 CHAIRMAN GOLDSTEIN: Thank you, Mr. De
16 Blasio.

17 Our next speaker is Henry Stern.

18 MR. STERN: Thank you, thank you. First, I
19 want to say that I disagree with some of the
20 previous speakers on one issue. I think by and
21 large Mayor Bloomberg has done a pretty good job.
22 I just disagree with him completely on term
23 limits, I think he was wrong on that, and I
24 testified against it when it came up.

25 My written testimony I'll save for you

1 because I've only got three minutes, but I want
2 to make a couple of points the audience may not
3 know.

4 The case for term limits goes back to the
5 dawn of western civilization. In ancient Athenian
6 democracy, no citizen could serve on the Council
7 of 500 or the Boule for two consecutive annual
8 terms, nor for more than two terms in his
9 lifetime, nor be head of the Boule more than
10 once. In the Roman Republic, a law was passed
11 imposing a limit of a single term on the office of
12 censor. The annual magistrate's tribune of the
13 plebs, aedile, quaestor, praetor and consul were
14 forbidden reelection until a number of years had
15 passed. The purpose of these provisions was to
16 prevent the creation of a ruling class of
17 permanent public officials. The Greeks believed,
18 and the Romans, that elected positions should be
19 held by members of the public not by perennial
20 officeholders. And 2,500 years later they were
21 right.

22 I listened to -- the speakers were quite
23 good, the professors, and I think the term limits
24 is not a panacea. They will not turn the members
25 of the City Council into mental giants. They will

1 not ensure the integrity or ability of anyone in
2 particular. There's nothing, you know, going
3 into the water. But at least it will provide the
4 very least for a rotation of scoundrels, and
5 people will be out before they have the chance to
6 do enormous damage.

7 Now, I was a member of the City Council,
8 elected member, for nine years. By that time I
9 had enough, and luckily there was a place open in
10 the Parks Department. But even if they -- I would
11 have been reelected, because I had the Republican
12 nomination as well, if it weren't
13 unconstitutional. But it's enough to be in the
14 City Council for that period of time, and it's
15 really right to give the other fellow a chance.
16 I know the first eight years in a legislative
17 body, they don't even listen to you, because the
18 big kids, the guys who would have been there 10,
19 20, 30 years, they're the ones who call the
20 shots. You think the rookies and the sophomores
21 in a nonterm-limited Council that's what you get,
22 the elders, the seniors, they're practically
23 counselors. So term limits is a great idea just
24 to shake things up to give more people a chance
25 to govern. And there's one other little thing.

1 The people did vote for it. And this is not a
2 moral issue like segregation. This issue is they
3 get two terms or three terms. This issue is
4 trivial enough that even geniuses that can allow
5 the people to decide it rather than have to
6 intrude ourselves into that process. So I'm for
7 two terms. The end of two terms if you can't find
8 yourself another decent job you don't deserve to
9 be there.

10 CHAIRMAN GOLDSTEIN: Julius Tagikian.

11 MR. TAGIKIAN: Couple of comments. First of
12 all, to Commissioner Banks. Supreme laws of the
13 country and how they are affected being decided
14 by the Court and local laws that were put in
15 place by the people are two different topics.
16 And to Professor Egan, this is a comment I have.
17 Put civic education back in the public school
18 system, then we can start grooming future
19 leaders.

20 There are some people, many of them
21 politicians, who think term limits stifle an
22 elected official's capacity to finally get things
23 done when the time is ripe or when he or she is
24 able to get things done. That's usually a period
25 after eight years. And if we take, for example,

1 our City's Uniform Land Use Process in dealing
2 with land use regulations, that official,
3 according to that way of thinking, might be
4 getting things done in about 10 years' time.
5 That's half of a 20-year-old's life. I know that
6 if someone was hired in a fortune 500 company and
7 took two years to get a project finished that
8 person would be fired. But that's also a half a
9 generation.

10 We're living in the 21st century, the
11 so-called cyberspace age, but we have many
12 politicians who think like "Boss" Tweed or his
13 type. In reality, we see that when there are
14 term limits a lot of things get done. When a
15 person knows his time is limited he or she works
16 harder. He or she now becomes worth the salary
17 that his or her boss, us, pays him or her.
18 Examples, health care reform, the Reinvestment
19 and Recovery Act. On a local level, the 125th
20 Street rezoning and other major rezoning's.
21 So when someone wants to get something done --
22 good or bad -- it can get done. But oh, we need
23 term limits for the state legislature. I bet you
24 then you would get a budget passed. But since
25 we're talking about City government, I recommend

1 that there be term limits for city elected
2 officials, it be for two terms in that office,
3 consecutive terms, and give someone else a
4 chance; and if such elected official wants to
5 come back at another time, such individual should
6 be allowed to do so. If it takes someone almost a
7 half a generation for such individual to be
8 effective, we don't need such person getting paid
9 a decent salary. These people do get paid good
10 salaries, you know.

11 Lastly, another valid reason to limit terms,
12 an incumbent has the advantage to get reelected.
13 He can be sophisticated enough to use the
14 taxpayers' money to get reelected. I don't need
15 to demonstrate every example of how that can
16 happen, but it does, and I've seen it happen.
17 Does "pork fund" sound familiar?

