

CHARTER REVISION COMMISSION

BALLOT MEASURES

BARUCH COLLEGE

55 LEXINGTON AVENUE

NEW YORK, NEW YORK

AUGUST 11, 2010

6:01 P.M.

CHAIR: DR. MATTHEW GOLDSTEIN

COMMISSION MEMBERS:

JOHN H. BANKS, VICE CHAIR

ANTHONY PEREZ CASSINO

BETTY Y. CHEN

HOPE COHEN

ANTHONY W. CROWELL

STEPHEN FIALA

ANGELA MARIAN A FREYRE, SECRETARY

ERNEST HART

REV. JOSEPH M. McSHANE, S.J.

KENNETH M. MOLTNER

KATHERYN PATTERSON

CARLO A. SCISSURA

BISHOP MITCHELL G. TAYLOR

1                   CHAIRMAN GOLDSTEIN: Good evening, everyone.  
2                   Welcome to Baruch college. This is a building  
3                   that we got done, I believe, in 1994. And at that  
4                   time it was the largest building that was  
5                   constructed in New York. It was a real at that  
6                   time a downturn in real state, and this was a  
7                   wonderful addition to the 21 million-square-feet  
8                   that we have at the City University of New York.

9                   I am the Chair of the Charter Revision  
10                  Commission. I'm here with a quorum of my  
11                  distinguished colleagues. I'd like to take a  
12                  moment for them to introduce themselves. We'll  
13                  start to my left. Carlo.

14                 COMMISSIONER SCISSURA: Thank you. Carlo  
15                 Scissura. And, Mr. Chairman, I have to tell you  
16                 it's a pleasure to be back at Baruch. I spent  
17                 four years as an adjunct law professor here.  
18                 It's an outstanding institution.

19                 CHAIRMAN GOLDSTEIN: Thank you very much.

20                 COMMISSIONER COHEN: Hi, I'm Hope Cohen.

21                 COMMISSIONER PATTERSON: Katheryn Patterson.

22                 COMMISSIONER MOLTNER: Good evening. I'm Ken  
23                 Moltner.

24                 COMMISSIONER HART: Ernie Hart.

25                 COMMISSIONER FREYRE: I'm Angela Mariana

1 Freyre.

2 COMMISSIONER FIALA: Good evening, Steve  
3 Fiala.

4 COMMISSIONER TAYLOR: Good evening, Bishop  
5 Taylor.

6 COMMISSIONER BETTY CHEN: Hello, Betty Chen.

7 COMMISSIONER McSHANE: Good evening, Joe  
8 McShane.

9 EXECUTIVE DIRECTOR GOODMAN: Lorna Goodman.

10 DEPUTY DIRECTOR MARKOVITZ: Ruth Markovitz.

11 MR. SCHAFFER: Rick Schaffer.

12 MR. VITERITT: Joe Viteritti.

13 MR. HERSHENSON: Jay Hershenson.

14 CHAIRMAN GOLDSTEIN: I don't know if I'm  
15 going to have an opportunity before we conclude  
16 our business for this evening, but I want to  
17 acknowledge how pleased all of we revisioners are  
18 with a very distinguished staff that has worked  
19 so tirelessly over these past six months, I  
20 guess, in operation. And Lorna and Ruth  
21 Markovitz; and Rick Schaffer and Joe Viteritt;  
22 and Jay Hershenson and Matthew Gorton and others,  
23 I want to thank you on behalf of all of the  
24 Commissioners for a really extraordinary amount  
25 of attentiveness and good work. All of us greatly

1 appreciate it. And the people of New York, when  
2 we finish our work, will appreciate them as well.

3 Let me just -- tonight our task is for the  
4 Commissioners to be heard with respect to  
5 questions that we would like to bring before the  
6 voters on November 2nd of this year. And we will  
7 get to formal business in just a moment. But I'd  
8 like to just take you back a bit just to go over  
9 the terrain and where we have been up until this  
10 point. We started our work, as I said, in early  
11 March with a very extensive outreach program. We  
12 have had numerous public hearings where we have  
13 heard from hundreds and hundreds of concerned  
14 citizens about the future of the City and how  
15 amendments and changes to the existing Charter  
16 can make for a better functioning government. We  
17 have spent time with editorial boards of the  
18 major news outlets the City. We've been on  
19 television. We've been on radio. We've utilized  
20 technology in ways that no Commission in the  
21 history of this City has ever used technology.  
22 And I think that of the many hallmarks I would  
23 hope that this Commission will be remembered for  
24 it is the -- it is in part utilization of  
25 technology which enabled us to expand the

1 catchment area of people who wanted to be heard  
2 and to participate but for reasons that are  
3 complex and varied they were not able to be in  
4 the rooms where we were conducting our business,  
5 and so for that, CUNY TV, from DoIt, from other  
6 consultants, I want to thank all of them for  
7 helping us to do that. We have heard, as I've  
8 said, from so many people across this City, and I  
9 want to thank them for helping the Commissioners  
10 to hone in on things that we think explain, and I  
11 always apologize for technical expressions, but  
12 explain most of the variance in what it is that  
13 we've heard. And as we reflect on what those  
14 essential issues are, there are certain things  
15 that we need to remember. We have not been in  
16 business that long, being working on the Charter  
17 for six months is not nearly sufficient time to  
18 do the kind of due diligence and deep reflection  
19 on very complex issues. It will take certainly  
20 much longer than that. And as a result of that  
21 we have parameterized, we've circumscribed, some  
22 of our work around what we think we've had  
23 sufficient time to do. And as we vote this  
24 evening not all of the Commissioners are going to  
25 be happy, because in part we've not had adequate

1 time to consider many of the ideas that they  
2 through were important for the full Commission to  
3 reflect upon and but as I have spoken to all of  
4 you, I think we all understand, that we did the  
5 best that we can. We have other constraints. And  
6 those constraints are that we are coming into an  
7 election with new polling machines, machines that  
8 have never been utilized in this City before, and  
9 when I look at the ballots that are being  
10 proposed, I am concerned that there may be cueing  
11 problems that may not have been anticipated, and  
12 we don't really know the modality of that on what  
13 we are suggesting that would result from a change  
14 in these machines. And that is an area that is  
15 unknown to essentially all of us on the  
16 Commission. We could reflect, and we could  
17 hypothesize, but at the end of the day we don't  
18 really know what the effect is going to be, and I  
19 think we need to reflect upon the physical  
20 constraints that this kind of voting process will  
21 result in and result in how we think about what  
22 it is that we're doing.

23 When I reflect upon all of the work that we  
24 did in gaining information from the various  
25 communities that we were in, at the same time we

1           have worked with each of you, I have worked  
2           individually with each of you, to talk about  
3           issues. I've asked you all to write me about  
4           ideas, explaining your position, advocating for  
5           your position, and I want to thank you for that.  
6           The work of this body is not what you see only in  
7           these public hearings. It is an awful lot of  
8           serious conversation and individual debate and  
9           I've taken all of those suggestions to heart, and  
10          I have deeply reflected on it as all of us and  
11          staff have done, and I want to thank you for that  
12          as well.

13                 So let me just talk briefly, before we get  
14          to the business tonight, our schedule. I  
15          anticipate that by the end of this evening we  
16          will have a bunch of questions that we would  
17          agree upon to bring to the voters in 2010,  
18          November 2, 2010. We still have an awful lot of  
19          work to do in constructing our final report,  
20          which is going to be voluminous. It's going to be  
21          weighty, and it's going to have essentially, and  
22          this is just some broad strokes, three major  
23          components. One, it will be about the history of  
24          how we got started, and where we wound up, and  
25          that's more ministerial, it's really nothing more

1 than a synopsis of the experiences that we've  
2 had. For the record, I think that's critically  
3 important.

4 The second major component of this extensive  
5 report will be why we chose the questions that we  
6 decided to move forward, the justification, and  
7 what we expect the results of that. And again,  
8 from where I sit, and I think most of us would  
9 agree, the questions that we're bringing forward,  
10 we believe, after our due diligence, will lead to  
11 a better functioning government, more  
12 transparency, more effective implementation on  
13 behalf of the citizens of this City. We believe  
14 that what we are bringing forward will make for a  
15 government that will function and be responsive  
16 more effectively to the needs of a very disparate  
17 and changing population of people in this great  
18 City.

19 And the last component, the third component,  
20 which I continue to say is for where I sit  
21 probably the most important, is that we want to  
22 leave a record of work that was undone so that  
23 future commissions like ourselves will build on  
24 the very good work that I anticipate all of you,  
25 we have done, and the work that we have relied

1           upon from other commissions. I think it is  
2           critically important that this part of the report  
3           deal with the areas that we just did not have  
4           time to bring forward. And we are not bringing  
5           material forward in no way is that a judgment  
6           about its importance in this community in which  
7           we all live. In fact, by being in the report,  
8           looking prospectively, I think it underscores  
9           that, that which we have not been able to bring  
10          to fruition our ideas and suggestions and actions  
11          that we think are critically important and will  
12          serve as a wake up call for others that will  
13          follow in our steps.

14                 There are four guiding principles that I  
15          have talked about over and over again, and I just  
16          want to reinforce that. Tonight we will be guided  
17          by those principles. Did we have enough time to  
18          study what we have recommended? Certainly, nobody  
19          amongst us wants to bring forward any material  
20          that we feel fragile or less confident about  
21          because we haven't had the time to study, and  
22          everything that we bring forward tonight I think  
23          will satisfy that Commission. Second, will we  
24          have enough time to educate the community that  
25          will find themselves in a voting booth -- I don't

1 even know if it will be a voting booth. It may  
2 just be a machine with a ballot that goes in. Do  
3 we have time to educate? We're not advocates. Our  
4 role is not to advocate. Our role is to educate.  
5 And will we have enough time to deal with some of  
6 the complexities that we will hear about tonight  
7 so that people who go in and cast their ballot  
8 are informed citizens?

9 Third, we don't want to bring something  
10 forward that we think will be doomed to failure.  
11 We want to be able to make those calculations --  
12 and I use "calculations" in the broadest term  
13 possible -- that will maximize the likelihood  
14 that the people who are voting will agree with us  
15 in terms of what it is that we bring forward?  
16 And of course, the overarching principle is does  
17 this result in a better functioning government  
18 for all of us? Those are the guiding principles.

19 So, with that let me get into the main body  
20 of our task tonight and to just very quickly  
21 outline the areas that I will introduce formally.  
22 We will be following Roberts Rules of Order. We  
23 have our parliamentarian with us tonight, David  
24 Fields, who is a lawyer, and who has not only  
25 taught parliamentary law but has done it at

1 different law schools and has graciously agreed  
2 to be there as a consultant if we get into some  
3 complexities as we bring forward actions. So let  
4 me go through the areas.

5 The first area that we will look at is term  
6 limits. This is an area that has required a lot  
7 of our attention, and I will get to the actions  
8 that we are proposing in just a minute. Second  
9 area that we will be looking at are elections in  
10 general. We will be talking about disclosures of  
11 independent contributions. We will be talking  
12 about merging the Voter Assistance Corporation  
13 into the Campaign Finance Board. We will be  
14 talking about the reduction of required  
15 petitions, petition signatures for candidates for  
16 City office. We will be jumping into areas of  
17 public integrity, dealing with ethics training  
18 and the structure of fees. We will be talking  
19 about government efficiency, specifically  
20 Administrative Tribunals, and reviewing reporting  
21 requirements; and an area that we want to jump  
22 into, because I think all of us were so compelled  
23 by, compelled to bring forward some momentum, and  
24 that has to do with Fair Share. And we'll be  
25 making or I will be breaking into debate an area

1 of Fair Share. Those will be the areas that we  
2 will have formal votes on in just a little bit.  
3 But there will be a group of other items that  
4 have, that we've dealt with, and that I want to  
5 give individual Commissioners an opportunity to  
6 be heard.

7 I don't expect that we will be voting on  
8 these items, but I do expect that a number of  
9 them will find their way in a significant manner  
10 when we finish the final report. So, before I get  
11 to the formal business, and I just want to make  
12 sure that any Commissioner has anything to say  
13 before we get into the formal action of bringing  
14 forth the ideas that we have, and then we'll get  
15 into debate and we will then vote.

16 Anybody want to say anything about process?  
17 Adding to anything that I've already gone  
18 through?

19 Okay. Let's get to it. On term limits. I'm  
20 going to make the -- I will introduce the  
21 resolutions. I will ask for a second on the  
22 resolution and then we will have our debate. I  
23 don't necessarily mean a debate, but we'll have a  
24 conversation among ourselves, and I would expect  
25 that some of us will be spirited but informed and

1 smart. And then I think after we've had  
2 sufficient time to do that we will ask for a  
3 formal vote.

4 Okay. So let's start with term limits. Oh  
5 yes, I'm sorry, Rick, do you want to?

6 MR. SCHAFFER: Thank you.

7 CHAIRMAN GOLDSTEIN: I have -- staff has put  
8 together the actual statements that all of you  
9 will have in front of you in just a minute. And  
10 our parliamentarian, this is Dave Fields right  
11 behind us. He will be the Reporter of Record and  
12 then announce the results of what it is that we  
13 have. I just want everybody to note that there's  
14 nothing that should be new here. Nobody's being  
15 surprised. All of this has been discussed in  
16 various ways.

17 So let me start with term limits. And  
18 dealing with the terms of term limits.

19 So Be it Resolved that the New York City  
20 Charter Review Commission hereby proposes that a  
21 question be placed before the voters at the  
22 general election to be held on November 2, 2010,  
23 asking whether the New York City Charter should  
24 be amended to provide a limit of two consecutive  
25 full terms for the Mayor, the Comptroller, the

1 Public Advocate, the Borough Presidents and the  
2 members the City Council.

3 That has been moved. Do I have a second?

4 (A chorus of Commissioners seconded the  
5 motion.)

6 CHAIRMAN GOLDSTEIN: Seconded by Commissioner  
7 McShane. We are open for discussion.

8 Commissioner Moltner.

9 COMMISSIONER MOLTNER: Thank you,  
10 Mr. Chairman. I think this resolution embodies  
11 the rationale and the spirit of what has, the  
12 public has stated the concern that the public has  
13 expressed over the overturning of the previous  
14 referenda, and I heartily endorse it.

15 CHAIRMAN GOLDSTEIN: Anybody else?

16 Commissioner Patterson.

17 COMMISSIONER PATTERSON: A point of  
18 clarification. It would be my understanding that  
19 if this resolution is put to the voters and they  
20 reject it, we would remain with the term that is  
21 currently in the City Charter, which has three  
22 terms for all elected officials.

23 CHAIRMAN GOLDSTEIN: That is correct.

24 COMMISSIONER PATTERSON: Thank you.

25 COMMISSIONER FIALA: Mr. Chairman.

1                   CHAIRMAN GOLDSTEIN: Yes, Commissioner Fiala.

2                   COMMISSIONER FIALA: I will support this  
3                   aspect of the term limit question. But I want  
4                   this permanent record to reflect what I have said  
5                   throughout this process. Term limits are  
6                   antithetical to our way of life as a Republic.  
7                   Term limits are counterintuitive in a city that  
8                   in 1989 decisively chose to create a strong  
9                   mayoral-council model of government. To come  
10                  along a few years later and enact something like  
11                  term limits boggles the mind, I would hope, of  
12                  anyone that is reasonable. Nothing could have  
13                  possibly happened between implementation January  
14                  1, 1990, and the adoption of term limits a couple  
15                  of years later that would warrant such a  
16                  wholesale foolish move other than a desire to  
17                  satisfy a momentary passion we as a people, a  
18                  free people, tend to feel from time to time.

19                  This will undermine -- term limits in my  
20                  view have undermined, the continuation of term  
21                  limits will continue to undermine, a city that  
22                  wants to have a deliberative City Council. And by  
23                  deliberative I don't mean harken to the days of  
24                  the United States Senate debating matters of  
25                  great weight. When I say deliberative I mean a

1 City Council that will be comprised of members  
2 who know the different agencies, who know the  
3 players, who will be able to identify the budgets  
4 of the Department of Transportation and Health,  
5 et cetera. Things that new members who are  
6 rotating in and out will never have developed  
7 sufficient time or experience to acclimate  
8 themselves.

9 This is a terrible mistake that the people  
10 enacted once, then reaffirmed it twice. But  
11 having said that, I recognize that we're never  
12 going to get to the point of a reasonable,  
13 rational debate about term limits and its impact  
14 on our desire, our collective desire, to have a  
15 meaningful City Council unless and until we are  
16 able to restore some degree of public confidence.  
17 So as I've said, I think it was up in the Bronx,  
18 I recognize that restoring public confidence is a  
19 necessary prerequisite if we're going to have  
20 such a debate. I, just so as you all know it  
21 won't come surprise I will be voting "No" when I  
22 go into the voting booth. Three terms would be  
23 better than two. But I understand that while the  
24 City Council, and this is -- it's important to do  
25 this. I cast the deciding vote nine years ago or

1           ten years ago, but circumstances changed between  
2           then and when the City Council undertook their  
3           action in 2008. State and Federal Court rulings  
4           have provided that the City Legislature certainly  
5           has the legal authority to do what they did. I  
6           recognize that. But that the City Council acted  
7           within its legal authority, that might be way  
8           beyond the fugue. The legal aspects appear to be  
9           settled. But something being legally permissible  
10          is not necessarily morally or ethically  
11          advisable. So I recognize that the people need  
12          this cathartic moment -- if that's the right  
13          term -- to either ratify or reject what their  
14          elected officials and our Republic did on their  
15          behalf, which was fully permissible under the  
16          state constitution and the laws in which we live.  
17          But I support this resolution regarding the  
18          question you put before us.