18 CHAIRMAN GOLDSTEIN: Our next speaker is
19 Shaka Richenfeld?

20 CHAIRMAN GOLDSTEIN: Richenfeld?

21 Irma Reiss.

22 John Keefe?

23 MR. KEEFE: Thank you. My name is John
24 Keefe. I'm speaking on behalf of State
25 Assemblyman James Brennan. Thank you for the

1 opportunity to comment on term limits. As the
2 attachment to Mr. Brennan's remarks indicate, the
3 creation of this Commission was part of a deal
4 between Mayor Bloomberg and Ron Lauder. The
5 October 8, 2008 New York Times Sidney Bloom
6 report, "Lauder and Bloomberg Strike a Deal" by
7 Michael Barbaro and Sulu Chan (phonetic) states:
8 "The agenda of the 2010 Mayoral Charter
9 Commission replaced the restoration of a limit of
10 two terms for New York City public officials on
11 the ballot for 2010. Overturning the City
12 Charter's two-term limit provision in October
13 2008 was an abuse of mayoral power. Creating
14 this Commission to reverse the October 2008
15 actions that permitted Mayor Bloomberg to run for
16 a third term was an abuse of mayoral power. This
17 Commission is part of a cynical and opportunistic
18 political deal. The charter Commission should
19 place no propositions, including changing term
20 limits, on the ballot this year. The Commission
21 has not adequately engaged the citizens of New
22 York City in its proceedings." As a result, it
23 lacks legitimacy, and the anecdotes about bus
24 companies and charter schools are to point here.

25 This evening the Commission has attempted to

1 spend time discussing how to prevent the Mayor
2 and the City Council from changing term limits
3 modification to the New York City Charter that
4 might be adopted by referendum. This suggests
5 that someone on the Commission views the October
6 2008 term limits modification of Mayor Bloomberg
7 and the City Council as inappropriate and even
8 illegitimate.

9 Finally, the state New York State Assembly
10 has adopted two bills sponsored by Jim Brennan
11 that reform the workings of the mayoral Charter,
12 mayorally [sic] appointed Charter commissions.
13 First, allows City Council by a two-thirds vote
14 to prevent a Charter Commission question from
15 being placed on the ballot. And the second sets a
16 February 15 deadline by which to create a Charter
17 Commission. Otherwise, the Commission must put
18 its questions on the ballot the following year
19 unless the legislative body gives its consent.
20 The bill also requires the questions to be
21 separately identified to the maximum extent
22 possible. Thank you.

23 CHAIRMAN GOLDSTEIN: Thank you very much.

24 Adjoa Gzifa?

25 COMMISSIONER MOLTNER: Mr. Chairman?

1 CHAIRMAN GOLDSTEIN: Yes, I recognize
2 Commissioner Moltner.

3 COMMISSIONER MOLTNER: Thank you.

4 Sir, what would Assemblyman Brennan have
5 done? Just leave unrequited the voters' obvious
6 concern, if not outrage, over what occurred in
7 2008, leave that unaddressed? Because you say the
8 Commission is part of -- the words will speak for
9 themselves. What would the Assemblyman have
10 done, just let it go unaddressed?

11 MR. KEEFE: He believes the Charter
12 Commission should be very deliberative in their
13 process. He harkens back to the '89 Commission
14 that essentially was the result of three years of
15 deliberation. Very few people know about the
16 existence of this Commission. And he believes
17 that there are abuses in the uses of charter
18 commissions that he's attempting to address. Does
19 that answer your question?

20 COMMISSIONER MOLTNER: Well, it answers it. I
21 don't know that I agree with it.

22 MR. KEEFE: Alright.

23 COMMISSIONER MOLTNER: But it answers it.

24 COMMISSIONER BANKS: Mr. Keefe, before you
25 go, how many times have you testified before us?

1 MR. KEEFE: Once. This is the second. On
2 behalf of --

3 COMMISSIONER BANKS: On behalf of Assemblyman
4 Brennan. All right. So you guys knows about it.

5 MR. KEEFE: We know about it. Mr. Brennan
6 chairs the City's committee in the State Assembly
7 which deals with questions of charter
8 commissions.

9 COMMISSIONER BANKS: Doesn't he have
10 legislation pending about the Charter Commission?

11 MR. KEEFE: Yes, as I indicated.

12 COMMISSIONER BANKS: How many sponsors, do
13 you know?

14 MR. KEEFE: No. There was, like, 20 or so.
15 It passed the State Assembly.

16 COMMISSIONER BANKS: So they all know about
17 it. What was the vote in the Assembly?

18 MR. KEEFE: It was, I believe it was
19 unanimous.

20 COMMISSIONER BANKS: Thank you.

21 COMMISSIONER CROWELL: The whole Assembly
22 knows about it. That means the whole state
23 conceivably knows about it.

24 CHAIRMAN GOLDSTEIN: I think that what has
25 been said here, this has been the most ubiquitous

1 outreach in the history of any charter
2 commission.

3 COMMISSIONER CROWELL: Statewide.

4 CHAIRMAN GOLDSTEIN: It is certainly
5 statewide.

6 Ms. Gzifa.

7 MS. GZIFA: Thank you. Good evening. My name
8 is Adjoa Gzifa, and I am the Chairperson for
9 Community Board 12 in Queens. I have just a
10 couple of points. First, I think people need to
11 remember how we got to term limits. Ron Lauder
12 ran for Mayor and he lost and he decided THAT he
13 would spend making his money making sure we got
14 term limits so no one else would be able to spend
15 their lives as a career politician, and that's
16 how we got term limits in the first place. But
17 for the fact that people voted twice that we
18 should have term limits, I would support that.
19 Personally, I'm against term limits, because I
20 believe that everyone has the right to vote a
21 politician out of office if they do not agree
22 with them. So that even though we may have a
23 person who is an incumbent does not mean that
24 that person has a right to stop anyone else from
25 running for that position. And people have the

1 right to go to the poll and cast their vote to
2 take them out of office at any point in time. So
3 personally, I'm against term limits. However,
4 since people voted for it twice, then I think we
5 should abide by that particular vote. I don't
6 think that there's enough education on the term
7 limit issue or anything else that's dealing with
8 this particular Commission. And the way the
9 questions are going to be placed on the ballot,
10 when they are placed, should really be
11 deliberative. So you really need to think about
12 how the questions are going to be posed to
13 individuals so that they have an opportunity to
14 vote the way that they want. In the last Charter
15 Commission were posed, the questions were very
16 ambiguous, and people voted not because they
17 actually knew what the question was asking, but
18 because they had to vote for something and so
19 they did. And those are my issues, thank you.

20 CHAIRMAN GOLDSTEIN: Thank you.

21 Alex Camarda?

22 MR. CAMARDA: Good evening, Chair Goldstein,
23 members of the City Charter Commission. My name
24 is Alex Camarda. I'm the Director of Public
25 Policy and Advocacy for Citizens Union. Thank you

1 for holding this and other issue forums and
2 giving Citizens Union the opportunity to present
3 its views on term limits. I'll try to limit to
4 what's written here to things that haven't been
5 stated, so I apologize if this sounds a bit
6 choppy.

7 Citizens Union opposed both the '93 and '96
8 ballot initiatives at that time believing that
9 the voter choice would be limited by term limits.
10 Despite that, from 2005 onward, Citizens Union
11 opposed any unilateral Council action and
12 endorsed a Charter Revision Commission to review
13 the issue. Though Citizens Union has
14 historically opposed term limits, it believed
15 that since the voters enacted term limits, only
16 the voters should be able to amend them. After
17 much reflection on the experience of the Council
18 under term limits, Citizens Union has concluded
19 that the City's term limits laws now has been
20 beneficial to the operation of the City.
21 Therefore, Citizens Union has changed its
22 position on term limits to limiting the Mayor,
23 Comptroller, Public Advocate and Borough
24 Presidents to serving two consecutive four-year
25 terms and to limiting City Council Members to

1 serving three consecutive four-year terms.

2 Citizens Union largely reached this
3 conclusion based on the experience of the Council
4 since term limits went into effect. Perhaps the
5 best illustration of the ability of the Council
6 to perform under term limits occurred in 2002,
7 when a newly elected City Council, in addition to
8 a newly sworn-in Mayor and Public Advocate came
9 to power, and reestablished stability in the City
10 just months after its darkest day.

11 In the years following the approval of term
12 limits, the Council became a more dynamic
13 policymaking party in part due to the fresh
14 perspective and energy of the new Council
15 members. Competition for exposure and achievement
16 fueled activity in the second term of Council
17 Members as they positioned themselves for higher
18 office. This was a double-edged sword, however,
19 adding to the vigor of the Council but also on
20 occasion distracting from the focus on policy in
21 their current positions.

22 Part of our rationale for proposing the
23 extension of terms from two to three for Council
24 Members is to ensure focus on current activities
25 and less attention to the next office.

1 Term limits are also in part responsible for
2 the more diverse City Council that took office in
3 2010. The 2010 Council is a majority minority
4 for the first time with 27 of its 51 members
5 being African-American, Latino or Asian-
6 American, up from 25 in the previous session.
7 Similarly, in 2001, when the City first witnessed
8 the effects of term limits elections also
9 resulted in increased diversity of the Council
10 from the 23 members of color up to 25.

11 And if I could just take a moment to raise
12 two issues that were discussed by the Commission.
13 The first thing that the '96 ballot initiative,
14 we feel the proposal that we've put forth here
15 today is different than that one in that the vote
16 for that one was three terms for the citywide
17 officials and the Borough President, and I
18 believe 10 years, or three terms, for the Council
19 Members, so we think that's worthy of having the
20 voters way in again.

21 And the second thing I would raise is to
22 encourage the Commission to look at how any
23 change to term limits would be reconciled with
24 redistricting. It was raised here tonight. Under
25 my understanding of the current system is with

1 the Council having three terms, now four years,
2 that that would result in elections in 2013. And
3 I'm not sure I agree with how that interfaces
4 currently with districting, so we would just
5 encourage the Commission to look at that issue.

6 CHAIRMAN GOLDSTEIN: Thank you, Mr. Camarda.
7 Frank Morano.

8 MR. MORANO: Thank you. Good evening. I'm
9 sorry the panelists left, because I had a couple
10 of questions for them. Since they have gone,
11 through, I begin with two acknowledgements. One
12 is this almost doesn't feel like a Charter
13 Revision meeting in the only person other than
14 myself and who has been at every single meeting,
15 George Spitz, isn't here tonight. I've been
16 informed that's because he's in the hospital with
17 a broken rib, and I want to wish him a speedy
18 recovery, and I'm sure you'll all join me in
19 wishing him well. You know he'd be here if he
20 could.

21 The second, I just want to acknowledge, the
22 only person on the dais who cast a vote regarding
23 term limits, and that's Commissioner Fiala, who,
24 as Commissioner Cassino mentioned, against
25 extending term limits against the will of the

1 voters.

2 The thing that I want to point out, though,
3 is that Commissioner Fiala did so in spite of a
4 philosophical opposition to term limits. And I
5 think that reverence for the democratic process
6 and for the will of its constituents is something
7 that's all too rare; certainly in this City
8 Council or the one last year.

9 I want to strongly urge you to put the
10 question of term limits on the ballot, as you've
11 indicated that you will, and make it two terms
12 both for the City Council and for the Borough
13 Presidents and for the citywide elected
14 officials.

15 To Commissioner Banks' point in which he
16 mentioned two incumbents that were defeated, two
17 that chose not to run for reelection and four
18 that -- and two that are in tough contests for
19 reelection, the local level, the City Council
20 level, the Congressional level, the State
21 Assembly level, the advantages of incumbency are
22 so much more pronounced because (1) people aren't
23 tuned in to the extent that they are in the
24 statewide races that you mentioned and (2) there
25 are all sorts of other advantages which are

1 magnified on a local level rather than on a state
2 level. No one is saying it's impossible to beat
3 an incumbent, but it's far less likely to do so
4 the smaller the district. I think you'd be hard
5 pressed off the top of your head to name six City
6 Council members that were defeated as incumbents
7 barring any major scandal like Alan Jennings or
8 some others.

9 COMMISSIONER BANKS: How about Maria Baez,
10 Alan Gerson, well, Miguel Martinez went to
11 jail --

12 MR. MORANO: The four last year --

13 COMMISSIONER BANKS: Kendall Stewart.

14 MR. MORANO: He wasn't for reelection.
15 Kendall Stewart -- the four last year that were
16 defeated were defeated primarily because they
17 voted against term limits.