19                   CHAIRMAN GOLDSTEIN: Any further?

20                   Commissioner Cohen.

21                   COMMISSIONER COHEN: Thank you, Mr. Chairman.

22           I want to agree with almost everything  
23           Commissioner Fiala just said. I disagree with him  
24           on the question of two terms versus three terms.  
25           I think it's academic. The real question is term

1 limits versus no term limits, and I do look  
2 forward to the day when we can face that question  
3 as a city and unhandcuff and take our handcuffs  
4 off and allow ourselves to vote for whoever we  
5 want to vote for.

6 I do want to throw in one other negative of  
7 term limits, and that is the enormous amount of  
8 time and energy, as evidenced by this very  
9 Commission, devoted to putting them in, taking  
10 them out, putting them in. It be would great to  
11 once and for all finally settle this question.  
12 And I would hope in a way that freed us all to  
13 vote as we please.

14 CHAIRMAN GOLDSTEIN: Commissioner Cassino.

15 COMMISSIONER CASSINO: Let me just as a  
16 minority person on this issue on this Commission,  
17 let me just say that some of the comments that  
18 Mr. Fiala makes on term limits I think that it's  
19 difficult to dismiss the collective wisdom of a  
20 city as being inherently wrong. I think you  
21 might disagree, and I look forward to the debate  
22 one day, where we'll go back and debate term  
23 limits or not. I want to speak at least on some  
24 on behalf of somebody who supports term limits as  
25 a concept that there is good sound reasoning to

1           have it there. It's not the masses acting in this  
2           cathartic mob mentality. I think there's some  
3           good, sound reasoning behind term limits -- I'm  
4           not saying everybody holds that -- but that there  
5           are people out there who hold it as an important  
6           way of guarding against what they have seen over  
7           the years. And there are good, rational reasons  
8           for that. I don't mind. I'd love to have a  
9           debate about it, about the core element of it.  
10          Obviously, we didn't get to that necessarily,  
11          because we were looking at the other part of  
12          should it be and should we put the question to  
13          the voters? But I do think it's important to be  
14          said there are some of us who think that the idea  
15          is right on the mark, and some of us here who  
16          think there's great, sound reasoning for it. And  
17          it's not as if everybody who makes this decision  
18          makes it out of an unreasoned and unprincipled  
19          position, and that not all of us agree that the  
20          City Council is going to hell in a hand basket.  
21          Quite frankly, I don't notice any difference  
22          between the Council that existed before and the  
23          Council that exists today. So I fail to see the  
24          evidence that somehow the leadership that exists  
25          there today, the laws that are being passed

1           today, the functioning of the Council today is  
2           any different than it was when we had members  
3           that were there 20, 30 years. And of course, we  
4           live in New York State where we have the most  
5           dysfunctional State Legislature in the country,  
6           and they're elected almost unanimously. They're  
7           elected almost every year, these guys, and there  
8           are no term limits there, and that's what people  
9           are looking at.

10           I didn't want to leave it out there  
11           completely that everybody on this Commission is  
12           opposed to term limits in principle, because not  
13           all of us are.

14           CHAIRMAN GOLDSTEIN: Thank you. Anything  
15           else?

16           I'd like to call a motion, and let me just  
17           go through this. We're going to do this  
18           alphabetically. The Chair votes affirmatively.  
19           Mr. Banks is not with us as yet.

20           Commissioner Freyre?

21           COMMISSIONER FREYRE: Affirmed.

22           CHAIRMAN GOLDSTEIN: Commissioner Cassino?

23           COMMISSIONER CASSINO: Affirmative.

24           CHAIRMAN GOLDSTEIN: Commissioner Betty Chen?

25           COMMISSIONER BETTY CHEN: Yes.

1 CHAIRMAN GOLDSTEIN: Commissioner David Chen?

2 COMMISSIONER DAVID CHEN: Yes.

3 CHAIRMAN GOLDSTEIN: Commissioner Hope Cohen?

4 COMMISSIONER COHEN: Yes.

5 CHAIRMAN GOLDSTEIN: Commissioner Anthony

6 Crowell?

7 COMMISSIONER CROWELL: Yes.

8 CHAIRMAN GOLDSTEIN: Commissioner Ernie Hart?

9 COMMISSIONER HART: Yes.

10 CHAIRMAN GOLDSTEIN: Commissioner Fiala?

11 COMMISSIONER FIALA: Aye.

12 CHAIRMAN GOLDSTEIN: Commissioner McShane?

13 COMMISSIONER McSHANE: Yes.

14 CHAIRMAN GOLDSTEIN: Commissioner Moltner?

15 COMMISSIONER MOLTNER: Yes.

16 CHAIRMAN GOLDSTEIN: Commissioner Patterson?

17 COMMISSIONER PATTERSON: Yes.

18 CHAIRMAN GOLDSTEIN: Commissioner Scissura?

19 COMMISSIONER SCISSURA: For the motion.

20 CHAIRMAN GOLDSTEIN: And Commissioner Taylor?

21 COMMISSIONER TAYLOR: Yes.

22 CHAIRMAN GOLDSTEIN: Our parliamentarian.

23 (Discussion between Chairman Goldstein and

24 Mr. Fields.)

25 CHAIRMAN GOLDSTEIN: 14 "Yes." The question

1 of term limits is approved. Thank you all.

2 Let me go on to the next component that is  
3 under the umbrella of term limits, and I will  
4 read the resolution: Be it resolved that the New  
5 York City Charter Revision Commission hereby  
6 proposes that a question be placed before the  
7 voters on the election to be held on November 2,  
8 2010, asking whether the New York City Charter  
9 should be amended to prohibit the City Council  
10 from enacting a local law that would alter or  
11 permit the alteration of term limits as provided  
12 in the Charter in a manner that affects the term  
13 limit applicable to any incumbent official.

14 I will move that and ask for a second?

15 COMMISSIONER FIALA: Second.

16 CHAIRMAN GOLDSTEIN: It's been seconded.

17 It's open for debate.

18 Commissioner Moltner.

19 COMMISSIONER MOLTNER: Thank you, Mr.

20 Chairman. This is an important -- this resolution  
21 is an important step in regaining public trust as  
22 well. While the initial resolution, of course, is  
23 critical, it cannot stand alone because the --  
24 the public concern over of what had happened.  
25 There needs to be an effective mechanism and this

1 provides, I believe, such a mechanism. While I  
2 might want to see an even stronger mechanism  
3 personally, that it may not be viable and lead to  
4 unnecessary entanglement on other issues. This  
5 mechanism, I believe, is effective and it  
6 addresses the public's concern, and that is why  
7 this issue has been in the forefront, so I  
8 respectfully endorse it.

9 CHAIRMAN GOLDSTEIN: Thank you, Commissioner  
10 Moltner. Anybody else?

11 Seeing no. I'll call the motion. And let me  
12 go through. The Chair votes yes.

13 Commissioner Freyre?

14 COMMISSIONER FREYRE: Yes to the motion.

15 CHAIRMAN GOLDSTEIN: Commissioner Cassino?

16 COMMISSIONER CASSINO: Yes.

17 CHAIRMAN GOLDSTEIN: Commissioner Betty Chen?

18 COMMISSIONER CHEN: Yes.

19 CHAIRMAN GOLDSTEIN: Commissioner David Chen?

20 COMMISSIONER DAVID CHEN: Yes.

21 CHAIRMAN GOLDSTEIN: Commissioner Hope Cohen?

22 COMMISSIONER COHEN: Yes.

23 CHAIRMAN GOLDSTEIN: Commissioner Anthony  
24 Crowell?

25 COMMISSIONER CROWELL: Yes.

1 CHAIRMAN GOLDSTEIN: Commissioner Ernie Hart?

2 COMMISSIONER HART: Yes.

3 CHAIRMAN GOLDSTEIN: Commissioner Fiala?

4 COMMISSIONER FIALA: Yes.

5 CHAIRMAN GOLDSTEIN: Commissioner McShane?

6 COMMISSIONER McSHANE: Yes.

7 CHAIRMAN GOLDSTEIN: Commissioner Moltner?

8 COMMISSIONER MOLTNER: Yes.

9 CHAIRMAN GOLDTSEIN: Commissioner Patterson?

10 COMMISSIONER PATTERSON: Yes.

11 CHAIRMAN GOLDSTEIN: Commissioner Scissura?

12 COMMISSIONER SCISSURA: Yes.

13 CHAIRMAN GOLDSTEIN: Commissioner Taylor?

14 COMMISSIONER TAYLOR: Yes.

15 CHAIRMAN GOLDSTEIN: 14 "Yes"; the motion

16 carries. Thank you.

17 Now, the next one I can't present as cleanly

18 as the first two. Let me indicate why. The third

19 resolution has to do with the effective date of

20 the implementation of the first two actions that

21 have been proposed. Right now, the City Council

22 has, as we all know, 51 individuals; 18 are in

23 their first term; 13 are in their second term;

24 and 19 are in their third term. There are

25 basically, I see, three ways that we could talk

1 about effective date. The first would be that the  
2 date would be immediate for all members  
3 regardless of their class. And that obviously has  
4 certain implications that we can talk about in  
5 just a minute.

6 The second, which is all the way on the  
7 other side, if you consider effective immediately  
8 as one tail, the other tail on the other side is  
9 all of the individuals, independent of where they  
10 are in their class, will be allowed to finish up  
11 to three terms, which is the current system.

12 Independent of whether we bring two terms to all  
13 of the members involved. And the last is what I  
14 would consider a hybrid. My word, a word that  
15 really is a marriage, if you will, or a smoothing  
16 between those two extreme positions. And it would  
17 go something like this. The individuals that are  
18 in their third term would obviously be able to  
19 finish their term and that would be it. They  
20 would be done. The individuals who are in their  
21 second term, these are individuals who were voted  
22 into office in 2005, would be able to -- do I  
23 have that right? 2005. Those are in their  
24 second, they're in their second term, would be  
25 given the opportunity to run for an additional

1 term after their second term is completed. Those  
2 that are in their first term, the people that  
3 were elected in 2009, would be able to just  
4 complete their first term, which is another three  
5 years, and if elected could complete an  
6 additional term. So those are three separate,  
7 those are three separate ways of defining  
8 implementation, and I'd like to just open that up  
9 for discussion and any amendment to that. And I  
10 see the hands going up quickly, so let me start  
11 with Commissioner Cohen, then Commissioner  
12 Scissura and then Commissioner Moltner.

13 COMMISSIONER COHEN: Thank you, Mr. Chairman.  
14 I would submit there's actually another version  
15 of the hybrid, and that is that the currently  
16 serving third-term, third-term elected officials,  
17 would serve out their term. It's impractical, at  
18 least, to make it otherwise. But that the other  
19 classes, the Class of 2009 and also the Class of  
20 2005 should be affected by the change if the  
21 voters vote to change to two terms.

22 It seems to me that the Class of 2005 was  
23 elected retroactive to the time the law was two  
24 terms. So that was their expectation when they  
25 first were elected in 2005. So this would

1 actually just return them to that state. And I  
2 think that especially for those of us who oppose  
3 term limits in principle but felt very strongly,  
4 feel very strongly, that we need to offer the  
5 voters the opportunity to go back to the  
6 situation, the situation before 2008, which they  
7 had voted for by referendum, the two terms for  
8 all, that might seem logical. You're trying to  
9 return that sense of propriety and trust that the  
10 people would prefer. I would be willing to bet  
11 that those same who want to go back to two terms  
12 want to go back to two terms for the Class of  
13 2005, because it's not like the Class of 2005 and  
14 Class of 2001, or whoever it was who voted to  
15 change in 2008, that they chose to make it  
16 effective for later parties. We're actually  
17 producing the idea of prospectivity now. They  
18 were not prospective when they changed to three  
19 terms, and I don't see why we should make it  
20 prospective for the Class of 2005. I think the  
21 appropriate solution is a modified hybrid, which  
22 is the Class of 2001 serves out their third term  
23 and a change to two terms applies to the Class of  
24 2005 and 2009.

25 COMMISSIONER FREYRE: I think that's the same

1 as the one that's the hybrid.

2 CHAIRMAN GOLDSTEIN: That is the same.

3 COMMISSIONER FREYRE: I think you're  
4 repeating it.

5 COMMISSIONER PATTERSON: I think that's the  
6 first alternative.

7 CHAIRMAN GOLDSTEIN: Let's go to Commissioner  
8 Scissura is next. And then Commissioner Moltner.

9 COMMISSIONER SCISSURA: Thank you. I've been  
10 I think pretty clear in all my comments on this.  
11 I really think that this Commission would do a  
12 disservice if we picked and choosed [sic] whether  
13 it's one extreme, another extreme, or a hybrid.  
14 What we would effectively do is create classes of  
15 elected officials in this City. You would have a  
16 certain class that would have served three terms.  
17 You would have a certain class that in 2013 can  
18 be reelected for a second term. But some who  
19 would be reelected for a third term, which would  
20 cause all kinds of chaos in the Council with  
21 leadership positions, with Speaker positions. You  
22 have some Borough Presidents elected in '01, some  
23 in '05, and one elected in a special election.  
24 You have some Council Members elected in a  
25 special election between 2005 and 2009. What

1 would you do with them? What would you -- I mean,  
2 just creates a really unfair playing field, in my  
3 opinion. And I really think putting aside whether  
4 we believe in term limits, we don't, we are  
5 charged with doing what's right for government  
6 and what's right for structure. And in my  
7 opinion, the only thing that is right for  
8 government and for structure is that if you are  
9 currently elected and you've run and you ran  
10 thinking you were running for three terms, you  
11 should have the opportunity to run for three  
12 terms.

13 As an attorney, and, you know, the Counsels  
14 may disagree, but there will be lawsuits on this.  
15 We will be creating -- I mean, I could see a  
16 lawsuit about different classes, because our  
17 Charter has never been about different classes.  
18 So I am very, very strongly opposed to anything  
19 that does not allow for a fair and balanced  
20 system, where everyone who was elected with one  
21 belief and with one set of circumstances does not  
22 continue to have them.

23 COMMISSIONER McSHANE: So you're option two?

24 COMMISSIONER SCISSURA: I'm option I think --  
25 my option this takes effect in the next City

1 election.

2 COMMISSIONER FREYRE: You would allow three  
3 terms?

4 COMMISSIONER SCISSURA: I would allow three  
5 terms. If you ran in '09 and you thought you  
6 were running with the opportunity to run for  
7 three terms, I think you should be granted that  
8 opportunity. And then anyone who runs --

9 COMMISSIONER McSHANE: That's option 2.

10 CHAIRMAN GOLDSTEIN: You're talking about  
11 option 2.

12 COMMISSIONER FREYRE: Yes.

13 COMMISSIONER McSHANE: Option 2.

14 COMMISSIONER FREYRE: Option 2 is allow three  
15 terms for all.

16 CHAIRMAN GOLDSTEIN: Anybody who is an  
17 incumbent now could have the opportunity to run  
18 for three terms.

19 COMMISSIONER SCISSURA: Right.

20 CHAIRMAN GOLDSTEIN: Obviously, the third  
21 class.

22 COMMISSIONER SCISSURA: They're done.

23 CHAIRMAN GOLDSTEIN: The second class that is  
24 in their second cycle can go for a third. And the  
25 first class is in their first cycle, they could

1           have two additional --

2           COMMISSIONER FREYRE: Correct.

3           CHAIRMAN GOLDSTEIN: -- that was option 2.

4           COMMISSIONER SCISSURA: Correct.

5           CHAIRMAN GOLDSTEIN: Okay. Now, did I miss  
6           somebody? Ken Moltner. Go ahead.

7           COMMISSIONER FREYRE: Agrees to allow those  
8           in third term to finish and allow those in the  
9           first term, if elected, to serve a third term.

10          CHAIRMAN GOLDSTEIN: That's why this is  
11          complex.

12          (Inaudible cross conversation among the  
13          Commissioners.)

14          CHAIRMAN GOLDSTEIN: Let's take a deep breath  
15          and go through this again. The two extremes, the  
16          two extremes, 1 and 2, one extreme, everybody who  
17          is in office now has an opportunity to complete  
18          three terms. Right? That's option --

19          (Inaudible cross conversation among the  
20          Commissioners.)

21          COMMISSIONER CROWELL: I think we're not  
22          talking about anybody currently in their third  
23          term. You're discounting their third term.

24          CHAIRMAN GOLDSTEIN: That is correct.

25          COMMISSIONER CROWELL: We're only talking

1 about the remaining 31 members.

2 (Inaudible cross conversation among the  
3 Commissioners.)

4 CHAIRMAN GOLDSTEIN: That is correct.

5 COMMISSIONER SCISSURA: 31 members and 2  
6 Borough Presidents.

7 CHAIRMAN GOLDSTEIN: Again, there are 18 in  
8 their first term --

9 COMMISSIONER SCISSURA: Right, and the  
10 Comptroller.

11 CHAIRMAN GOLDSTEIN: -- 13 in their second  
12 term and 19 in their third term. So take the 19  
13 off. Take them off the table. I think there is --  
14 you're right.

15 COMMISSIONER SCISSURA: They're out.

16 MR. SCHAFFER: Can I take a try at this?  
17 Option --

18 CHAIRMAN GOLDSTEIN: Go ahead.

19 COMMISSIONER PATTERSON: Classes.

20 MR. SCHAFFER: Option 1, those in their  
21 first and second full terms are permitted only  
22 two terms.

23 COMMISSIONER PATTERSON: Correct.

24 MR. SCHAFFER: Option 2, in the other  
25 extreme, those in their first and second full

1 terms are permitted three full terms.

2 COMMISSIONER MOLTNER: That is what the  
3 Chairman said was option 3.

4 COMMISSIONER PATTERSON: No, that was 2.  
5 Option 3 is the hybrid.

6 MR. SCHAFFER: Option 3 is the hybrid. Those  
7 in their second full term get a third term. Those  
8 in their first full term serve only two terms.  
9 Second full term.

10 COMMISSIONER CROWELL: Everybody gets one  
11 more term.

12 MR. SCHAFFER: Another way of expressing  
13 option 3 hybrid, that everyone currently in  
14 office gets one more term if they win.

15 CHAIRMAN GOLDSTEIN: So there was lots of  
16 linguistical construction to get to the same  
17 thing.

18 Okay. Commissioner Moltner.

19 COMMISSIONER MOLTNER: Thank you,  
20 Mr. Chairman. I would like to make a motion and  
21 second this, assuming the parliamentary is  
22 correct. And assume the Chair (inaudible) motion  
23 on the table.

24 The motion I would make is for the  
25 provisions to become effective immediately.

1 COMMISSIONER COHEN: Second.

2 MR. SCHAFFER: By "immediately" option 1.

3 COMMISSIONER MOLTNER: Option 1.

4 MR. SCHAFFER: Not including people currently  
5 in their third term, because nobody seems to want  
6 to conduct special elections, right?

7 COMMISSIONER COHEN: No.

8 MR. SCHAFFER: Okay.

9 CHAIRMAN GOLDSTEIN: Alright. We have a  
10 motion on the floor. Is it seconded?

11 COMMISSIONER COHEN: Second.

12 CHAIRMAN GOLDSTEIN: Second by Commissioner  
13 Cohen.

14 COMMISSIONER MOLTNER: I'd like to speak.

15 CHAIRMAN GOLDSTEIN: Yes; sure.

16 COMMISSIONER SCISSURA: Can I be clear? You  
17 just made a motion, because I'm very confused  
18 with the options.

19 CHAIRMAN GOLDSTEIN: No motion was made by  
20 me. All I did was explain --

21 COMMISSIONER SCISSURA: Commissioner Moltner  
22 made a motion that was seconded. So your motion  
23 is that everyone -- if you are in your second  
24 term, if you were elected in '05, that you would  
25 just have two terms.

1 COMMISSIONER MOLTNER: Correct.

2 MR. SCHAFFER: And similarly, if you were  
3 elected in '09 you only have two terms.

4 COMMISSIONER SCISSURA: So that's your option  
5 1.

6 CHAIRMAN GOLDSTEIN: That is option 1.

7 COMMISSIONER SCISSURA: Can I ask a  
8 parliamentary procedure question?

9 CHAIRMAN GOLDSTEIN: Sure.

10 COMMISSIONER SCISSURA: Is it, and forgive  
11 me, I've forgotten my parliamentary procedures.

12 CHAIRMAN GOLDSTEIN: That's why we have a  
13 parliamentarian.

14 COMMISSIONER SCISSURA: At this point can  
15 another Commissioner introduce another motion, or  
16 does this motion have to be voted for --

17 CHAIRMAN GOLDSTEIN: This one, it has been  
18 moved, it's been seconded. We have to debate and  
19 decide on it before you offer another motion.

20 COMMISSIONER McSHANE: Can we table it?

21 (Discussion between Chairman Goldstein and  
22 Mr. Fields.)

23 MR. SCHAFFER: Those who want a different  
24 option, the option is to vote yes.

25 COMMISSIONER SCISSURA: No, those who want a

1 different option is to vote "No" on this motion.

2 MR. SCHAFFER: Against.

3 COMMISSIONER SCISSURA: I thought you said  
4 vote "Yes".

5 COMMISSIONER BETTY CHEN: My understanding of  
6 this issue is that it's about structure and  
7 process. It really shouldn't be about  
8 individuals and people. But of course, the  
9 practical results of what we're talking about are  
10 about these 18 people, 13 people, 19 people, 2  
11 people. And I find it sort of illogical and  
12 difficult to say "Well, we're going to carve out  
13 this class of people and that class of people and  
14 then only talk about the first- and second-term  
15 people and second and third or some hybrid,"  
16 because then I think you're moving away from  
17 process and structure and rules and you're really  
18 focusing on individuals. And I just wanted to  
19 remind people that however we vote, the time to  
20 deal with those individuals is in the voting  
21 booth. So even if people are given an opportunity  
22 to run for a third term, nobody's being given a  
23 third term through this process. Voters have the  
24 opportunity to go in, and if they don't want that  
25 person, they don't want that person to serve a

1           third term, they should not vote for them, so  
2           there's a way to handle that. We should focus  
3           not on these people, and certainly these  
4           complicated issues, but think back about the  
5           structure of this and remember there's another  
6           way to handle it.

7                   CHAIRMAN GOLDSTEIN: I'd like to go back to  
8           Commissioner Moltner who hasn't had an  
9           opportunity to talk about the motion.

10                   COMMISSIONER MOLTNER: Thank you, Mr.  
11           Chairman. I respectfully urge my fellow  
12           Commissioners to not dilute the first two  
13           propositions that we're going to put on the  
14           ballot. The guiding rationale is to return, as I  
15           understand it anyway, is to return to the voters  
16           that which they voted for twice. In order to do  
17           so and to do so most effectively, that's why I  
18           introduced this motion. I do not believe that  
19           there is a strong rationale to do otherwise. I do  
20           not believe that any sitting members of the  
21           Council have such an interest to warrant it. And  
22           even though I certainly understand and appreciate  
23           the argument that some may have run with the idea  
24           that he or she might be able to serve a third  
25           term, those people are also fully aware of the

1 public, what I've called concerned (inaudible)  
2 outrage on this issue. That is a risk that they  
3 should bear not -- I do not believe we should be  
4 looking at the first two issues on the ballot. If  
5 the public does not want that then that's one  
6 thing. But we ought to not dilute it. We should  
7 give effect to what we have proposed to the  
8 public and, therefore, make it immediate. And I  
9 will also state, that I think it was Commissioner  
10 Cassino, if I'm not mistaken, who had -- although  
11 there was some statistics that even current  
12 members of the City Council didn't believe in,  
13 besides the ones that voted against it didn't  
14 believe in third terms, some who would be  
15 affected by this. Let's not dilute what we did.

16 CHAIRMAN GOLDSTEIN: Commissioner Cassino.

17 COMMISSIONER CASSINO: Let me speak in favor  
18 of this motion. I think there's an inconsistent  
19 logic here to see people who are absolutely  
20 opposed to term limits and who under, I think, a  
21 very principled division saying that "I think  
22 that we need to bring this back to the voters  
23 because they feel that strongly about it." And  
24 if you feel that strongly about the concept was  
25 clearly wrong to have done it the way it was

1 done, if there's that much of a concern about it,  
2 then to give in effect what was that benefit of a  
3 possibility of a third term to everybody else who  
4 was sitting there at the time is an  
5 inconsistency. It doesn't make sense to say  
6 "Well, I fully disagree with how it was done so  
7 much so that I'm willing to grant somebody, I'm  
8 willing to grant the voters an opportunity to  
9 vote on this issue, and yet I think everybody  
10 should get the benefit of it. Or at least the  
11 option of it." So to me it's a complete  
12 inconsistency.

13 And let me just talk a little to the Council  
14 makeup not on an individual basis necessarily,  
15 but I think a valid issue brought up before was  
16 about continuity in the Council. And all of you  
17 will have noticed, I think it's important to get  
18 on the record, in 2001 36 members of the Council  
19 were term limited. Obviously, that left behind  
20 15 experienced members. If we make this  
21 effective immediately, what we have is that we  
22 would have 19 experienced Council members left  
23 behind, and the 13 members that are in that other  
24 option, I forgot whether it is, I think it's  
25 it -- the hybrid option -- there are 13 members

1 of that Class of '05 that come up as part of the  
2 discussion. And of those 13 members, seven of  
3 them voted "No" on the term limits issue, on the  
4 question when they had the chance to vote for it.  
5 So 7 of them said it shouldn't have been changed.  
6 As well the Public Advocate and the Comptroller  
7 both vehemently opposed the change. So many of  
8 those members did not come out for it and didn't  
9 believe in it. In at least the way it was done.  
10 And I think that we really need to think about  
11 those basic questions of continuity, and I think  
12 those numbers will give us a better continuity  
13 than there was in '01; and I think that we have  
14 an opportunity here, I think, to put something  
15 before the voters that I think will restore  
16 confidence and faith in government; and I think  
17 that if we water it down so that already it's  
18 prospective as to whether or not the Council can  
19 change it, I'm on the record, by the way, saying  
20 the Council will change it, there will come a  
21 reason they will change it even prospectively, if  
22 they can they will. And here, where we basically  
23 put forth the term limits provision that is so  
24 far in the future and really so watered down I  
25 think it really does a disservice to what we're

1           trying to do here. I don't see any rationale why  
2           some members should be granted this and some  
3           members should be granted that. I think, quite  
4           frankly, it should become effective; and if this  
5           class finishes out its third term and we move on  
6           and we're is a two-term system, that's basically  
7           what we had all agreed to, why we went to a two-  
8           term system; and I don't know why we would create  
9           exclusions or just because you sit there -- the  
10          Class of '05 owes its job to term limits that  
11          were two terms. They came in with that  
12          expectation. If anything, you can make a  
13          stronger case the Class of '09 came in with a  
14          three-term expectation. So it's backwards there.  
15          So I'm strongly in favor of doing this, that's  
16          option 1, I guess, or the motion that's before  
17          the Commission.

18                 CHAIRMAN GOLDSTEIN: Just again, everybody to  
19          understand the motion that we are debating is  
20          what I refer to as option 1, which basically said  
21          there will be a restriction of up to no more than  
22          two terms independent of where you are for Class  
23          1 and Class 2.

24                 The next speaker I have is Commissioner  
25          Fiala, then Commissioner Hart, and then

1 Commissioner Freyre.

2 COMMISSIONER FIALA: I have the utmost  
3 respect, and he knows this, Ken Moltner, we have  
4 had several discussions. I think he's a brilliant  
5 attorney. I have agreed with him now on two of  
6 the three legs of this term limit issue despite  
7 my philosophical opposition to term limits, and  
8 I've tried to give a rationale for how I come to  
9 that conclusion. This is an area we're in a fork  
10 in the road and we diverge.

11 To Commissioner Cassino's point, the  
12 rationale in my mind's eye for being opposed to  
13 this is very simple. It is a respect for the rule  
14 of law and something that doesn't require  
15 attorneys or commissioners or mayors or City  
16 Council members. It doesn't require the media  
17 telling us what's right or wrong. We live in a  
18 society today where we seem to lose sight that in  
19 our bones, our core, we still as human beings  
20 have an innate sense of right and wrong. Of fair  
21 and unfair. We don't need counsel to guide us. I  
22 have said so that I can point to the consistency  
23 in my argument, because I believe I am consistent  
24 here, the people, I believe, were misguided in  
25 their judgment twice with respect to term limits.

1 My humble opinion.

2 I have been the minority on this all along.  
3 I believe it is a detriment to the long-term  
4 health of this City. However, I recognize that  
5 there was an action taken on the part of the  
6 people whom the people themselves elected to  
7 govern that was so egregious in the minds of the  
8 majority of the populace that unless and until we  
9 allow for purging or the right of redress, the  
10 right to ratify or reject what was done in 2008,  
11 we will never move beyond emotion to a plan of  
12 rational and reasonable thinking. So I concede  
13 the need, as Commissioner Moltner has argued so  
14 eloquently, as have many others, including  
15 Commissioner Cassino, who is very passionate  
16 about this, you may be in the a minority in this  
17 Commission, you're in the majority, you keep  
18 winning at the ballot box, so it's not a bad  
19 thing to be on your side. On this issue, what  
20 the public, what this Commission has to  
21 appreciate is that this isn't a simple question.  
22 The rule of law and fundamental fairness come  
23 into play here. I'm not an attorney. But one of  
24 the foundations, one of the bedrocks upon which  
25 our Republic rests is the rule of law. It must

1 be pointed out that while I have shared the moral  
2 indignation that the majority of New Yorkers feel  
3 about what happened in 2008, I must temper that  
4 with a recognition and an appreciation that what  
5 the City Council did was fully legal, fully  
6 constitutional. The public must never, ever,  
7 ever, believe that somehow the elected officials  
8 acted beyond what was legally permissible. So I  
9 have to temper and balance those two things.

10 For me, this reminds me not only of the term  
11 limit vote nine or ten years ago, but I also cast  
12 the deciding vote in campaign finance, again  
13 something I wasn't the biggest supporter of.  
14 When one mayor wanted to change the rules of the  
15 game in the middle of a game I voted "No" because  
16 what we're taught, and this is why I say we don't  
17 need lawyers to tell us this, we are taught from  
18 the earliest of age to play by the rules. The  
19 rules are simple in this regard. The politicians  
20 did what was legally permissible yet morally  
21 indignant.

22 The redress exists in the ballot box, as my  
23 colleague alluded to. I could make a very good  
24 argument here today that the public despite their  
25 moral outrage what happened in 2008, weren't

1 sufficiently outraged in 2009. They didn't throw  
2 anybody out. That's how Democracy works, folks.  
3 This is an issue of a respect for the rule of law  
4 and an appreciation that we're teaching our kids  
5 about how to play fairly.

6 There are 19 members who are affected.  
7 Commissioner Cassino, you mentioned a few of them  
8 and actually quoted them. This is my way of  
9 assuring you that the system will stand. Come  
10 2013, the next election, those that are going to  
11 think about running again but which are on record  
12 as having voted against the 2008 law and said  
13 they wouldn't support it, I can guarantee you  
14 there will be people running against them if they  
15 choose to run, and the commercials won't be about  
16 anything other than using the incumbent's own  
17 words and vote. That's how Democracy works. And  
18 if the people of a given district vote for those  
19 people, then the system worked. If they vote  
20 against them the system worked. That's the beauty  
21 of this Republic. We can't guarantee outcomes but  
22 we must guarantee that we are in the process. Our  
23 moral indignation alone must never give us free  
24 license to simply disregard this notion of the  
25 rule of law. This will take care of itself. This

1 is far bigger than 19 Council members. This is  
2 about the institution, which we're already doing  
3 harm to, and this is about trying to educate the  
4 public and to appreciate that there is a balance  
5 here.

6 I'm outraged about a great many things. But  
7 I have to appreciate that my outrage doesn't give  
8 me license to simply change the rules. There's  
9 something fundamentally unfair when 19 people are  
10 leaving office this year, as well as a number of  
11 Borough Presidents, and they got the benefit of  
12 taking advantage of what was legally  
13 permissible -- don't discount the importance of  
14 that -- legally permissible, but then because  
15 we're morally indignant we say "Guess what to the  
16 13 of you or 18 of you? You don't get it." To  
17 me it's a simple thing. I don't need a lawyer.  
18 I don't need anybody to tell me that it just  
19 smells of cheating.

20 The ultimate arbiters of the fate of elected  
21 officials despite what commissions and the media  
22 and the public itself would like to do, you can't  
23 insulate the public from their own  
24 responsibilities. The ultimate arbiters of the  
25 fate of elected officials in a Republic rest with

1 the people themselves. And if the people of  
2 those districts choose to send back those people  
3 despite the individual incumbent's pronouncement  
4 that he or she wouldn't run again, that's okay. I  
5 promise you this representative Democracy will  
6 not crumble. We will survive.

7 I'll close with this. I'm all for restoring  
8 the public faith. But if anybody in this room or  
9 anybody watching on CUNY TV, if anybody thinks  
10 that we're going to restore faith 100 percent, I  
11 have a bridge not too far from here that I want  
12 to sell you. Public's opinion in institutions,  
13 whether they be government, religious, business,  
14 is at an all time low. You cannot restore faith  
15 in institutions by simply pandering to the public  
16 outrage, when the public outrage is partially  
17 justified. But you've got to balance that  
18 partial justification with the recognition that  
19 what was done here, while morally repugnant to  
20 many, was legally permissible. If you want to  
21 change it, go to Albany and change it. Maybe  
22 what we need to do is start educating our  
23 youngsters in schools to differentiate between  
24 local government and state government and the  
25 federal government.

1           This is not the right approach. What we have  
2           done here today, Mr. Chairman, and my fellow  
3           Commissioners, we have not only provided an  
4           opportunity for the public to have the right of  
5           redress, the right to either ratify or reject  
6           what the Mayor and the Council did. We took it a  
7           step further and we're saying "We will prevent a  
8           City Council from benefitting from itself." And  
9           then there is a fear that: "Well, they're going  
10          to do it anyway." If they do it anyway and the  
11          people reelect them, shame on the people. But now  
12          we want to add this caveat, this third leg that  
13          says "Let us have, let us have two sets of rules  
14          when we all have to acknowledge that legally what  
15          they did was permissible." I find this to be  
16          offensive. I find it to be overly simplistic. I  
17          find it to be a dangerous precedent that any  
18          Commission would want to set despite their best  
19          of intentions. I don't impune the intentions of  
20          anyone.