18 COMMISSIONER BANKS: So, Frank, doesn't that
19 mean the process works?

20 MR. MORANO: Name two more that were
21 defeated notwithstanding any scandal.

22 COMMISSIONER BANKS: I have just a partial
23 list here off the top of my head. I can't --

24 MR. MORANO: And you worked in the City
25 Council and you can't even name six off the top

1 of your head.

2 COMMISSIONER BANKS: I worked there for eight
3 years. I term limited myself.

4 MR. MORANO: The other thing is Mayor
5 Bloomberg, who appointed you, I think said it
6 best when he was in favor of term limits and
7 voted the Council's fix in 2002, when he
8 mentioned in his company he learned the lesson if
9 you showed him someone who said they were
10 irreplaceable he'll show you, inevitably, someone
11 whose successor did a better job. I think that's
12 the case in point what we're dealing with here.
13 This was a City Council that for their
14 self-interests chose to ignore the will of the
15 people, and I would encourage you to allow the
16 people to have their voices heard again. And to
17 the extent that you are able to come up with any
18 legal fixes to make the choice of the voters
19 superior to the choice of a legislator and let
20 the Council or any future Council veto by
21 legislative fiat the will of the voters. I would
22 encourage you to do just that. Thank you very
23 much.

24 CHAIRMAN GOLDSTEIN: Thank you, Mr. Morano.

25 Stephanie Collander? Is Stephanie Collander

1 here?

2 Aby Britan?

3 MR. BRITAN: Good evening, Commissioners.

4 Two terms and you're out.

5 I'm speaking as a unique family person,
6 three boys and three girls. There be no place in
7 elected office for my kids if we continue to
8 allow the incumbent to stay in office. Two terms
9 for the Mayor of the City of New York, Borough
10 President, District Attorneys, and all elected
11 officials of this city. If you can show me as a
12 parent quality education, economic development,
13 professionalism of African-American children,
14 then those elected official, including Mayor
15 Michael Bloomberg, which I strongly oppose him as
16 a Republican, to run for a third term. It is
17 wrong. It is not right. And you must, we must, if
18 we are going to achieve quality education for my
19 kids, who I make sure that they go to the best
20 school from Wharton right down, and I'm one of
21 those parents speaking for them, and I'm asking
22 you if members of the revision -- this Commission
23 not to let elected officials serve more than two
24 terms in this city. We must -- if you want that
25 to happen, let us then put to the people every

1 other home one Democrat, one Republican. Thank
2 you.

3 CHAIRMAN GOLDSTEIN: Oliver Koppell.

4 COUNCIL MEMBER KOPPELL: Thank you. May I
5 give a written statement?

6 CHAIRMAN GOLDSTEIN: Sure, please.

7 COUNCIL MEMBER KOPPELL: Thank you. As you
8 know, I've been before you before and I came
9 tonight, because you're addressing something that
10 I feel very strongly about, term limits, and
11 limiting it to that. And I wanted to just
12 supplement what I said before and I'll obey the
13 time limit.

14 My history is one that I spent 23 years in
15 the state legislature, in a nonterm-limited
16 legislature, and then I spent eight years in a
17 term-limited City Council, and now I'm in another
18 term-limited City Council, because we did extend
19 by one term. And what I see happening, if you
20 insist on maintaining term limits, or at least
21 reducing term limits, you further limit
22 experience.

23 I know it's unlikely that you'll abolish
24 term limits, that would be my recommendation, but
25 you certainly shouldn't limit them further,

1 because you take out the most experienced people.
2 And even last year, because it looked like we
3 were going to be term limited, a number of our
4 best people started to run for state -- citywide
5 office, I'm sorry, citywide office, and of
6 course, only two of them could get elected, so a
7 number of our best people left, because term
8 limits was it on the horizon and they left.

9 The studies that Professor Niemi talked
10 about, I've looked at studies, I've tried to find
11 as much information as I can. There's no proof
12 that term limits creates greater diversity. In
13 fact, among women legislators in those places
14 where you have term limits the number of women
15 has gone down. There's no proof that --
16 Professor Schmidt was wrong, that there's less
17 focus on campaigning. There's more focus on
18 campaigning, because if you're in the state
19 legislature, as I was, and it is likely that
20 you'll get reelected, you don't worry that much
21 about campaigning. You don't worry about raising
22 money, because you don't need that much money to
23 get reelected. But if you have a term-limited
24 legislature, you're worried about the next office
25 that you run for, whether it be citywide office,

1 or Congress, or the state legislature, and you're
2 worried about raising money and running for your
3 next office and you spend less time worried about
4 serving your constituents. Further more, if
5 you're term limited you don't need to worry
6 about -- if you're not going to run for another
7 office then you don't need to worry at all. You
8 don't need to worry about going to meetings or
9 being responsive, because you know that you're
10 not going to run for reelection again.

11 The idea of citizen legislator, it
12 doesn't -- it hasn't -- we don't have people,
13 farmers, who come in for two terms and then go
14 back. Or lawyers or doctors or business people.
15 The professional, if you will, political class
16 has remained.

17 And as far as the influence of lobbyists is
18 concerned, I don't believe that it really makes
19 all that much difference. Lobbyists have
20 influence both ways. There's no question that
21 the executive has more influence, because the
22 Council or other legislative body is in fact
23 weakened.