21                I guarantee you this. I come out on the  
22                losing end of this, because I'm not getting the  
23                question I want. But on this leg of the debate I  
24                have implore you to please trust the voters, let  
25                this process play itself out. Make this

1 effective for the 2013 election. And we'll see  
2 just how important an issue it is by the people  
3 themselves. I shouldn't be robbed of my desire to  
4 reelect my Council Member. I should get to  
5 decide that.

6 UNIDENTIFIED VOICE: Shame on you. Shame.

7 CHAIRMAN GOLDSTEIN: Okay. Our next speaker  
8 is Commissioner Hart.

9 COMMISSIONER HART: Well --

10 COMMISSIONER SCISSURA: I'm timing you, by  
11 the way.

12 COMMISSIONER HART: -- Commissioner Fiala  
13 said, just pointed out some of what I wanted to  
14 offer. I mean, basically, at the hearings, we  
15 heard a lot of public outrage about the way term  
16 limits was changed. But despite that, the Mayor  
17 was reelected and so were almost all the City  
18 Council members who ran for a third term. I  
19 believe there was one, maybe two, that lost where  
20 term limits was an issue. So we talk about  
21 public outrage and yes, there's public outrage.  
22 But it seems to me a little paradoxical, because  
23 when the public had the right to express the  
24 outrage at the ballot box they didn't. They  
25 reelected the people who basically overturned

1 term limits, you know, made it three terms even  
2 though they were outraged. I just wanted to point  
3 that out that we talk about -- we're not talking  
4 only about the City Council members benefitted.  
5 The people who voted for these Council Members,  
6 the people who voted for the Mayor, knew exactly  
7 what they were doing. So don't discount the fact  
8 that the public knew when they voted these  
9 Council Members in for a third term they knew  
10 that they were the same City Council members who  
11 voted to overturn term limits. I'm just saying  
12 because I hear a lot of outrage about what the  
13 Council did. It certainly was legal. Nobody --  
14 I don't think there's any argument that it was  
15 not legal. But the Republic also spoke about term  
16 limits as well. So when we talk about outrage,  
17 yes, we heard a lot of outrage but not everybody  
18 was as outraged. We talk about people had a  
19 choice and they made it.

20 As Commissioner Chen said, if you don't like  
21 it, change it. Throw them out. They didn't do  
22 that. I just wanted to point that out and make  
23 that part of the debate.

24 CHAIRMAN GOLDSTEIN: Commissioner Freyre.

25 COMMISSIONER FREYRE: You know, I'm going to

1 pass.

2 CHAIRMAN GOLDSTEIN: Going to pass. Anybody  
3 else want to -- Commissioner Patterson and  
4 Commissioner Crowell and then Commissioner Cohen.

5 COMMISSIONER PATTERSON: One of the things I  
6 would like to point out is with respect to what  
7 you had proposed as the hybrid, because we've  
8 heard quite a bit about the issue of City Council  
9 members in particular needing extra time in order  
10 to develop into leaders. At the moment, with  
11 every Council Member entitled to run for three  
12 terms, we have an almost perfectly staggered  
13 group of classes. If we go to having the -- if we  
14 go to saying that the City Council members who  
15 are in their second term have that and only that,  
16 the City Council members in their first term can  
17 run for two terms, and the City Council members,  
18 obviously, in their third term don't run again,  
19 you will remain with three perfectly staggered  
20 classes.

21 It is a structural issue. If you go the  
22 hybrid, you will have two-thirds of the City  
23 Council, approximately, going out of caucus I  
24 believe in 2018. And that's --

25 CHAIRMAN GOLDSTEIN: 2018?

1           COMMISSIONER PATTERSON: 2018, which will  
2           weaken the City Council, in my view, because you  
3           will then have two-thirds of the new Council  
4           Members really new. And I think we do have to  
5           take that into consideration, because we have  
6           heard a fair amount of public testimony about the  
7           need for City Council Members to, in essence to  
8           season. That being said, I mean, I have to  
9           unfortunately go -- take us down from the area of  
10          principle to the zone of reality, and I think it  
11          is 17 members of the newest class of City Council  
12          Members. Take a look at them. There are leaders  
13          there, there are potential leaders there, there  
14          are people who know their way around. I think  
15          that if we were to go to a two-term rule for all  
16          City Council Members I do not think you would  
17          weaken the City Council. I think you would  
18          retain the proper staggering, which I think it is  
19          quite proper, and it took a lot to get to that  
20          point. And as far as the other elected officials  
21          who are currently in their second term or even in  
22          their first term, they are very, very seasoned  
23          leaders. You don't get to be a Borough President  
24          or a Comptroller or a Public Advocate without  
25          having had your leadership put to the test and

1           having risen to that.

2           So I think where I come out and is that I  
3           think we have to give the public the option of  
4           having every elected official currently incumbent  
5           be restricted to two terms. I don't think that is  
6           necessarily the -- in a perfect world, the best  
7           solution. But I think it is the solution that we  
8           owe to the voting public. And I will point out,  
9           as I did in the original point of order, that if  
10          the voting public rejects this refinement, they  
11          are in essence objecting to a two-term refinement  
12          and we stay with three terms for all elected  
13          officials whether they are incumbent or not. So I  
14          really -- I've done a fair amount of thinking  
15          about this. This was not an issue in which I  
16          have felt very strongly until I started looking  
17          at the reality of the composition of the City  
18          Council. And I would support Commissioner  
19          Moltner's proposal which is -- there is  
20          nothing -- no solution is perfect. Someone will  
21          perceive unfairness in any solution that we  
22          propose, whether it's three terms for everybody  
23          currently sitting in office, or two terms for  
24          everybody sitting in office, I don't think  
25          there's much logic to the hybrid, and there is

1           certainly structural illogic to it. Someone will  
2           feel it's unfair. And if I have to choose  
3           between 13 elected City Council Members feeling  
4           it's unfair and the general public feeling it's  
5           unfair, I will go with the vote of the general  
6           public, which is two terms.

7           CHAIRMAN GOLDSTEIN: Thank you. Yes, I have  
8           Commissioner Crowell.

9           COMMISSIONER CROWELL: I came here tonight  
10          with the view that three terms for office would  
11          probably be the most equitable result. But I've  
12          listened to everyone. I put on my hat as a  
13          legislative lawyer for more than a decade and  
14          Charter and policy person, and I'm actually  
15          persuaded by the bifurcated approach that you  
16          offered, because if give everyone the opportunity  
17          to vote for their Council Member who is currently  
18          sitting except those in their third term one more  
19          time, and I think that's fair. I actually  
20          disagree with Commissioner Patterson. I think  
21          that it would create a staggered approach,  
22          because in addition to the two classes, you have  
23          so many special elections in the Council that  
24          that infuses an additional class. So this  
25          staggered approach comes into the Council that

1 way, you have the opportunity for experience to  
2 develop. And most of all, I don't understand how  
3 we can say "Well, some people want it to be  
4 effective immediately, and others want it to be  
5 three terms for all." I don't know how for a  
6 certain group, a sizable group of Council Members  
7 you say that term limits for those however many  
8 seats, 18 --

9 CHAIRMAN GOLDSTEIN: We're missing one  
10 someplace.

11 COMMISSIONER CROWELL: -- 18 or 19 seats.

12 COMMISSIONER PATTERSON: It's 13 who are in  
13 their second term, Anthony.

14 COMMISSIONER CROWELL: Only you have to wait  
15 eight years before a new term limits vote takes  
16 effect. That's an awful long time to wait if  
17 your principle is to have uniformity. And so I  
18 think a uniform approach would be to say everyone  
19 who is a current Council Member and not in their  
20 third term has an opportunity for the public to  
21 vote on them one more time before they are  
22 limited. And those are either not, can choose to  
23 do something else, run for a different office,  
24 and those who become term limited they too can  
25 choose to do something else, including running

1           for another office. I think it's fair. I think  
2           it achieves a policy objective in short order  
3           than waiting as long as eight years, and it seems  
4           a fair result.

5           COMMISSIONER SCISSURA: Where I don't  
6           understand where the eight years. What do you  
7           mean by waiting eight years for the next  
8           election?

9           COMMISSIONER CROWELL: In other words,  
10          after -- if you're saying that someone who is  
11          just elected, if you would be -- I think it be  
12          would eight years more before a two-term limit  
13          would apply to all Council seats.

14          COMMISSIONER COHEN: It be would 2021.

15          COMMISSIONER CROWELL: Right, because these  
16          people haven't finished their first term yet.  
17          Once they finish their first term.

18          COMMISSIONER PATTERSON: What you're in  
19          essence suggesting is that every Council Member  
20          who is in either his first or second term gets to  
21          run one more time.

22          COMMISSIONER CROWELL: Yes.

23          COMMISSIONER FREYRE: Yes, that's the third  
24          option.

25          COMMISSIONER SCISSURA: But you're really not

1 giving anything to someone who was elected in '09  
2 thinking they were running for three terms.  
3 You're only --

4 COMMISSIONER CROWELL: The second term.

5 COMMISSIONER SCISSURA: You're only solving  
6 the issue --

7 (Inaudible cross conversation among the  
8 Commissioners.)

9 CHAIRMAN GOLDSTEIN: One at a time,  
10 gentlemen.

11 Yes. Go ahead.

12 COMMISSIONER CROWELL: I'm done.

13 CHAIRMAN GOLDSTEIN: So we have a new term,  
14 "hybrid bifurcated approach." But you said the  
15 same thing.

16 I have Commissioner Cohen next.

17 COMMISSIONER COHEN: Thank you, Mr. Chairman.  
18 First, I want to point out, because we're talking  
19 about first and second (inaudible) so when we  
20 talk about allowing the Class of '09 to run for  
21 three terms, the three for all, option 2, what we  
22 mean, what that would mean is that the two-term  
23 limit does not actually take effect fully in the  
24 City of New York until the year 2021. I don't  
25 think that that is reflective of us trying to

1 give back to the people what they asked for. If  
2 we do the bifurcation, the hybrid, then we're  
3 talking about the two-term limit not taking  
4 effect until the year 2017. Similarly, I think  
5 many people who believe in term limits would say  
6 that 2017 (inaudible).

7 I have to just mention, remind everyone once  
8 again we wouldn't be in this mess if we didn't  
9 have term limits in the first place. That would  
10 be the best solution. I would love to have the  
11 opportunity (inaudible). But we're in this  
12 situation we're trying to be responsive to the  
13 people. And I want to throw out another  
14 consideration to the people not as voters but as  
15 constituents, and that is that in the hybrid  
16 version what you will have is privileged and less  
17 privileged constituents. Constituents of Council  
18 Members who are serving for three terms and,  
19 therefore, more powerful. And constituents of  
20 Council Members who are limited to two terms and,  
21 therefore, less powerful from the get-go. So I  
22 would beg that in addition to thinking perhaps  
23 the more narrow interests of 13 or 18, or  
24 whatever it is, elected officials, there is also  
25 the question of the interests of the constituents

1           they represent.

2           COMMISSIONER CROWELL: Hope, where your logic  
3 falls on its head is that you will have people  
4 exiting their third term in three years, those  
5 will all be freshmen members. Then with one more  
6 term left for that next class they will all be  
7 freshmen. So actually it evenly distributes  
8 itself over a shorter amount of time. It doesn't  
9 (inaudible) than another. It cycles. It's  
10 equitably distributed.

11           (Inaudible cross conversation between  
12 Commissioner Crowell and Commissioner Cohen.)

13           COMMISSIONER COHEN: Right. Now it's  
14 equitable.

15           COMMISSIONER CROWELL: It's equitably  
16 distributed under a variety of approaches.

17           CHAIRMAN GOLDSTEIN: The convergence is just  
18 going to be a different period of time. We're  
19 going to get to a convergence.

20           COMMISSIONER CROWELL: Underprivileged  
21 districts.

22           CHAIRMAN GOLDSTEIN: I have Commissioner  
23 Taylor.

24           COMMISSIONER TAYLOR: I think that simplicity  
25 is probably the most logical presentation,

1           because as everyone has already stated, I think  
2           one of the objectives, whether you are pro or con  
3           on term limits, is to restore the public trust.  
4           They voted for two terms. I think that when you  
5           think about setting up the classes it becomes  
6           very complicated relative to how that plays out.  
7           I think there should be a fairly extensive  
8           explanation on how that's going to play out so  
9           people can fully understand it. I just think it's  
10          very confusing as, you know, as a dialogue in  
11          trying to think how the general public is  
12          interpreting this. I think that, you know, we may  
13          understand it and some of us may be in a more  
14          limited capacity. But if that is the case how is  
15          the general public interpreting this and how are  
16          we interpreting it in an intelligent way as we  
17          can to grasp it in terms of the options of term  
18          limits when you're saying different Council  
19          members will age out at different times? So I  
20          think that the proposal to have a static decision  
21          that impacts all Council Members the same, and if  
22          what Anthony is saying is correct, they're all  
23          going to age out at times that make appropriate  
24          sense. So I just think that it should be  
25          adequately explained so that the people can

1           really grasp it.

2           CHAIRMAN GOLDSTEIN: And that's part of our  
3 education process. I mean, we have -- our work  
4 isn't done when we finish our work tonight or  
5 when we finish the final report. It's a whole  
6 education phase that will take place.

7           I'd like to -- yes.

8           COMMISSIONER HART: I'm sorry. This may be I  
9 guess it's for general Counsel or Commissioner  
10 Crowell. Is there something in the Charter that  
11 defines what a term is? Commissioner Crowell -- I  
12 just want to make that clear. Commissioner  
13 Crowell talked about special elections.  
14 Obviously, special elections is not  
15 necessarily (inaudible) term.

16          CHAIRMAN GOLDSTEIN: I think our generals  
17 counsel can answer that question.

18          MR. SCHAFFER: I can answer the question.  
19 The Charter speaks of consecutive full terms and  
20 doesn't define "full term" but it has been in  
21 interpreted to mean truly a full term. So that  
22 if you're elected in one year into somebody's  
23 term that's your zero term, that doesn't count.  
24 The count begins the next name you're elected.

25          CHAIRMAN GOLDSTEIN: I have Commissioner

1 McShane.

2 COMMISSIONER McSHANE: Right. I came in  
3 actually believing I would go with option 2, but  
4 I find the arguments made especially by  
5 Commissioner Moltner to be quite persuasive. I  
6 want to also speak on what Commissioner Taylor  
7 said. We have to reflect the vote of the people  
8 as expressed to us as we then go to construction  
9 of the ballot proposal, number one. Number one,  
10 I think we should be clear and distinct, which  
11 makes it easier for us to educate the public whom  
12 we which to serve. So for those reasons I  
13 propose, I support the resolution proposed by  
14 Commissioner Moltner.

15 CHAIRMAN GOLDSTEIN: I'd like to cut off  
16 debate.

17 COMMISSIONER PATTERSON: May I on the issue  
18 of special elections. Regardless of which option  
19 we choose, if a City Council Member is newly  
20 elected in, let's say, 2011 to replace a City  
21 Council Member who has gone on to some other  
22 position what term does that City Council Member  
23 have?

24 MR. SCHAFFER: Zero.

25 COMMISSIONER PATTERSON: So in theory --

1 MR. SCHAFFER: It's a full term; therefore,  
2 it doesn't count.

3 COMMISSIONER PATTERSON: So what we're saying  
4 is that in theory if we have a 2013 effective  
5 date for the two terms, so that it's anybody who  
6 is elected in 2013 has two terms, then anyone  
7 elected in a special election prior to 2013 could  
8 have as much as 10 years to be a member of the  
9 City Council. That's what happened in --

10 CHAIRMAN GOLDSTEIN: Actually, 11.

11 COMMISSIONER PATTERSON: 11.

12 CHAIRMAN GOLDSTEIN: Okay. Let me, I think  
13 I'd like to cut debate at this particular time.  
14 I think most of you had an opportunity. Let me  
15 just make sure everybody understands. We have a  
16 motion on the floor, which I'm going to call for  
17 a vote in just a minute. The motion in essence is  
18 saying that we are restricting any Council Member  
19 now to no more than two terms. And that's  
20 basically what this motion said. Some of you  
21 used the terms that the effect of what we voted  
22 on in part 1 and part 2 of the debate was -- is  
23 effective immediately. If that passes, if that  
24 passes, then it closes down debate on options 2  
25 and options 3 so that everybody understands.

1           Okay?

2           MR. SCHAFFER: If I might, with your  
3           permission, Mr. Chairman. Let me just read it as  
4           I've got it down now, because I want the record  
5           to be clear.

6           CHAIRMAN GOLDSTEIN: Okay.

7           MR. SCHAFFER: The resolution, I'm going to  
8           start with the way it was phrased here and then  
9           pick up after the word "effect."

10          Be it Resolved, the New York City Charter  
11          Revision Commission hereby proposes that a  
12          question be placed before the voters on the  
13          election to be held on November 2, 2010, asking  
14          whether the provision established a term limit  
15          should take effect immediately except that no  
16          incumbent official shall be prohibited from  
17          completing his or her current term of office.

18          CHAIRMAN GOLDSTEIN: Okay. Does everybody  
19          understand? I -- look, there is a mixed feeling  
20          here, and that is why I was very supportive of  
21          coming up with this idea of a hybrid. For me,  
22          the hybrid makes sense. We are going to  
23          converge. It's just when we're going to  
24          converge. It may be a difference of two years.  
25          It may be a difference of three years. My only

1 logic here was I don't need to worry about those  
2 in their third term. Those in their first term  
3 have, for my calculations, 7 years to serve on  
4 the Council. And those that are in their second  
5 term I think ought to be given an opportunity to  
6 serve again, if indeed the voters wanted them.  
7 And I thought it was a good compromise.

8 UNIDENTIFIED VOICE: No.

9 CHAIRMAN GOLDSTEIN: That I thought could,  
10 you know weave two very disparate sets of views  
11 here. So that's my own view. But I would like to  
12 hear what you have to say, and I'm going to call  
13 now for a formal vote on option 1. Okay? Let's  
14 start with --

15 (To Commissioner Banks) Do you know what  
16 option 1 is?

17 COMMISSIONER BANKS: No.

18 COMMISSIONER FREYRE: Sorry?

19 COMMISSIONER BANKS: No.

20 CHAIRMAN GOLDSTEIN: Commissioner Freyre.

21 COMMISSIONER FREYRE: No, I do not support  
22 it.

23 CHAIRMAN GOLDSTEIN: Commissioner Cassino.

24 COMMISSIONER CASSINO: Yes.

25 CHAIRMAN GOLDSTEIN: Commissioner Betty Chen.

1 COMMISSIONER BETTY CHEN: No.

2 CHAIRMAN GOLDSTEIN: Commissioner David Chen.

3 COMMISSIONER DAVID CHEN: No.

4 CHAIRMAN GOLDSTEIN: Commissioner Hope Cohen.

5 COMMISSIONER COHEN: Yes.

6 CHAIRMAN GOLDSTEIN: Commissioner Crowell?

7 COMMISSIONER CROWELL: No.

8 CHAIRMAN GOLDSTEIN: Commissioner Hart?

9 COMMISSIONER HART: No.

10 CHAIRMAN GOLDSTEIN: Commissioner Fiala?

11 COMMISSIONER FIALA: For reasons previously  
12 stated, no.

13 CHAIRMAN GOLDSTEIN: Commissioner McShane.

14 COMMISSIONER McSHANE: Yes.

15 CHAIRMAN GOLDSTEIN: Commissioner Moltner.

16 COMMISSIONER MOLTNER: Yes.

17 CHAIRMAN GOLDSTEIN: Commissioner Patterson.

18 COMMISSIONER PATTERSON: Yes.

19 CHAIRMAN GOLDSTEIN: Commissioner Scissura.

20 COMMISSIONER SCISSURA: No.

21 CHAIRMAN GOLDSTEIN: Commissioner Taylor.

22 COMMISSIONER TAYLOR: No.

23 CHAIRMAN GOLDSTEIN: Mr. Parliamentarian?

24 I vote no.

25 (Inaudible conversation between Chairman

1 Goldstein and Mr. Fields.)

2 CHAIRMAN GOLDSTEIN: The motion has not  
3 passed for implementation immediately.

4 I'd like to go back. You know, if we were  
5 to vote on the second, basically the argument is  
6 the same. And I don't really see how the debate  
7 is going to be, but if --

8 COMMISSIONER SCISSURA: I would like to  
9 introduce a motion to put on the table option 2.

10 COMMISSIONER FREYRE: I second the motion.

11 CHAIRMAN GOLDSTEIN: Everybody understands  
12 what option 2 is. That both Class 1 and Class 2  
13 both would have the opportunity to serve three  
14 full terms.

15 COMMISSIONER SCISSURA: And option 2 would  
16 take effect in any election moving forward.

17 CHAIRMAN GOLDSTEIN: Yes.

18 So I need a second on that.

19 COMMISSIONER FREYRE: Second.

20 CHAIRMAN GOLDSTEIN: It's up for debate.

21 COMMISSIONER FIALA: Point of clarification,  
22 could I ask counsel the leading question so I  
23 understand it?

24 MR. SCHAFFER: I'll try.

25 COMMISSIONER FREYRE: Option 2.

1 MR. SCHAFFER: Option 2. I'm going to  
2 phrase this differently because I can't think of  
3 a better way to do it on two-second notice. Here  
4 we go.

5 Be it Resolved, that the New York Charter  
6 Revision Commission hereby proposes that a  
7 question be placed before the voters on the  
8 election to be held on November 2, 2010, asking  
9 whether the provision established a new term  
10 limit should take effect so as to apply to  
11 officials who are elected to serve their first  
12 full term on or after November blank, I have to  
13 fill that in --

14 COMMISSIONER FIALA: 2013?

15 COMMISSIONER PATTERSON: 2013.

16 COMMISSIONER SCISSURA: Correct, which is  
17 what I think you were saying earlier, Steve.

18 COMMISSIONER FIALA: It be would prospective.

19 COMMISSIONER SCISSURA: Correct.

20 MR. SCHAFFER: That's right, that would be  
21 completely prospective.

22 COMMISSIONER FIALA: I understand now, thank  
23 you.

24 COMMISSIONER FREYRE: Which would only allow  
25 incumbents to serve.

1                   CHAIRMAN GOLDSTEIN: It's been seconded.  
2                   It's open for debate now. Do you want to start?

3                   COMMISSIONER SCISSURA: I think we've heard  
4                   the whole debate. I think we should call the  
5                   motion.

6                   COMMISSIONER CASSINO: Hold it, hold it.

7                   CHAIRMAN GOLDSTEIN: Anybody else?

8                   COMMISSIONER CASSINO: Yes.

9                   CHAIRMAN GOLDSTEIN: Commissioner Cassino.

10                  COMMISSIONER CASSINO: I don't think we've  
11                  heard the whole debate. I think it's still an  
12                  exact opposite of what we just talked about.

13                  COMMISSIONER SCISSURA: It is.

14                  COMMISSIONER CASSINO: It is. But, you  
15                  know --

16                  COMMISSIONER FREYRE: It is the opposite.

17                  COMMISSIONER CASSINO: -- but I want to make  
18                  a point about, I want to make a point about  
19                  something. I truly believe that this really moots  
20                  what we've done here. It moots the concept of  
21                  giving the voters the choice of -- it puts it so  
22                  far into the future as to make it meaningless.  
23                  And I want to make a point about the discussion  
24                  about how the voters can choose. Do it at the  
25                  ballot box. It's the exact opposite. The reason

1           why we have term limits is because they recognize  
2           the power of incumbency will return every one of  
3           them. We know that. You make the case for term  
4           limits when you talk about the fact that  
5           everybody gets returned to office. They get  
6           returned to office because the power of  
7           incumbency makes it such that that's how powerful  
8           it is to be an elected official with all the  
9           perks and all the things that go along with it.  
10          So I think it's the exact opposite case that  
11          because people get returned it means that because  
12          elected officials get returned means term limits  
13          and the issue didn't matter to the public. I  
14          just think that's how strong the power of  
15          incumbency is, so it makes the case for term  
16          limits. It's the exact reason why we have term  
17          limits, because people knew that an incumbent  
18          will never lose virtually. Virtually 95 percent  
19          or -- the rate is 95 percent or higher. I just  
20          want to be on record I think this is a complete  
21          diluting of what we have worked for here by  
22          making this so prospective and so inoperable that  
23          anybody sitting in the Council -- I think it's  
24          truly sad that that's what we're looking at here.  
25          I think it completely negates what we've done,

1 and the public will see it that way. Rightfully  
2 so.

3 CHAIRMAN GOLDSTEIN: Commissioner Moltner.

4 COMMISSIONER MOLTNER: Thank you,  
5 Mr. Chairman. The issue here is public  
6 confidence. This will, I respectfully submit,  
7 with all respect to Commissioner Scissura, this  
8 will undermine the public confidence. What we  
9 call the hybrid -- well, I obviously wanted to  
10 see two terms would be much, is much better and  
11 much more respects the public will and public  
12 confidence than does this resolution.

13 CHAIRMAN GOLDSTEIN: Commissioner Taylor.

14 COMMISSIONER TAYLOR: I also -- Tony, I also  
15 want to also just respond to what you just said I  
16 respect greatly. But I also want to remind you  
17 after term limits was overturned that the public  
18 had an opportunity to speak in the ballot box.  
19 And I think we can look at the two paradigms of  
20 what was expressed and said. Number one, we had  
21 in the mayoral race the lowest voter turnout,  
22 which probably expresses dissatisfaction on the  
23 part of the public relative to what was done by  
24 the legislators. But by the same token, those  
25 City Council Members that are sitting now are

1 City Council members that were elected under the  
2 new referendum, and by their constituents, and  
3 their constituents knew that putting these people  
4 in place would mean the possibility of three  
5 terms. So I think that the public has expressed  
6 their will relative to their representatives.

7 CHAIRMAN GOLDSTEIN: Okay. Professor Fiala --  
8 he should be a professor. Commissioner Fiala.

9 COMMISSIONER FIALA: To Commissioner Taylor's  
10 and Commissioners Hart's points earlier, we have  
11 got to appreciate the centrality and the  
12 significance of the ballot box in this issue.  
13 Both Commissioners have pointed out that in the  
14 last election, as Commissioner Taylor just  
15 alluded to, an anemic turnout, but as I've said  
16 throughout, in a representative Democracy  
17 decisions are made by people who show up. If  
18 you're apathetic, chances are they're not going  
19 to get what they want. There is a certain,  
20 certain degree of responsibility that comes with  
21 citizenship in our Republic. And despite the  
22 moral outrage, and despite all of the talk that  
23 we've generated, all of the stories written and  
24 reported in the media, voters went out on  
25 Election Day in 2009 and sent back their

1           incumbents. This is a city where if we're going  
2           to start to suggest that incumbents have an  
3           advantage, we've got to get into a serious debate  
4           about New York City versus other entities. New  
5           York City boasts the best campaign finance system  
6           in the world. It was designed to equal the  
7           playing field. I will remind you that it  
8           wouldn't have taken many more voters -- last year  
9           was it -- last year to term out our chief  
10          executive. It wouldn't have taken many more  
11          voters. And this issue was the single most talked  
12          about issue in the election. And it was used  
13          against every Council Member, and it was  
14          exploited by those running, rightfully so,  
15          because that's what insurgents and challengers  
16          do, challengers do. The voters reaffirm their  
17          desire to put back into office our current  
18          officeholders. I am more than comfortable --  
19          even if I come out on the losing end more often  
20          than not -- with making sure that our system  
21          maintains that desire that I get to choose. Term  
22          limits already robs me of my choice to choice for  
23          whom I want for as many times as I want. This  
24          issue can be settled in 2013. Truthfully, we  
25          don't need a Charter Commission to do this. We

1 didn't need one in 2009. And we certainly don't  
2 need this one, because in 2013, if this issue is  
3 as important as it is for the majority, then they  
4 will turn these people out. There's no better  
5 system in the world. It doesn't mean you get the  
6 outcome you want but it means at least you have  
7 the shot and the process was fair. This City  
8 boasts a level playing field like few others. We  
9 can't say we've got the best campaign finance  
10 system in the world and we have all this  
11 transparency and later on we're going to be  
12 talking about further transparency. At some  
13 point the voter has to engage. And I would argue  
14 that the few that showed up, the few that showed  
15 up, a majority of them decided "We want to send  
16 back Council Member So-and-So, Mayor So-and-So  
17 and Comptroller So-and-So." That's the way the  
18 system works. Ultimately the voters are the  
19 arbiters of the fate of elected officials. No  
20 law, no charter revision can change that. But we  
21 cannot, and again to close, Commissioners Hart  
22 and Taylor both brought up probably the silver  
23 bullet in this argument, that the process was  
24 there and the process will be there in 2013.

25 CHAIRMAN GOLDSTEIN: Thank you. Anybody

1 else?

2 COMMISSIONER BANKS: Mr. Chair, I call a  
3 question.

4 CHAIRMAN GOLDSTEIN: It's been called.

5 We're going to vote now. Since the Chair is  
6 on record supporting the hybrid, I will vote no  
7 on this question.

8 Commissioner Banks?

9 COMMISSIONER BANKS: I vote no.

10 CHAIRMAN GOLDSTEIN: Commissioner Freyre.

11 COMMISSIONER FREYRE: I vote yes.

12 CHAIRMAN GOLDSTEIN: Commissioner Cassino.

13 COMMISSIONER CASSINO: No.

14 CHAIRMAN GOLDSTEIN: Commissioner Betty Chen.

15 COMMISSIONER BETTY CHEN: Yes.

16 CHAIRMAN GOLDSTEIN: Commissioner David Chen.

17 COMMISSIONER DAVID CHEN: Yes.

18 CHAIRMAN GOLDSTEIN: Commissioner Cohen.

19 COMMISSIONER COHEN: No.

20 CHAIRMAN GOLDSTEIN: Commissioner Crowell.

21 COMMISSIONER CROWELL: No.

22 CHAIRMAN GOLDSTEIN: Commissioner Hart?

23 COMMISSIONER HART: No.

24 CHAIRMAN GOLDSTEIN: Commissioner Fiala?

25 COMMISSIONER FIALA: Yes.

1 CHAIRMAN GOLDSTEIN: Commissioner McShane.

2 COMMISSIONER McSHANE: No.

3 CHAIRMAN GOLDSTEIN: Commissioner Moltner.

4 COMMISSIONER MOLTNER: No.

5 CHAIRMAN GOLDSTEIN: Commissioner Patterson.

6 COMMISSIONER PATTERSON: No.

7 Mr. Fields: "Yes"?

8 COMMISSIONER PATTERSON: No.

9 COMMISSIONER FREYRE: She said, "No."

10 CHAIRMAN GOLDSTEIN: Commissioner Scissura.

11 COMMISSIONER SCISSURA: Yes.

12 CHAIRMAN GOLDSTEIN: Commissioner Taylor.

13 COMMISSIONER TAYLOR: Yes.

14 CHAIRMAN GOLDSTEIN: The option, this has  
15 been defeated. We are left with the hybrid.

16 Commissioner Moltner.

17 COMMISSIONER MOLTNER: As I said, I think  
18 this, while I win them all, this respects the  
19 voters, and I would certainly support it.

20 COMMISSIONER McSHANE: Which one?

21 COMMISSIONER FIALA: I would ask for a point  
22 of clarification.

23 CHAIRMAN GOLDSTEIN: Before we do anything  
24 else, we are left to the last resolution, and our  
25 general counsel is busy putting down the words.

1           Basically, let me talk about it in these  
2           very practical terms. What the hybrid option  
3           proposes is that the class that was just elected  
4           in 2009 will have the ability to have one  
5           additional term if they're elected after they  
6           finish this term. Class 2 would also have the  
7           ability of an additional term after they  
8           completed their two terms. That's basically what  
9           this is. Now, it can be stated more artfully by  
10          our general counsel, but I think everybody  
11          understands it.

12                 Yes?

13           COMMISSIONER SCISSURA: Just a point of  
14           clarification. That's only if the voters choose  
15           to return to two terms.

16           CHAIRMAN GOLDSTEIN: Yes, of course.

17           COMMISSIONER TAYLOR: It sounds so simple,  
18           Chair, I'm sorry.

19           CHAIRMAN GOLDSTEIN: Well, it's a compromise  
20           between options 1 and options 2. But before we  
21           debate it, I wanted --

22           MR. SCHAFFER: Your counsel has consulted his  
23           calendar.

24                 Be it Resolved the New York City Charter  
25           Revision Commission hereby proposes that a

1 question placed before the voters on the election  
2 to be held on November 2, 2010, asking whether  
3 the provision establishing a new term limit  
4 should take effect so as to apply only to  
5 officials who were elected to serve their first  
6 full term on or after November 3, 2009.

7 CHAIRMAN GOLDSTEIN: Okay. Those are the  
8 people in the second class.

9 MR. SCHAFFER: Currently in their first term.

10 COMMISSIONER PATTERSON: Wait.

11 MR. SCHAFFER: Two-term limit applies to  
12 people in their first term but not to people in  
13 their second full term.

14 COMMISSIONER PATTERSON: I'm sorry. So  
15 what's the date that -- so it's 2009?

16 MR. SCHAFFER: Yes, who were elected to serve  
17 their first full term on or after November 3,  
18 2009.

19 CHAIRMAN GOLDSTEIN: I have entered it. Do I  
20 have a second?

21 COMMISSIONER MOLTNER: Second. Finish  
22 briefly?

23 COMMISSIONER CROWELL: You're saying that  
24 everybody gets -- everyone who is not term  
25 limited right now, three-term, has the

1 opportunity to run at least only one more term.

2 COMMISSIONER FREYRE: Only one more term. If  
3 you're in your second term you can run for a  
4 third term, and if you're in your first term you  
5 can run for a second term.

6 COMMISSIONER CROWELL: Right.

7 MR. SCHAFFER: In your first term only get  
8 two terms. People in their second term get three  
9 terms, which means one more term.

10 CHAIRMAN GOLDSTEIN: I think that's what I  
11 said. Okay. So it's been moved, it's been  
12 seconded. Debate? Yes.

13 COMMISSIONER BETTY CHEN: I have a procedural  
14 question. If none of the three options has  
15 been -- we obviously need to come up with  
16 something because we've already decided to put  
17 1(a) onto the ballot. Do we lock the doors and  
18 stay here until we have a majority of one of  
19 these three options?

20 CHAIRMAN GOLDSTEIN: We are not going to  
21 leave tonight until we get this resolved. So let  
22 me call the vote. Starting with the Chair. The  
23 Chair votes yes.