24 And one other point Professor Schmidt made
25 which was to say "Oh, the legislature is never

1 going to do something to make it harder for
2 incumbents to win." Well, one of you, I believe
3 you did, Madam, pointed out that the New York
4 City Council before term limits voted for
5 campaign finance reform, which makes it much more
6 easy for a non-incumbent to win. And last year,
7 or two years ago, we voted for all kind of
8 limitations on what lobbyists could spend, again
9 making it more difficult for incumbents to be
10 reelected. So Professor Schmidt's idea, it's
11 simply not proven in reality. None of his ideas,
12 frankly, are. And just briefly, because my
13 time's expired, the reason for two two-year terms
14 every 20 years is because if you didn't have
15 that, and I could do the arithmetic for you,
16 you'd have people elected for so long before the
17 next election -- that is the redistricting would
18 come so long -- the election after redistricting
19 would come so long after redistricting to be
20 unconstitutional. So every 20 years you have to
21 have a two-year term so the redistricting can
22 come quickly enough so you don't have an
23 unconstitutional malapportionment, that's the
24 reason for two terms every 20 years.

25 CHAIRMAN GOLDSTEIN: Thank you. We do have a

1 question first from Commissioner Scissura.

2 COMMISSIONER SCISSURA: Thank you,
3 Councilman. I heard the argument made about a
4 Council person or an elected official is looking
5 for their next job if they're term limited out
6 and they don't know what they're doing. But
7 don't New Yorkers expect that when they vote for
8 a person, whether there are term limits, no term
9 limits, or you're looking for another job, don't
10 they expect, and don't they have the right to
11 expect, that you will do your job for four years
12 whether or not you're looking for another job?

13 And let me say another thing. You said
14 something earlier that because of term limits or
15 people running for other offices some of our best
16 are gone. I would take a little offense to that,
17 because one of the Council members who was
18 elected and beat an incumbent is sitting here
19 tonight. And I can tell you that he has just
20 gone out and done a great job, and I think that
21 can be said about many elected officials in the
22 City. So I really -- I hate that argument. I
23 really take offense to it as someone who votes
24 and who is a participant in the electoral
25 process. If I vote I expect my elected official

1 to serve fours years, not look for another job.

2 COUNCIL MEMBER KOPPELL: It's an interesting
3 hope, but the reality, you have to look at
4 reality, and not only I said it but Professor
5 Niemi, who is an academic, said it, in most jobs,
6 including Dr. Goldstein, academic jobs, when you
7 have a long period to serve you spend more time
8 making sure that you're doing the best job
9 possible where you are than looking for another
10 job. And it's human nature. If I know that I'm
11 going to be out after four years, or even six
12 years, in the back of my head everything I do is
13 going to be influenced to some extent by what my
14 next jobs's going to be. If I know that I'm
15 going to be a professor and I have tenure I'm
16 going to worry much more about doing a good job
17 as a professor than getting a job in another
18 University. That's the reality.

19 COMMISSIONER SCISSURA: To be quite honest,
20 you're making a case for term limits. You are.
21 You're making a case. Because you're telling
22 this Commission that we cannot trust our elected
23 officials because they're looking for another
24 job.

25 CHAIRMAN GOLDSTEIN: I don't want to --

1 COUNCIL MEMBER KOPPELL: I'm not saying
2 that, sir.

3 CHAIRMAN GOLDSTEIN: I don't want to turn
4 this into a debate.

5 Let me acknowledge Commissioner Cassino, who
6 wanted to say a word.

7 COMMISSIONER CASSINO: Thank you. I want to
8 thank the Councilman for coming here today,
9 because I think it's been kind of amazing that we
10 haven't seen many of your colleagues here.
11 Certainly on an issue where they played a major
12 role, they haven't shown up. I thank you for
13 coming here. You came from the Bronx, you made
14 the trip down.

15 In the interest of full disclosure, I ran
16 again the Councilman in '08.

17 COUNCIL MEMBER KOPPELL: You ran a tough
18 campaign.

19 COMMISSIONER CASSINO: Thank you. My
20 question is what we talked about earlier here --
21 at least I talked about and some others -- our
22 issue is colored by the referendums. So again,
23 everybody has good points on either side of this
24 issue, and we can debate all those issues. But
25 really overriding this whole thing hanging out

1 there is the issue that twice the voters voted
2 for this. So we have a different kind of decision
3 here to make, because it's influenced by that.
4 So I'd like to ask you (1) to comment on the
5 issue, that particular issue, because that's the
6 decision we have to make in light of that; and
7 (2) is could you mention whether during that
8 period of time where this was being debated in
9 the Council did you hold any public forums
10 specifically in the community that you represent
11 on this topic? And did anybody that you're aware
12 of hold specific public forums? Because we're
13 constantly held to a standard of the public
14 doesn't know, the public doesn't know, talk a
15 little bit about that as well, whether your
16 experience or others have done that.

17 COUNCIL MEMBER KOPPELL: Let me say first of
18 all, there's a deep philosophical issue that
19 relates to your question, and that is whether you
20 believe that these issues should be decided by
21 referendum. I believe in ultimately the Founding
22 Fathers did not put a referendum in the Federal
23 Constitution. And they believed in representative
24 democracy. And ultimately I come down that way;
25 although, I will say that given the fact we had

1 two referendums on the subject, I would have
2 preferred rather than the Council having to
3 decide that we put a referendum on the ballot.
4 But politically that didn't happen.

5 But I do not believe that representative
6 democracy is not democracy. There were numerous
7 public discussions on the issue of term limits.
8 Whether there were sufficient public hearings or
9 not, I can leave that open.

10 And by the way, I would just like to say one
11 thing to this panel. It's a very distinguished
12 panel, and I disagree firmly with a couple of the
13 people who spoke that sort of said "The dye's
14 been cast, everybody knows what you're going to
15 do on this issue." I don't believe that at all.
16 I think the Mayor picked a very diverse panel. I
17 certainly don't know what you're going to do on
18 the issue of term limits. I don't think you were
19 picked in such a way that it's foreordained that
20 you're going to go back to two limits for the
21 Mayor or the Council.

22 As a philosophical matter, as I said, I
23 don't believe in term limits. I certainly don't
24 think we should go back from where we are today.