24 Commissioner Banks.

25 COMMISSIONER BANKS: Yes.

1 CHAIRMAN GOLDSTEIN: Commissioner Freyre.

2 COMMISSIONER FREYRE: No.

3 CHAIRMAN GOLDSTEIN: Commissioner Cassino.

4 COMMISSIONER CASSINO: No.

5 CHAIRMAN GOLDSTEIN: Commissioner Betty Chen.

6 COMMISSIONER BETTY CHEN: No.

7 CHAIRMAN GOLDSTEIN: Commissioner David Chen.

8 COMMISSIONER DAVID CHEN: No.

9 CHAIRMAN GOLDSTEIN: Commissioner Hope Cohen.

10 COMMISSIONER COHEN: No.

11 CHAIRMAN GOLDSTEIN: Commissioner Crowell.

12 COMMISSIONER CROWELL: Yes.

13 CHAIRMAN GOLDSTEIN: Commissioner Hart.

14 COMMISSIONER HART: Yes.

15 CHAIRMAN GOLDSTEIN: Commissioner Fiala.

16 COMMISSIONER FIALA: No.

17 CHAIRMAN GOLDSTEIN: Commissioner McShane.

18 COMMISSIONER McSHANE: No.

19 CHAIRMAN GOLDSTEIN: Commissioner Moltner.

20 COMMISSIONER MOLTNER: Yes.

21 CHAIRMAN GOLDSTEIN: Commissioner Patterson.

22 COMMISSIONER PATTERSON: Yes.

23 CHAIRMAN GOLDSTEIN: Commissioner Scissura.

24 COMMISSIONER SCISSURA: No.

25 CHAIRMAN GOLDSTEIN: Commissioner Taylor.

1 COMMISSIONER TAYLOR: No.

2 CHAIRMAN GOLDSTEIN: Looks like that  
3 resolution has failed as well. Okay. I'd like us  
4 to keep going, because we really have to get this  
5 resolved tonight. I open this up for -- we have  
6 one of three options here and one of them needs  
7 to be voted in tonight. So I would ask that  
8 somebody propose one of them and let's debate it  
9 again and let's keep on going.

10 COMMISSIONER SCISSURA: I propose option 2  
11 again.

12 CHAIRMAN GOLDSTEIN: It's been moved. Do I  
13 have a second for option 2?

14 COMMISSIONER FREYRE: Second.

15 CHAIRMAN GOLDSTEIN: Okay. Everybody  
16 understands what option 2 is?

17 COMMISSIONER TAYLOR: Could we hear the  
18 question again, please, Mr. Chair?

19 CHAIRMAN GOLDSTEIN: Option number 2 is to  
20 give all of the three classes the opportunity to  
21 run for three terms.

22 COMMISSIONER FREYRE: Incumbents.

23 CHAIRMAN GOLDSTEIN: Everybody.

24 COMMISSIONER FREYRE: All incumbents. Yes.  
25 I'd like to make one comment in support of this

1 motion. And it's been very eloquently supported  
2 and defended by many of my fellow Commissioners.  
3 So I'm not going to restate particularly the rule  
4 of law argument, which Commissioner Fiala was  
5 very eloquent about. I do think there is a  
6 parallel between the last motion that we adopted  
7 prohibiting the New York City Council from  
8 changing term limits other than prospectively.  
9 And here, where we support this motion, what we  
10 will do is apply the new rule that would be  
11 adopted by the voters of New York City  
12 prospectively also. I know that the parallel is  
13 not completely exact because it's for two  
14 different reasons. We prohibit the New York City  
15 Council from passing it so as to prohibit them  
16 from acting in a way that is self-serving. But  
17 here I think what we're doing is that we're  
18 applying it prospectively and not penalizing  
19 those that actually under the rule of law have  
20 the right to serve out three terms. I believe  
21 that this is truly the best of the three options  
22 for us.

23 CHAIRMAN GOLDSTEIN: Okay. Commissioner  
24 Moltner.

25 COMMISSIONER MOLTNER: Thank you,

1 Mr. Chairman. I respectfully disagree. I voted  
2 no on the proposal again. I voted yes on the  
3 compromise position, because I thought it sounded  
4 better than this option, reflects what the voters  
5 had done. This options basically says "Well, you  
6 can vote for term limits again, but for those  
7 people who gained an advantage, took the risk  
8 because -- and participated in overturning the  
9 law that you the public voted in twice, we will  
10 give them a free pass." I respectfully submit  
11 that it does not respect the will of the voters.  
12 It does not give appropriate confidence to the  
13 voting public, and this is decision issue of  
14 confidence, and I will vote no again.

15 COMMISSIONER SCISSURA: Mr. Chair, may I add  
16 one quick thing? I think to say that people who  
17 ran in 2009 participated in overturning the rule  
18 of law is really a misconception, because they  
19 did not. They ran under the impression that they  
20 could have an opportunity to run for three terms.  
21 And I think what many of us are saying is that if  
22 you are going to apply it, I think what  
23 Commissioner Hart said and what Commissioner  
24 Taylor said is really on point. People have a  
25 right not to vote for these people again. And

1           they can in 2013 say: "I don't want to reelect  
2           them" and they don't have to. But I don't think  
3           they participated in it. I think they ran under  
4           what the current law was.

5           CHAIRMAN GOLDSTEIN: Okay, but I'd like to  
6           cut this debate off as quickly as we can because  
7           we're going to get to a converged solution here.

8           So let me start with Commissioner Banks.

9           COMMISSIONER BANKS: Yes.

10          CHAIRMAN GOLDSTEIN: Commissioner Freyre.

11          COMMISSIONER FREYRE: Yes.

12          CHAIRMAN GOLDSTEIN: Commissioner Cassino.

13          COMMISSIONER CASSINO: No.

14          CHAIRMAN GOLDSTEIN: Commissioner Betty Chen.

15          COMMISSIONER BETTY CHEN: Yes.

16          CHAIRMAN GOLDSTEIN: Commissioner David Chen.

17          COMMISSIONER DAVID CHEN: Yes.

18          CHAIRMAN GOLDSTEIN: Okay. Wait a second.

19          Alright.

20          Commissioner Cohen.

21          COMMISSIONER COHEN: No.

22          CHAIRMAN GOLDSTEIN: Commissioner Crowell.

23          COMMISSIONER CROWELL: No.

24          CHAIRMAN GOLDSTEIN: This is the option 2.

25          COMMISSIONER FREYRE: Yes.

1 CHAIRMAN GOLDSTEIN: Commissioner Hart.

2 COMMISSIONER HART: Yes.

3 CHAIRMAN GOLDSTEIN: Commissioner Fiala.

4 COMMISSIONER FIALA: Yes.

5 CHAIRMAN GOLDSTEIN: Commissioner McShane.

6 COMMISSIONER McSHANE: No.

7 CHAIRMAN GOLDSTEIN: Commissioner Moltner.

8 COMMISSIONER MOLTNER: No.

9 CHAIRMAN GOLDSTEIN: Commissioner Patterson.

10 COMMISSIONER PATTERSON: No.

11 CHAIRMAN GOLDSTEIN: Commissioner Scissura.

12 COMMISSIONER SCISSURA: Yes.

13 CHAIRMAN GOLDSTEIN: Commissioner Taylor.

14 COMMISSIONER TAYLOR: Yes.

15 CHAIRMAN GOLDSTEIN: And the Chair votes yes.

16 9 to 6. Well, congratulations for those of you  
17 who are happy. This has passed and for those of  
18 you have who didn't, I appreciate the spirited  
19 debate.

20 Alright we have three actions dealing with  
21 term limits. Let me go through the others now. I  
22 think things should go a little more quickly, but  
23 I thought this was a very, very good debate, and  
24 I appreciate everybody's participation.

25 We're going to -- let me read the

1 resolution. We have three, we have three actions  
2 on elections. And let me read the first one. This  
3 has to do with disclosure of independent  
4 contributions.

5 Be it Resolved that the New York City  
6 Charter Revision Commission hereby proposes that  
7 a question be placed before the voters on the  
8 election to be held on November 2, 2010, asking  
9 whether the New York Charter should be amended to  
10 require any individual or entity making  
11 independent expenditures in excess of \$1,000 to  
12 disclose such action to the Campaign Finance  
13 Board to empower the Campaign Finance Board to  
14 require any entity making independent  
15 expenditures in excess of \$5,000 to disclose the  
16 sources of such funds; and to require that  
17 certain literature or advertisements funded  
18 through independent expenditures disclose the  
19 name of the individual or entity making the  
20 expenditure.

21 I move the motion. Second?

22 COMMISSIONER SCISSURA: Second.

23 CHAIRMAN GOLDSTEIN: It's up for discussion  
24 and debate.

25 Nobody?

1 I will call the motion. The Chair votes yes.

2 Mr. Banks.

3 COMMISSIONER BANKS: Yes.

4 CHAIRMAN GOLDSTEIN: Ms. Freyre.

5 COMMISSIONER FREYRE: Yes.

6 CHAIRMAN GOLDSTEIN: Mr. Cassino.

7 COMMISSIONER CASSINO: Yes.

8 CHAIRMAN GOLDSTEIN: Ms. Betty Chen.

9 COMMISSIONER BETTY CHEN: Yes.

10 CHAIRMAN GOLDSTEIN: Mr. David Chen.

11 COMMISSIONER DAVID CHEN: Yes.

12 CHAIRMAN GOLDSTEIN: Miss Cohen.

13 COMMISSIONER COHEN: Yes.

14 CHAIRMAN GOLDSTEIN: Mr. Crowell.

15 COMMISSIONER CROWELL: Yes.

16 CHAIRMAN GOLDSTEIN: Mr. Hart.

17 COMMISSIONER HART: Yes.

18 Mr. Fiala.

19 COMMISSIONER FIALA: Yes.

20 CHAIRMAN GOLDSTEIN: Mr. McShane.

21 COMMISSIONER McSHANE: Yes.

22 CHAIRMAN GOLDSTEIN: Mr. Moltner.

23 COMMISSIONER MOLTNER: Yes.

24 CHAIRMAN GOLDSTEIN: Miss Patterson.

25 COMMISSIONER PATTERSON: Yes.

1 CHAIRMAN GOLDSTEIN: Mr. Scissura.

2 COMMISSIONER SCISSURA: Yes.

3 CHAIRMAN GOLDSTEIN: Mr. Taylor.

4 COMMISSIONER TAYLOR: Yes.

5 CHAIRMAN GOLDSTEIN: It's unanimous. Thank  
6 you. Let me go on to the next one. This deals  
7 with the reduction of required petition  
8 signatures for candidates for City office.

9 Be it Resolved that the New York City  
10 Charter Revision Commission hereby proposes that  
11 a question be placed before the voters on the  
12 election to be held on November 2, 2010, asking  
13 whether the New York City Charter should be  
14 amended to add a provision reducing by  
15 approximately 50 percent the required number of  
16 signatures on petitions for Mayor, the  
17 Comptroller, the Public Advocate, the Borough  
18 Presidents and members the City Council.

19 I move the motion. Do I have a second?

20 COMMISSIONER FREYRE: Second.

21 CHAIRMAN GOLDSTEIN: It has been seconded.

22 Open for debate.

23 COMMISSIONER McSHANE: Question.

24 CHAIRMAN GOLDSTEIN: Yes.

25 COMMISSIONER McSHANE: Are we going to get in

1 trouble with some slippery language "by  
2 approximately 50 percent"?

3 MR. SCHAFFER: No. You will have a report  
4 that you will -- hold on -- that will have the  
5 exact numbers. It just was a little unwieldy to  
6 put it down.

7 COMMISSIONER MOLTNER: I will consult you.  
8 Greatly, Counselor, thank you.

9 CHAIRMAN GOLDSTEIN: Okay. Questions,  
10 comments, before we vote?

11 The Chair votes yes.

12 Mr. Banks.

13 COMMISSIONER BANKS: Yes.

14 CHAIRMAN GOLDSTEIN: Miss Freyre.

15 COMMISSIONER FREYRE: Yes.

16 CHAIRMAN GOLDSTEIN: Mr. Cassino.

17 COMMISSIONER CASSINO: Yes.

18 CHAIRMAN GOLDSTEIN: Miss Chen.

19 COMMISSIONER BETTY CHEN: Yes.

20 CHAIRMAN GOLDSTEIN: Mr. Chen.

21 COMMISSIONER DAVID CHEN: Yes.

22 CHAIRMAN GOLDSTEIN: Miss Cohen.

23 COMMISSIONER COHEN: Yes.

24 CHAIRMAN GOLDSTEIN: Mr. Crowell?

25 COMMISSIONER CROWELL: Yes.

1 CHAIRMAN GOLSDTEIN: Mr. Hart.

2 COMMISSIONER HART: Yes.

3 CHAIRMAN GOLDSTEIN: Mr. Fiala.

4 COMMISSIONER FIALA: Yes.

5 CHAIRMAN GOLDSTEIN: Mr. McShane.

6 COMMISSIONER McSHANE: Yes.

7 CHAIRMAN GOLDSTEIN: Mr. Moltner.

8 COMMISSIONER MOLTNER: Yes.

9 CHAIRMAN GOLDSTEIN: Miss Patterson.

10 COMMISSIONER PATTERSON: Yes.

11 CHAIRMAN GOLDSTEIN: Mr. Scissura.

12 COMMISSIONER SCISSURA: Yes.

13 CHAIRMAN GOLDSTEIN: Mr. Taylor.

14 COMMISSIONER TAYLER: Yes.

15 CHAIRMAN GOLDSTEIN: Unanimous. Thank you.

16 The next has to do with the merger of the  
17 Voter Assistance Corporation into the Campaign  
18 Finance Board.

19 Be it Resolved that the New York City  
20 Charter Revision Commission hereby proposes that  
21 a question be placed before the voters at the  
22 election to be held on November 2, 2010, asking  
23 whether the New York City Charter should be  
24 amended to reconstitute the Voter Assistance  
25 Commission as the Voters Assistance Advisory

1 Committee and to place it within the Campaign  
2 Finance Board.

3 I move the motion. Second?

4 COMMISSIONER FIALA: Second.

5 CHAIRMAN GOLDSTEIN: It's been seconded by  
6 Mr. Fiala. Debate?

7 Let's call the question. The Chair votes  
8 yes.

9 Mr. Banks.

10 COMMISSIONER BANKS: Yes.

11 CHAIRMAN GOLDSTEIN: Miss Freyre.

12 COMMISSIONER FREYRE: Yes.

13 CHAIRMAN GOLDSTEIN: Mr. Cassino.

14 COMMISSIONER CASSINO: Yes.

15 CHAIRMAN GOLDSTEIN: Miss Betty Chen.

16 COMMISSIONER BETTY CHEN: Yes.

17 CHAIRMAN GOLDSTEIN: Mr. David Chen.

18 COMMISSIONER DAVID CHEN: Yes.

19 CHAIRMAN GOLDSTEIN: Miss Cohen.

20 COMMISSIONER COHEN: Yes.

21 CHAIRMAN GOLDSTEIN: Mr. Crowell.

22 COMMISSIONER CROWELL: Yes.

23 CHAIRMAN GOLDSTEIN: Mr. Hart.

24 COMMISSIONER HART: Yes.

25 CHAIRMAN GOLDSTEIN: Mr. Fiala.

1 COMMISSIONER FIALA: Yes.

2 CHAIRMAN GOLDSTEIN: Mr. McShane.

3 COMMISSIONER McSHANE: Yes.

4 CHAIRMAN GOLDSTEIN: Mr. Moltner.

5 COMMISSIONER MOLTNER: Yes.

6 CHAIRMAN GOLDSTEIN: Miss Patterson.

7 COMMISSIONER PATTERSON: Yes.

8 CHAIRMAN GOLDSTEIN: Mr. Scissura.

9 COMMISSIONER SCISSURA: Yes.

10 CHAIRMAN GOLDSTEIN: And Mr. Taylor.

11 COMMISSIONER TAYLOR: Yes.

12 CHAIRMAN GOLDSTEIN: Unanimous.

13 Let's move to the public integrity area.

14 The first has to do with mandatory ethics  
15 training. It's missing from the package. Does  
16 anybody? I need --

17 MR. SCHAFFER: There's a missing section.

18 CHAIRMAN GOLDSTEIN: Alright. Look, let me  
19 move on to the others and the staff will find --

20 COMMISSIONER FREYRE: Do you want me to  
21 propose it?

22 COMMISSIONER GOLDSTEIN: Alright. We'll get  
23 it proposed by Commissioner Freyre.

24 COMMISSIONER FREYRE: We call the vote for  
25 the mandatory ethics training and increased

1 finance motion?

2 MR. SCHAFFER: The package seems to be  
3 missing those two items.

4 COMMISSIONER PATTERSON: Do the pieces of  
5 paper exist?

6 COMMISSIONER SCISSURA: We're missing Section  
7 three.

8 MR. SCHAFFER: We have that.

9 COMMISSIONER COHEN: I don't.

10 COMMISSIONER SCISSURA: I'll share it with  
11 you.

12 COMMISSIONER FREYRE: Mr. Chair, I move that  
13 we vote on a public integrity motion that would  
14 first increase the penalties for a single Chapter  
15 68 violations from 10,000 to 25,000 and authorize  
16 the disgorgement of gains obtained as a result of  
17 any such violation. And the second part of the  
18 motion would amend the Charter to require that  
19 the Conflicts of Interest Board to make training  
20 available for all City employees and to require  
21 that that be mandatory for all City employees.

22 CHAIRMAN GOLDSTEIN: Saved by Commissioner  
23 Freyre. Thank you very much. I will second that  
24 motion. Debate?

25 Hearing none, the Chair votes yes.

1 Mr. Banks.  
2 COMMISSIONER BANKS: Yes.  
3 CHAIRMAN GOLDSTEIN: Miss Freyre.  
4 COMMISSIONER FREYRE: Yes.  
5 CHAIRMAN GOLDSTEIN: Mr. Cassino.  
6 COMMISSIONER CASSINO: Yes.  
7 CHAIRMAN GOLDSTEIN: Miss Chen.  
8 COMMISSIONER BETTY CHEN: Yes.  
9 CHAIRMAN GOLDSTEIN: Mr. Chen.  
10 COMMISSIONER DAVID CHEN: Yes.  
11 CHAIRMAN GOLDSTEIN: Miss Cohen.  
12 COMMISSIONER COHEN: Yes.  
13 CHAIRMAN GOLDSTEIN: Mr. Crowell.  
14 COMMISSIONER CROWELL: Yes.  
15 CHAIRMAN GOLDSTEIN: Mr. Hart.  
16 COMMISSIONER HART: Yes.  
17 CHAIRMAN GOLDSTEIN: Mr. Fiala.  
18 COMMISSIONER FIALA: Yes.  
19 CHAIRMAN GOLDSTEIN: Mr. McShane.  
20 COMMISSIONER McSHANE: Yes.  
21 CHAIRMAN GOLDSTEIN: Mr. Moltner?  
22 COMMISSIONER MOLTNER: Yes.  
23 CHAIRMAN GOLDSTEIN: Miss Patterson?  
24 COMMISSIONER PATTERSON: Yes.  
25 CHAIRMAN GOLDSTEIN: Mr. Scissura?

1 COMMISSIONER SCISSURA: Yes.

2 CHAIRMAN GOLDSTEIN: Mr. Taylor?

3 COMMISSIONER TAYLOR: Yes.

4 CHAIRMAN GOLDSTEIN: The vote, it's  
5 unanimous. Thank you very much.

6 On to government efficiency. I will read the  
7 resolution on the consolidation of administrative  
8 tribunals.

9 Be it resolved that the New York City  
10 Charter Revision Commission hereby proposes that  
11 a question be placed before the voters at the  
12 general election to be held on November 2, 2010,  
13 asking whether the New York City Charter should  
14 be amended to authorize the Mayor to transfer, by  
15 Executive Order, the adjudicatory functions of  
16 various administrative tribunals to a single  
17 tribunal or agency; to issue any orders necessary  
18 to effect consolidation; to authorize the  
19 establishment of a committee to oversee  
20 consolidation; and to give the Office of  
21 Administrative Trials and Hearings the authority  
22 to develop alternative qualifications for  
23 administrative law judges transferred to the  
24 Administrative Trials and Hearings.

25 I will move that. Do I have a second?

1           COMMISSIONER CROWELL: I think from my  
2           recollection of the report, I think it should be  
3           to authorize the establishment of a committee to  
4           evaluate whether consolidation is recommended or  
5           not (inaudible).

6           CHAIRMAN GOLDSTEIN: You are amending this.  
7           By --

8           COMMISSIONER FREYRE: Changing "oversee  
9           consolidation."

10          COMMISSIONER CROWELL: To "evaluate."

11          CHAIRMAN GOLDSTEIN: To evaluate.

12          COMMISSIONER CROWELL: Evaluate the  
13          feasibility of consolidation.

14          CHAIRMAN GOLDSTEIN: Any objection to that?

15          Hearing none, I move that, and it's been  
16          second by Commissioner Cohen?

17          Are you seconding it?

18          COMMISSIONER COHEN: No, I'm not. I want to  
19          debate.

20          CHAIRMAN GOLDSTEIN: So it's been seconded.  
21          Go ahead.

22          COMMISSIONER COHEN: Mr. Chairman, I find the  
23          goal here laudable, but I'm troubled by the  
24          mechanism that we are proposing for the Charter  
25          change. I think the idea of having a consolidated

1 professional office of tribunals where the people  
2 have the same expectation of rules and  
3 professionalism of the staff and so forth is  
4 definitely the way we want to go, I totally  
5 support that; and I submit that the right way to  
6 get there is to amend the various Charter  
7 sections that establish tribunals in the various  
8 different agencies and not to amend the Charter  
9 by creating a process -- by creating the process.  
10 I think the Charter, as we have discussed through  
11 these many months, is far too large and unwieldy  
12 a document that with portions that constantly go  
13 obsolete, and this one is sure to, because it is  
14 the establishment of a process that will go on  
15 and then it will end and then we will have more  
16 detritus in the Charter. And I think that the  
17 appropriate, clean way of achieving this goal is  
18 to simply amend the Charter to take out the  
19 individual tribunals and establish the master  
20 tribunal as the place where adjudication goes.

21 CHAIRMAN GOLDSTEIN: Further questions,  
22 debates on this?

23 COMMISSIONER McSHANE: I just have one  
24 question I'd like to address to Commissioner  
25 Crowell. Could I ask why you changed or oppose

1 the change in wording? To my mind, as I read it,  
2 it doesn't makes logical sense.

3 COMMISSIONER CROWELL: It's not the right  
4 word here, but that's what the proposal called  
5 for in the draft report.

6 COMMISSIONER MOLTNER: Could I ask you to  
7 reword it as you think it should be reworded?

8 COMMISSIONER CROWELL: It be would  
9 basically to --

10 COMMISSIONER MOLTNER: Would that be up  
11 before transfer --

12 COMMISSIONER CROWELL: Basically asking them  
13 whether the City Charter should be amended to  
14 authorize the Mayor to transfer, by Executive  
15 Order, the adjudicatory functions of various  
16 administrative tribunals to a single tribunal or  
17 agency after a committee has been established to  
18 evaluate and consider whether such transfer is --  
19 such transfer and consolidation is feasible or  
20 appropriate.

21 COMMISSIONER McSHANE: Could I suggest  
22 perhaps moving that part up so to authorize the  
23 Mayor to establish a committee to study and then  
24 give if it's feasible to transfer --

25 COMMISSIONER CROWELL: Sure.

1                   COMMISSIONER McSHANE: It seems to me that  
2 much more sense.

3                   COMMISSIONER FREYRE: Yes.

4                   CHAIRMAN GOLDSTEIN: Go ahead.

5                   COMMISSIONER PATTERSON: The letter that was  
6 circulated to us from the City Bar Association  
7 made specific reference to revise the language  
8 that Goldin had provided to them, and I'm not  
9 sure I've seen that revised language. I saw the  
10 preliminary language. But before we vote on  
11 something it be would nice to see it so that we  
12 know precisely what we're voting on. It's a  
13 short paragraph. The resolution was drafted  
14 quite accurately, I think. It's really the only  
15 difference the opportunity for public hearing and  
16 comment before the consolidation.

17                   COMMISSIONER FREYRE: Correct.

18                   CHAIRMAN GOLDSTEIN: If I'm not mistaken,  
19 you just received a letter of endorsement --

20                   COMMISSIONER PATTERSON: From the New York  
21 City Bar Association. That's what I'm referring  
22 to. And that refers to language that they --

23                   CHAIRMAN GOLDSTEIN: Do you have that letter?

24                   COMMISSIONER PATTERSON: -- from Goldin and  
25 I'd like to see the final version of it.

1           DEPUTY DIRECTOR MARKOVITZ: I don't have the  
2 actual letter from the Bar Association. The new  
3 draft will -- oh you have that from the Bar  
4 Association. The draft --

5           COMMISSIONER PATTERSON: But the draft  
6 language was attached, and if we're voting on  
7 something I just wanted to make sure that we've  
8 voting on --

9           DEPUTY DIRECTOR MARKOVITZ: You're not  
10 voting on the draft language.

11           COMMISSIONER PATTERSON: I know. I want to  
12 make sure we're voting on the mechanism that City  
13 Bar endorsed.

14           COMMISSIONER FIALA: Mr. Chairman, could I  
15 make a motion to table this to allow the staff to  
16 get that information and we can move on?

17           COMMISSIONER PATTERSON: All I want is an  
18 accurate resolution.

19           CHAIRMAN GOLDSTEIN: Do we have -- let's just  
20 settle down for one second. Do we have enough of  
21 the essence of what it is that we want to support  
22 subject to the refinement of the language that we  
23 don't have in front of us?

24           COMMISSIONER CROWELL: The question really is  
25 do we think that the Mayor should have the

1 authority to be able to consolidate for  
2 government efficiency sake and more due process  
3 tribunals under one roof to assure consistency  
4 and professionalism? And if that's so, this is  
5 merely the procedure by which it would happen,  
6 whether evaluation of planning mechanism --

7 CHAIRMAN GOLDSTEIN: So more ministerial  
8 functions. Okay. I will accept that. Okay? Do  
9 all of you understand what Commissioner Crowell  
10 just said? Okay. Any further debate on this?

11 We'll take a vote on this now. The Chair  
12 votes yes.

13 Mr. Banks?

14 COMMISSIONER BANKS: Yes.

15 CHAIRMAN GOLDSTEIN: Miss Freyre?

16 COMMISSIONER FREYRE: Yes.

17 Mr. Cassino?

18 COMMISSIONER CASSINO: Yes.

19 CHAIRMAN GOLDSTEIN: Ms. Chen.

20 COMMISSIONER BETTY CHEN: Yes.

21 CHAIRMAN GOLDSTEIN: Mr. Chen?

22 COMMISSIONER DAVID CHEN: Yes.

23 CHAIRMAN GOLDSTEIN: Ms. Cohen.

24 COMMISSIONER COHEN: I object. Although I  
25 think the goal is laudable, I think you need to

1 get there for government efficiency sake, so I  
2 vote yes but I deplore the method.

3 CHAIRMAN GOLDSTEIN: "Yes" with reservation.  
4 We'll make sure the record, we'll make sure that  
5 the record reflects that.

6 Mr. Crowell.

7 COMMISSIONER CROWELL: Yes.

8 CHAIRMAN GOLDSTEIN: Mr. Hart?

9 COMMISSIONER HART: Yes.

10 CHAIRMAN GOLDSTEIN: Mr. Fiala.

11 COMMISSIONER FIALA: Yes.

12 CHAIRMAN GOLDSTEIN: Mr. McShane.

13 COMMISSIONER McSHANE: Yes.

14 CHAIRMAN GOLDSTEIN: Mr. Moltner.

15 COMMISSIONER MOLTNER: Yes.

16 CHAIRMAN GOLDSTEIN: Miss Patterson.

17 COMMISSIONER PATTERSON: Yes.

18 CHAIRMAN GOLDSTEIN: Mr. Scissura.

19 COMMISSIONER SCISSURA: Yes.

20 CHAIRMAN GOLDSTEIN: Mr. Taylor.

21 COMMISSIONER TAYLOR: Yes.

22 CHAIRMAN GOLDSTEIN: The motion carries by  
23 unanimous agreement, thank you.

24 Let me the read the second of the two  
25 resolutions. This is on reporting requirements

1 and it reads:

2 Be it Resolved that the New York City  
3 Charter Revision Commission hereby proposes that  
4 a question be placed before the voters at the  
5 election to be held on November 2, 2010, asking  
6 whether the New York City Charter should be  
7 amended to create a Commission to study the  
8 usefulness of reporting requirements and advisory  
9 bodies and to recommend to the City Council and  
10 the Mayor the dissolution of requirements and  
11 bodies that are no longer useful.

12 I will move that and ask for a second.

13 COMMISSIONER SCISSURA: Second.

14 CHAIRMAN GOLDSTEIN: Debate?

15 Chair votes yes.

16 Mr. Banks.

17 COMMISSIONER BANKS: Yes.

18 CHAIRMAN GOLDSTEIN: Miss Freyre.

19 COMMISSIONER FREYRE: Yes.

20 CHAIRMAN GOLDSTEIN: Mr. Cassino.

21 COMMISSIONER CASSINO: Yes.

22 CHAIRMAN GOLDSTEIN: Ms. Chen.

23 COMMISSIONER BETTY CHEN: Yes.

24 CHAIRMAN GOLDSTEIN: Mr. Chen.

25 COMMISSIONER DAVID CHEN: Yes.

1 CHAIRMAN GOLDSTEIN: Miss Cohen.

2 COMMISSIONER COHEN: Yes.

3 CHAIRMAN GOLDSTEIN: Mr. Crowell.

4 COMMISSIONER CROWELL: Yes.

5 CHAIRMAN GOLDSTEIN: Mr. Hart?

6 COMMISSIONER HART: Yes.

7 CHAIRMAN GOLDSTEIN: Mr. Fiala.

8 COMMISSIONER FIALA: Yes.

9 CHAIRMAN GOLDSTEIN: Mr. McShane.

10 COMMISSIONER McSHANE: Yes.

11 CHAIRMAN GOLDSTEIN: Mr. Moltner.

12 COMMISSIONER MOLTNER: Yes.

13 CHAIRMAN GOLDSTEIN: Miss Patterson.

14 COMMISSIONER PATTERSON: Yes.

15 CHAIRMAN GOLDSTEIN: Mr. Scissura.

16 COMMISSIONER SCISSURA: Yes.

17 CHAIRMAN GOLDSTEIN: Mr. Taylor.

18 COMMISSIONER TAYLOR: Yes.

19 CHAIRMAN GOLDSTEIN: This is unanimous.

20 Thank you all.

21 The last of the official action that we have  
22 in the outline that all of you have in front of  
23 you deals with the area of Fair Share, and let me  
24 read the resolution that you have in front of  
25 you:

1           Be it Resolved that the New York City  
2 Charter Revision Commission hereby proposes that  
3 a question be placed before the voters at the  
4 election to be held on November 2, 2010, asking  
5 whether the New York City Charter should be  
6 amended to add to the contents of the map  
7 accompanying the Statement of Needs to the extent  
8 such information is available to the City, the  
9 location of transportation and waste management  
10 facilities operated by the State of New York or  
11 the federal government, or by private entities  
12 that serve as the City's counterparts in  
13 providing public services.

14           I move that and ask for a second.

15           COMMISSIONER FREYRE: Second.

16           CHAIRMAN GOLDSTEIN: It been seconded.

17           Debate, discussion?

18           Mr. Scissura.

19           COMMISSIONER SCISSURA: Just a comment. First  
20 of all, Mr. Chairman, I want to thank you for  
21 really working hard on getting this in the  
22 language. I know it wasn't originally part of  
23 what we were thinking. But I appreciate that you  
24 heard what was being said by many great New  
25 Yorkers about this. I support this

1 wholeheartedly, and I ask that the report that  
2 comes out in its final form reflect that we need  
3 to do more on this issue; and that this is the  
4 beginning of hopefully a future Charter coming in  
5 and doing a little more on this.

6 CHAIRMAN GOLDSTEIN: Oh I want to thank you  
7 for that. The reason that I asked that this be  
8 brought to the voters is that I was deeply moved  
9 by the enormity of passion and commitment of the  
10 many speakers who talked about the issues of Fair  
11 Share; and while this doesn't go nearly as far as  
12 I think we need to go, because it doesn't satisfy  
13 the condition of really enough due diligence, I  
14 think it is a step in the right direction; and I  
15 agree with you that this really should be built  
16 upon as time goes by with other commissions as  
17 they have more time to look at this in much more  
18 depth.

19 COMMISSIONER SCISSURA: Thank you.

20 CHAIRMAN GOLDSTEIN: Any other questions?

21 Yes, Ms. Cohen, Commissioner Cohen.

22 COMMISSIONER COHEN: Thank you, Mr. Chairman.  
23 I did not bring my little sheet with the actual  
24 URL, but I just wanted to remind the fellow  
25 Commissioners and the public that with our modern

1           technology there's a remarkable tool that has not  
2           been -- probably already has it and that is City  
3           Map, and the multilayered GIS system, which any  
4           New Yorker and anybody anywhere else on the globe  
5           can access address by address, zooming around,  
6           finding whatever, everything in the State of New  
7           York; all kinds of information about ownership  
8           and taxes. And it's a phenomenal tool, and if it  
9           hasn't already enabled this to happen it will.

10           CHAIRMAN GOLDSTEIN: Thank you.

11           Any other comments? Oh, I'm sorry, Ms. Chen.  
12           Commissioner Chen.

13           COMMISSIONER BETTY CHEN: Thank you,  
14           Mr. Chair. I went back and looked at the Fair  
15           Share criteria that was put out by City Planning.  
16           This is a document separate and apart from the  
17           Charter, but it does indicate the City agencies  
18           and the siting facilities. And it calls out that  
19           the criteria require consideration of both city  
20           and non-city facilities when assessing  
21           compatibility, including non-city facilities such  
22           as state, federal and private institutions. And  
23           then when we look at what's called out, private  
24           waste transfer facilities, transportation and  
25           waste management facilities such as sanitation

1           garages, sewage treatment plants, et cetera, et  
2           cetera. And so I think what this proposal does is  
3           to better align the City Charter with what's  
4           already done in practice through text; and what  
5           it does it requires the graphics to also reflect  
6           information that really starts to be a better  
7           practical tool in the implementation of these  
8           criteria. So I think it allows the Charter to  
9           catch up with what's stated here in the text. And  
10          are provided --

11                   CHAIRMAN GOLDSTEIN: And that was what was  
12           told to me by our general counsel, so I  
13           appreciate that.