25 CHAIRMAN GOLDSTEIN: Thank you very much.

1 COUNCIL MEMBER KOPPELL: Thank you.

2 CHAIRMAN GOLDSTEIN: Let me acknowledge
3 Jumaane Williams, City Councilman Jumaane
4 Williams.

5 COUNCIL MEMBER WILLIAMS: Good evening.
6 Thank you for the time, distinguished
7 Commissioners. I appreciate the opportunity to be
8 here. I think there was good jobs being done
9 here, and I appreciate that. Thank you for Web
10 casting it.

11 I do also want to say I do hope there's a
12 little more outreach that can be done. This is a
13 very, very hot topic, and I do believe, and I
14 know I'll probably get some flack, if we had done
15 a little bit more I think it would have been a
16 little bit more packed.

17 I come with a unique perspective, because I
18 am one of the people that was referenced when you
19 were speaking, I beat the incumbent. Yet, still
20 I do think we need term limits. I think the fact
21 being an incumbent and other example that were
22 used doesn't prove that the system works. It
23 proves sometimes you can beat the system. If you
24 live in the ghetto, though it's probably not made
25 up you live to succeed and succeed inside the

1 ghetto. And your own example of segregation, I
2 don't think it was a good example, because we
3 could say there was a lot of people of
4 African-American descent who succeeded in
5 segregation much better than they fared after
6 integration, so I don't think that's definitely a
7 good example.

8 I can't stand here and say how I would have
9 or not voted, because I wasn't there, but I could
10 say we do have to address it, because we
11 shouldn't ask 51 people whether they want a job
12 of a \$112,000 for another four years. We know
13 what the answer's going to be.

14 It's incumbent upon us now to make that
15 happen. I know it's going to benefit me, I would
16 love to have 12 years for obvious reasons, but I
17 also believe that a little bit more time is
18 beneficial. I think three terms you can get a
19 lot more done. I voted for two terms twice, but
20 I always thought it should be three, and I hope
21 that we do put that into place this time.

22 The thing is the Mayor sometimes acts like a
23 megalomaniac and nobody says anything. He didn't
24 want the term limits, he didn't want to tinker
25 with it before he was running, he didn't want to

1 tinker with it while he was running so he can get
2 a third term. Now he wants to tinker with it
3 again. We need to make that stop and we need to
4 make that decision.

5 I do think that the primary reason the term
6 limit is being put on the ballot now -- I think
7 we should, I don't think we should put anything
8 else, but I think term limits has been discussed,
9 but I think the primary reason he's putting it on
10 is to discuss and get a vote on nonpartisan
11 elections. I think that's a Doppelganger here
12 that nobody here is talking about. We should
13 keep that in mind as well.

14 So I just want to say, please, I'm in favor
15 of term limits. I benefited from term limits.
16 Maybe not explicitly, but in my race it was a big
17 thing, because my opponent did vote to extend it,
18 which is one of the reasons. The biggest thing
19 that benefited me was campaign finance as well.
20 We definitely need it. And I'm here to lend my
21 voice for three terms as opposed to two.

22 CHAIRMAN GOLDSTEIN: Thank you very much,
23 Councilman Williams.

24 The dimming of the lights does not mean that
25 we have to pay extra for the room if we continue

1 beyond the time that we are now.

2 Let me pause before proceeding. We are
3 receiving comments via Facebook tonight during
4 this meeting, which again is a first for a
5 Commission. I'd like to just very briefly read
6 three little snippets of samples. One is from
7 Emerson Hoff, and I quote, "It is unfair that New
8 York City has term limits but Albany does not.
9 We need it more up there than here."

10 Francesca Orish has said, "I do not like the
11 way the Council extends term limits, but I think
12 three is the right number of terms."

13 And lastly, from Griffin Magee who says,
14 "All term limit decisions should be left to the
15 people rather than having politicians decide
16 themselves."

17 So we are reaching well beyond this room,
18 and there are certainly other people who are
19 commenting, and then we will use that for part of
20 the record.

21 Ed Brady. Is Ed Brady here?

22 UNIDENTIFIED VOICE: He just stepped out.

23 CHAIRMAN GOLDSTEIN: He just stepped out.

24 Is Michael Zumbulaska? Do I have that right?

25 MR. ZUMBLUSKAS: Zumbluskas.

1 Good evening, Commissioners. My name is Mike
2 Zumbluskas. I'm with the New York Independence
3 Party. I'm on the Executive Committee. I'm
4 actually probably one of the rare people in the
5 Independence Party. I actually don't support term
6 limits. And for philosophical reasons, and I
7 don't think it works practically. I know you're
8 deciding. I think you should put on two
9 questions: 1. Do you still want term limits?
10 And if so, then extend it to three terms. I think
11 it's going to pass, that they're going to expand
12 it to three terms, but I think, like I said,
13 philosophically I think it actually hinders
14 democracy and debate. Because on the off-years,
15 when the incumbent is not term limited, almost
16 nobody runs against them. So during those times,
17 and you're talking four-year terms, debate is
18 stifled. And, you know, things change rapidly in
19 this city. So you need a robust debate every four
20 years when those offices are up and you don't get
21 it. I also think it makes the voters lazy. They
22 don't come out in the numbers, because they're
23 saying "He's going to be out in four years
24 anyway. There's nothing can I do." Whereas if
25 they do get upset then they start mobilizing a

1 little better.

2 This year was an anomaly, because nobody
3 knew if term limits was going to be there or not,
4 so a lot of people were planning for -- to run
5 anyway. So when they extended term limits that's
6 why some incumbents went down, because there are
7 people that were planning their campaigns for
8 years in some respects. So they had to mobilize
9 people within their districts. They used the term
10 limits vote in the City Council. If the
11 Councilman voted for it to beat the Councilman
12 over the head or in some other instances, it was
13 because of allegations of fraud or actual fraud,
14 where Miguel Martinez went to jail, so those were
15 anomalies.

16 The other thing I want to say, too, when you
17 look at it, term limits doesn't work as well the
18 way everybody thinks it does. Who wins? It's
19 either the chief of staff, a son or daughter or
20 relative. It's either the party favorite. So
21 it's almost a handpicked person that takes over
22 the Council seat in most of the cases. There are
23 rarities, but I don't think it works.

24 Also if you take the example of when Mayor
25 Bloomberg won, he had to reverse a bunch of

1 things that Giuliani put through, billions of
2 dollars of goodies he gave away. City Council
3 did the same thing. They know they're out, so
4 they're going to try to give away the cookie jar.
5 And I think when they're going to stay in office
6 you won't have as much of that. Thank you.

7 CHAIRMAN GOLDSTEIN: Mr. Brady? You have
8 reappeared. Welcome.

9 MR. BRADY: Good evening, Chairman, fellow
10 members of the Committee. I was going to sit
11 here and just take notes. But Commissioner Banks,
12 I have to just address one aspect that you
13 broached with one gentleman who was for term
14 limits. I think, with all due respect sir, I
15 think it's a bit disingenuous of you to mention
16 various races. As you and probably all the
17 Commissioners well know, that the rules and
18 regulations that guide elections differ by each
19 state. And as you know, in this state we have a
20 closed primary system. So, and let's face it
21 folks, this is a Democratic town. Now,
22 personally, I mean, you could all be wearing
23 Marxist T-shirts, that would be fine. You could
24 all be wearing very conservative T-shirts, that
25 would be fine. I will talk and work with anyone.

1 Let's face it, sir. This is a Democratic town.
2 Every six registered Democrats there's one
3 registered Republican. Every six registered
4 Republicans there's one member of the
5 Independence Party.

6 What we're looking for as far as the term
7 limits go is that we want to have everyone
8 participate. You can see, with all due respect,
9 Councilman Koppell, it's the professional
10 political class that is against the term limits.
11 And again, someone said, "This is not brain
12 surgery, folks."

13 So I don't want to take up a lot of time.
14 If I could just say as a private citizen, someone
15 who is involved in politics, working with young
16 people in civics, please, I implore you, let's
17 mix it up. Put term limits on the ballot. Make
18 it two terms, make it three terms, whatever you
19 do. But please, let's allow everyone to
20 participate, because let's face it, in this city
21 it's run by one entity? And it wouldn't
22 matter -- and if you were in Salt Lake City. It
23 would probably be the Republican party would be
24 the one that would be in control.

25 I will work with anyone and talk about any

1 thing, but allow everybody to participate.

2 Why do I have to belong to a particular
3 entity in order to take part in the process? I
4 mean, the primary, once that's over, the election
5 is done. It's absurd. One man, one vote; one
6 woman, one vote. Please, let's mix it up. Let's
7 get people involved. Let's get term limits on the
8 ballot.

9 CHAIRMAN GOLDSTEIN: Thank you very much
10 Mr. Brady.

11 COMMISSIONER BANKS: Mr. Brady I want to
12 clarify something that you said. The Federal
13 officials I mentioned were just examples and in
14 answer to Frank Morano. He asked me to cite six
15 off the top of my head. I was able to recite
16 four. Although they were incumbents that were
17 defeated, you're absolutely right, they were
18 defeated by Democrats. The issue of what I was
19 trying to say was that incumbents do lose. They
20 just may not lose the way you want them to.

21 MR. BRADY: Okay. Yes, that is true.
22 But -- the only thing that I can respond to that,
23 sir, again, be as liberal, be as conservative, be
24 whatever it is you want. But I can't take part
25 in the process in the first round because I

1 got -- no, wait a minute. I've got to belong to
2 a particular entity. And if I can say this and
3 I'll allow you, if there isn't one --

4 COMMISSIONER BANKS: Mr. Brady, I don't
5 necessarily disagree with you. That's a topic for
6 another set of hearings. This is term limits.
7 Not nonpartisan.

8 MR. BRADY: Thank you.

9 CHAIRMAN GOLDSTEIN: Thank you very much, Mr.
10 Brady. We do have one additional speaker?
11 Welcome.

12 MS. CLARK: My name is Una Clark. I'm a
13 former member of the New York City Council. I'm
14 the first ever immigrant woman to have been
15 elected to the New York City Council. I think
16 that I served with more pride and with a sense of
17 what New York and New Yorkers ought to be about.
18 I a person that does not believe in term limits.
19 Period. I think that we have not done a good job
20 in educating constituents about how to track the
21 work of the elected officials to know whether
22 they are serving or not serving at all, and
23 sometimes you get to City Hall and you get caught
24 up in what your constituents didn't send you to
25 do because the City is a large place. However, if

1 there are to be term limits I believe that the
2 12-year term is good. I did not believe in the
3 way in which term limit was overturned this time
4 around because I think it benefited the Mayor.
5 People were all ready for a two year term, for
6 two terms and was ready to run. Some run, some
7 win, some did not. I think it ought to be
8 predictable what the term of office is going to
9 be for the elected official. And I heard -- one
10 of the reasons I came up was I heard the fact
11 that family succeeded family. I didn't think it
12 was a bad thing. For me to leave the City Council
13 and my daughter to succeed me in the City
14 Council. I thought she did an excellent job for
15 the time she was there and for her to be a
16 representative as the first mother-daughter
17 succession in the history of our city to be in
18 the U.S. House of Representatives, I think she's
19 doing an excellent job. And I think that what we
20 need to do is look at service. And help people to
21 understand what public service is all about and
22 what the public good should be all about. So I
23 want you to consider, I want you as Commissioners
24 to consider what is this city to be about? What
25 is it that this country ought to be about?

1 Because as I watch and look on all of what's
2 happening in this country right now I know that
3 we could well return to what happened when I
4 first came here in 1958 when I saw the hoses when
5 I saw the dogs and when I saw all of what was
6 happening. I was happy to be here doing civil
7 rights to participate and I think what we ought
8 to help people to do is to understand the power
9 of participation and what their vote means in
10 terms of their participation and there would be
11 no need for a commission every five years to
12 figure out what is it that's going to get people
13 involved in their lives, in there communities and
14 in the life of our city. So if there needs to be
15 term limit, I will go with three four-year terms,
16 but I also think, request, that must come
17 education about what it is to participate in
18 politics and what politics have to do with the
19 lives of communities of people who live in those
20 communities. And so I thank you for allowing me
21 to speak even though I didn't come to speak, but
22 I wanted to go on record as saying I think I
23 served as an immigrant, I served well, I think
24 that mother daughter, father, son, whoever
25 succeeds, just so the person has the right spirit

1 for public service that she should be able to
2 serve.

3 CHAIRMAN GOLDSTEIN: Thank you Commissioner
4 Una Clark, and thank you for the work that you
5 did on behalf of the City of New York and the
6 continuing work of your daughter.

7 Let me just end with a comment before I have
8 ask -- oh, I'm sorry, Commissioner Cohen.

9 COMMISSIONER COHEN: Very brief comment.
10 Jumping on that call for education, we've heard
11 quite a few of those this evening. I would ask
12 that we, if there is no copyright restriction or
13 anything, that we post on our Web site the very
14 interesting briefing materials that we had from
15 our panelists tonight and others. There's all
16 kinds of interesting, material particularly
17 Professor Niemi's writings, about actual
18 statistical studies of the impact or nonimpact of
19 term limits.

20 CHAIRMAN GOLDSTEIN: Our Web site is an
21 organic entity. It sheds but it also acquires
22 and certainly it will acquire a lot of the very
23 fine material that was presented tonight.

24 Let me just end with an observation. When I
25 reflect back on the five public hearings that we

1 had before we started tonight with the next phase
2 of our work on the issues forums, certainly term
3 limits was first and foremost on the minds of so
4 many people that testified, and it's very clear
5 to me, and I think a consensus here on behalf of
6 our Commissioners, that we need as a Commission
7 to be heard on term limits this November. What we
8 need to do, obviously, among ourselves is to
9 decide the direction that we want to take. But
10 certainly not to take the opportunity for this
11 Commission to place something in front of the
12 voters I think would not be the appropriate thing
13 given that we have spent so much time reflecting
14 on this matter. But we have yet a lot of work to
15 do to decide what the direction that we want to
16 take as a Commission; and, obviously, this is the
17 first very serious subject that we are
18 addressing. We will be addressing four
19 additional wide subjects over the next several
20 weeks. But I want to thank all of the
21 Commissioners tonight who participated as much as
22 they did, and to thank the audience for
23 participating as much as you did. I for one found
24 this to be a spirited and informative and
25 passionate evening of good dialogue and good

1 exchange. So I thank you all for being here.

2 Does anybody? Commissioner Fiala? Yes.

3 COMMISSIONER FIALA: Mr. Chairman, let me
4 just also join you in thanking the audience for
5 participating and also special thanks for the
6 Executive Director and Research Director for
7 assembling a great panel of experts that engaged
8 us tonight. Let me also say that I think from our
9 initial meeting some months ago you have
10 eloquently and aptly described the Charter
11 revision process as an iterative process where an
12 array of issues will unfold. I echo your words
13 tonight that term limits are certainly one of
14 those issues. All issues are not of equal
15 weight. And I jotted down, I listened to all my
16 fellow Commissioners, Commissioner Moltner
17 earlier and Commissioner Cassino very eloquently
18 said, Commissioner Moltner said, "The
19 consequences of not returning this issue to the
20 people are significant." That's what you just
21 stated. This is a weighty issue and the timing
22 is appropriate. I don't know what the end product
23 will be. There are 15 of us on this Commission.
24 I bet we could come up with probably 15 different
25 opinions. But I do agree with the sentiment that

1 term limits is an issue that we ought to look at
2 very, very seriously and take advantage of this
3 election year to deal with.

4 CHAIRMAN GOLDSTEIN: Commissioner Banks.

5 COMMISSIONER BANKS: Thank you. I too want to
6 join my colleagues in thanking the audience for
7 their participation tonight. I think it was a
8 good exchange, and I enjoyed having an
9 opportunity to have a little bit of a debate with
10 some of our participants.

11 I agree with both you, Mr. Chair, and
12 Commissioner Fiala, that given the number of
13 presenters and speakers throughout the hearings
14 thus far and their desire for the Commission to
15 seriously take up the opportunity to have a
16 question on term limits this fall, I think we
17 should seriously debate that. But I think at
18 this point it's pretty well in the forefront of
19 everyone's mind that that's something we should
20 put forward to the voters and have them have an
21 opportunity to review this one more time.

22 CHAIRMAN GOLDSTEIN: Thank you.

23 Commissioner Cassino. Moltner, I'm sorry.

24 COMMISSIONER MOLTNER: Thank you, Mr.
25 Chairman. I'd also like to join and thank the

1 panelists for appearing and everybody for joining
2 us in speaking tonight. I also would like to join
3 in, too, what you and Commissioner Fiala and
4 Commissioner Banks have said, that this is an
5 issue, term limits, that's very important as
6 evidenced by the level of public discourse, which
7 is and needs voter participation, in fact,
8 demands voter participation, which is why I don't
9 agree with, for example, what Mr. Keefe said. I
10 think it is something that the voters need to
11 weigh in on, and it's something that's very
12 deserving of further deliberation and debate for
13 exactly how it will be presented.

14 CHAIRMAN GOLDSTEIN: Thank you. Hearing no
15 other comments, let me ask for a motion to
16 adjourn this body?

17 (Continued on the next page.)
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1 It's been moved. Seconded? All in favor?

2 (A chorus of aye's.)

3 CHAIRMAN GOLDSTEIN: Thank you.

4 (Whereupon, the above matter concluded.)

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7 I, NORAH COLTON, CM, a Notary Public for and
8 within the State of New York, do hereby certify
9 that the above is a correct transcription of my
10 stenographic notes written from a DVD
11 reproduction of the hearing, and I was not
12 present at the time of the original hearing on
13 May 25, 2010.)

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NORAH COLTON, CM

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