14                   COMMISSIONER BETTY CHEN: I think this is a  
15           practical measure.

16                   CHAIRMAN GOLDSTEIN: Along with the CEC and  
17           the Charter.

18                   Mr. Taylor.

19                   COMMISSIONER TAYLOR: Mr. Chairman, I'm also  
20           glad that this has been brought to the Commission  
21           to at least begin the process of trying to dispel  
22           the notion that most environmentally burdensome  
23           facilities are being placed in low-income  
24           communities, in particular in Long Island City,  
25           Astoria. We have a large concentration of, of

1 course, power plants on the East River; and my  
2 own personal experience, I've watched many  
3 people, although there may not be a direct  
4 correlation to a power plant, but there have been  
5 many people that have contracted unknown viruses  
6 or diseases relative to lung capacity, et cetera,  
7 in Long Island City. One young man in particular  
8 three years ago, 18 years of age, lived in  
9 Queensbridge all his life, never smoked, never  
10 drunk, but he developed pulmonary fibrosis, and  
11 the doctor said his findings determined that it  
12 was because of his close proximity in a highly  
13 polluted area. I think that Fair Share kind of  
14 addresses that. I'm looking at the map now on my  
15 laptop that shows a concentration of all of these  
16 environmentally aggressive facilities in  
17 low-income communities in New York City; and I  
18 just think if you're going to have it on Martin  
19 Luther King Boulevard or on 40th Avenue it should  
20 be on Sutton Place and other places as well. So  
21 I fully support this Fair Share. But I do not  
22 think it really addresses fully what we need to  
23 do relative to this. But I hope that future  
24 commissions will dig deeper in that time to bring  
25 this further to the fore.



1 votes yes.

2 Mr. Banks.

3 COMMISSIONER BANKS: Yes.

4 CHAIRMAN GOLDSTEIN: Miss Freyre.

5 COMMISSIONER FREYRE: Yes.

6 CHAIRMAN GOLDSTEIN: Mr. Cassino.

7 COMMISSIONER CASSINO: Yes.

8 CHAIRMAN GOLDSTEIN: Ms. Chen.

9 COMMISSIONER BETTY CHEN: Yes.

10 CHAIRMAN GOLDSTEIN: Mr. Chen.

11 COMMISSIONER DAVID CHEN: Yes.

12 CHAIRMAN GOLDSTEIN: Ms. Cohen.

13 COMMISSIONER COHEN: Yes.

14 CHAIRMAN GOLDSTEIN: Mr. Crowell.

15 COMMISSIONER CROWELL: Yes.

16 CHAIRMAN GOLDSTEIN: Mr. Hart.

17 COMMISSIONER HART: Yes.

18 CHAIRMAN GOLDSTEIN: Mr. Fiala.

19 COMMISSIONER FIALA: Yes.

20 CHAIRMAN GOLDSTEIN: Mr. McShane.

21 COMMISSIONER McSHANE: Yes.

22 CHAIRMAN GOLDSTEIN: Mr. Moltner.

23 COMMISSIONER MOLTNER: Yes.

24 CHAIRMAN GOLDSTEIN: Miss Patterson.

25 COMMISSIONER PATTERSON: Yes.

1 CHAIRMAN GOLDSTEIN: Mr. Scissura.

2 COMMISSIONER SCISSURA: Yes.

3 CHAIRMAN GOLDSTEIN: Mr. Taylor.

4 COMMISSIONER TAYLOR: Yes.

5 CHAIRMAN GOLDSTEIN: It's unanimous. Thank  
6 you very much. We covered a lot of territory  
7 tonight. We have a few more things to do. We  
8 have at least 5 items that are, some are very  
9 weighty and others are much less so. But I want  
10 to make sure before we conclude our work this  
11 evening that any Commissioners who want to be  
12 heard on these issues now is an opportunity to  
13 pipe in and to be heard.

14 The first I have is on Top Two, which was  
15 the variation on nonpartisan elections. We had  
16 some testimony on this, certainly we gave a lot  
17 of attention to Citizens Union, who came in and  
18 expressed there views. Many of us are deeply  
19 sympathetic to the notion of nonpartisan  
20 elections or its variant, Top Two. But I think I  
21 speak for many of you who have spoken  
22 individually and collectively saying that we  
23 needed to know a lot more about the subject, that  
24 the subject is complex, and the ramifications are  
25 profound. My own belief is that the empirical

1 research is somewhat inadequate to my own  
2 satisfaction; that I believe there are ways of  
3 creating simulations that would inform the debate  
4 in a more deep and profound way than we have had  
5 thus far; and I would hope there would be very  
6 serious consideration going forward that actions  
7 would be taken to develop the methodology to  
8 study this in ways that I know we have the tools  
9 to do, and to then educate the various  
10 communities upon what we've learned. That's my  
11 own personal view on it. I don't know if anybody  
12 else wants to speak on Top Two?

13 COMMISSIONER BANKS: Mr. Chairman, just real  
14 quick, I won't be long. First, I want to  
15 apologize to my fellow Commissioners for being  
16 late. I had a prior commitment that I had to  
17 attend. But I missed the two votes on term  
18 limits and whether or not they should be put on.  
19 I just want to go on the record now saying if I  
20 were here I would have voted against both of  
21 those. I'm against term limits and I will  
22 continue to be against term limits. I realize I  
23 have an opportunity when they come before us for  
24 a language vote, that I will also vote against  
25 them at that time. Thank you.

1 CHAIRMAN GOLDSTEIN: Anything on Top Two?

2 Hearing none, we also have the issue of  
3 transferring of Lobbying Law responsibilities  
4 from the City Clerk to the Campaign Finance Board  
5 that was initially that was hanging out there  
6 that we never really fully got our arms around. I  
7 know that Commissioner Crowell and I have had  
8 some conversations and wanted to let the  
9 Commissioners to know there are some actions  
10 underway now.

11 COMMISSIONER CROWELL: Right. As I explained  
12 at the previous meeting there's a Commission a  
13 that's requirement, the establishment under law  
14 it was originally going to be established in the  
15 end of '08 or early '09. It was suspended to  
16 account for an additional change in law for the  
17 "pay to play" rules to go into prior in the last  
18 election cycle, so that Commission now will not  
19 only look at the initial lobbying reform from  
20 2006 but also the "pay to play" reforms, all the  
21 complete package, and make recommendations to  
22 strengthen that vote by (inaudible).

23 CHAIRMAN GOLDSTEIN: Okay. That's very  
24 helpful to all of us here, the subject.

25 Commissioner Freyre has spoken with great

1 wisdom and passion and has reminded us of the  
2 importance that she believes that an independent  
3 budget should be given to the Conflicts of  
4 Interest Board. I have wondered if Commissioner  
5 prior could talk a little about that.

6 COMMISSIONER FREYRE: I just wanted to say  
7 that I think we've had very strong and eloquent  
8 testimony on independent budgets all around for  
9 the Public Advocate, for the Borough Presidents,  
10 for the Conflicts of Interest Board. I think  
11 it's an issue that needs examination. I think  
12 our report should be very strong on that. And I  
13 think our report should also draw the distinction  
14 between the reasons for independent budgets for  
15 the Public Advocate and Borough Presidents on one  
16 hand and the Conflicts of Interest Board on the  
17 other. The issue of the Conflicts of Interest  
18 Board obviously is to take away the budget from  
19 the discretion from those of over whom it has  
20 jurisdiction -- that is the Mayor and the City  
21 Council -- but I think our report should be very  
22 clear, and I'm very happy to work with the staff  
23 on that.

24 CHAIRMAN GOLDSTEIN: One of the areas that I  
25 have been quite interested in is the balance of

1 power, local authority versus more central  
2 authority in with a very strong mayor. I have  
3 encouraged Commissioner Scissura to speak about  
4 this and you've spoken about it quite eloquently.  
5 I have directed the staff that when they write  
6 the report that we will see very soon and then  
7 vote on August 23rd that this be given a great  
8 prominence in the final report that we will  
9 hopefully all sign off on. And I just wanted to  
10 underscore that I for one, Carlo, very much would  
11 like to see that very complex debate really go  
12 forward and wanted to know if you want to say  
13 anything further about it at this point in time.  
14 It's a very big area.

15 COMMISSIONER SCISSURA: It is. Just to use a  
16 word that Commissioner Fiala said earlier, I've  
17 also been very consistent on this, I want to  
18 thank you, Mr. Chair, for allowing me to speak  
19 about it and for really understanding it. And I  
20 really want to echo what Commissioner Freyre said  
21 about the importance of explaining independent  
22 budgets for COIB, which I support fully, and for  
23 the Public Advocate and the Borough Presidents,  
24 because I think if we just go on what we heard  
25 from OMB, we would get just one real version of

1           it. And I think we've heard from Citizens Union  
2           and so many other really well-respected entities  
3           out there about why these entities deserve  
4           independent budgets. I just hope that that would  
5           be part of the final report.

6           CHAIRMAN GOLDSTEIN: And it will be. And it  
7           will be. Another item that is part of the package  
8           is an area that we had some discussion about  
9           amongst ourselves and it had to do with financial  
10          disclosures by recipients of member items. And I  
11          and I think a number of us had some  
12          misunderstanding of exactly what that issue  
13          means, and I wondered if I could call on our  
14          general counsel to give us a little more  
15          understanding of what this issue is, because I  
16          for one and others have said to me, "We're  
17          confused as well."

18          MR. SCHAFFER: Thank you, Mr. Chairman.  
19          There were two issues that were raised in the  
20          course of our hearings and deliberations relating  
21          to member items, and I think there were a merging  
22          of those two in people's mind. One of them had  
23          to do with financial disclosure of City Council  
24          Members with regard to member items. That was  
25          part of a decision of the Conflicts of Interest

1 Board, which included both prohibition upon the  
2 sponsorship of member items by a Council Member  
3 who had a financial interest or a financial  
4 interest, and it also included some requirements  
5 of financial disclosure. That decision of the  
6 Conflicts of Interest Board is in effect. There  
7 was some talk of consideration given to codifying  
8 it within the Charter, but the Conflicts of  
9 Interest Board I think at this point is  
10 comfortable with just relying on the decision as  
11 it exists. It is the law. And it's still in  
12 effect. There was also some discussion about some  
13 reforms that had taken place within the City  
14 Council with respect to member items, which was  
15 also referred to as a "disclosure item." But  
16 those were deliberative. Those were reforms that  
17 required not-for-profit organizations who wish to  
18 be the recipient of member items to disclose  
19 certain financial information and to other  
20 information that would assure the Council they  
21 were able to carry out the purposes for which  
22 these member items were being directed; and that  
23 is a complex subject, not easily summarized or  
24 codified in a single -- in the Charter itself.  
25 But those, those procedures exist and are being

1 carried out by the Council to its credit. But  
2 it's something that really we're not ready, I  
3 don't think, and haven't had enough conversation  
4 to think about codifying law, whether it's local  
5 law or in the Charter itself; and so I think  
6 that's a subject along with other budget items of  
7 great concern that will be and should be left for  
8 a future Charter Revision Commission.

9 CHAIRMAN GOLDSTEIN: Commissioner Cassino, I  
10 know you have some very strong feelings about  
11 this. I know Commissioner Cohen as well. I would  
12 like to give you an opportunity.

13 COMMISSIONER CASSINO: Well, let me just  
14 express my disappointment in how little focus has  
15 been on some of the major Council reforms that I  
16 raised at a prior meeting, very little said in  
17 the Staff Report, and very little brought forth.  
18 And if you think about the concept we talked a  
19 lot tonight about, public trust, some of the  
20 issues that cause the public to trust government  
21 the least relate to some of the Council reform  
22 items I brought up regarding member items and  
23 other parts of it. You know, I understand some of  
24 them would require some more work, which I think  
25 we should have had, in my opinion. But even the

1 ones that don't require a lot more thinking and  
2 hard work, the ones that really don't relate to  
3 the public, the issue of compensation of lulus.  
4 The issue of voting on your own salaries that has  
5 nothing to do with public policy and public  
6 benefitting or not has everything to do with  
7 self-dealing, and the public recognizes it for  
8 that. That we didn't even take those on in a  
9 more detailed way. As well as disclosure,  
10 disclosure of outside income of a Council Member  
11 or a more detailed disclosure given the only  
12 elected officials that are allowed to hold a  
13 second outside position, I would think more  
14 disclosure is a good thing. The fact that none of  
15 those are reflected in the report, are reflected  
16 as a future item for discussion. Like I said,  
17 they're issues that are very well vetted in the  
18 public, very well understood, and I believe have  
19 zero ramifications. You could argue that member  
20 items are more complex because moving \$50 million  
21 around is a more complex issue and certainly has  
22 its issue related to the balance of power  
23 possibly. But some of those other items, really,  
24 are almost indefensible, in my mind, and I think  
25 in many people's minds; and the fact that we

1 didn't delve into them in any real way I think  
2 really at the eleventh hour I think was  
3 unfortunate; and the fact they're not left on the  
4 table for the future again is unfortunate. So I  
5 want to be on the record as saying that I think  
6 that they should have been items that were more  
7 deeply delved into, and I think they should be at  
8 the very least preserved for a future Commission  
9 if not this one. But that's, you know, that's  
10 something I've said all along.

11 CHAIRMAN GOLDSTEIN: Commissioner Cassino, I  
12 thank you for that. And I've said it publicly on  
13 several occasions that I would like to see more  
14 debate. I just haven't seen the groundswell here  
15 of discussion around the issues. Perhaps at some  
16 point --

17 EXECUTIVE DIRECTOR GOODMAN: They will be  
18 mentioned.

19 CHAIRMAN GOLDSTEIN: They will be. And I  
20 directed you to give much for prominence than the  
21 staff did in their preliminary report. So that  
22 commitment (inaudible).

23 So those are the items that I have. Is there  
24 anybody else that wanted to bring up anything?

25 Commissioner Fiala?

1           COMMISSIONER FIALA: If I could,  
2           Mr. Chairman, rather than -- I didn't get there  
3           fast enough on those two topics, so let me  
4           summarize them all. First of all -- I'll do it  
5           this way. If we learned anything, and if we were  
6           able to convey anything to the members of the  
7           public that are watching, it is that Charter  
8           Revision is as I've said throughout, a very  
9           esoteric endeavor owing to this maze that we have  
10          to work through. It's a bureaucratic, legalistic  
11          and political calculation that is goes into  
12          creating a charter; and thus you've got to run  
13          the maze if you're going to create the Charter.  
14          I don't remember who said "If you don't want to  
15          see how sausage is made," right? This is done out  
16          in the open. This entire process has been done  
17          out in the open. What we've done -- I walk away  
18          and we still have a meeting or two left, but I  
19          want to share my thoughts tonight, because we did  
20          the important matters in voting on the ballot box  
21          issues. I want to walk away from this, my second  
22          Charter experience, feeling very good what we've  
23          done. Not satisfied, but I've learned that it  
24          probably should be considered a success story if  
25          no one gets to walk away fully satisfied and

1 everybody walks away hungry. So I certainly walk  
2 away hungry for more. What we have been able to  
3 do in a compressed time schedule that is imposed  
4 upon us -- we don't make the time schedule. It's  
5 a function of Charter Revision making. What we  
6 were able to do in addition to the wonderful new  
7 utilization of technology, expanded outreach  
8 efforts, we crisscrossed this City in a  
9 five-month period in a way no Charter Commission  
10 has; and we've gone into every corner of this  
11 City not once twice, three times over, and in  
12 some instances more. We have provided a forum  
13 for public testimony at just about every one of  
14 those, something no Commission, no Commission  
15 prior has done. We didn't shut down the extra  
16 forums from public participation. We did an  
17 extra forum and then we sat and listened to  
18 further public dialogue. So what I go away with  
19 is the belief that despite the perceived  
20 shortcomings, and surely there are, there were a  
21 number of things that I wanted but wouldn't be  
22 able to get, because as I said, we've got to have  
23 the votes. That's just the way Democracy works.  
24 We are walking away with a baseline  
25 understanding, a foundation of the broad areas of

1 concern that New Yorkers have. It ranges from  
2 everything from land use concerns, Community  
3 Boards, the power of the Borough President, the  
4 relationship of the Borough President to a  
5 Council Member, to a Mayor in land use issues,  
6 Fair Share, budgetary matters, and a whole host  
7 of other topics. We built this baseline  
8 understanding and that's akin to a foundation of  
9 a house. It's tough to build a house completely  
10 in five months and then furnish it, too, to get  
11 every room done, so we've built the foundation.  
12 What we have found, and the service we have  
13 provided, is that through that public testimony  
14 and the dialogue among ourselves and the great  
15 debate among ourselves, and that's very helpful,  
16 that there is real evidence of systemic  
17 structural and operational deficiencies in our  
18 local government. We're 20 years into this  
19 experiment and what we have found 20 years into  
20 this local form of governance that we operated  
21 under that there are some structural and  
22 operational areas that we need refinement. We've  
23 discussed and debated a number of them. Many of  
24 them are worthy for implementation. Most of them  
25 are worthy of more thought and more extensive

1 debate. What we have found is that you cannot in  
2 five or six months cover the level and the  
3 breadth of topics that we've discussed soups to  
4 nuts and come out with not only the diagnosis of  
5 the problem but the prescriptions, the solutions,  
6 in a consensus. I want to give you one example so  
7 that the public understands why we're not doing  
8 Borough empowerment or land use. We all agree  
9 that there are deficiencies. I've said that I'd  
10 like to empower the Borough Presidents by  
11 providing them with a meaningful voice in the  
12 land use process and by giving them a decisive  
13 vote on land use process, requiring a two-thirds  
14 majority on the City Planning Commission, you  
15 have enhanced the power of that office. That  
16 might very well negate the need for an  
17 independent budget, because when an officeholder  
18 is empowered they have the leverage required to  
19 be taken seriously. In 1989 we eviscerated the  
20 office, the role of the Borough President. So I  
21 offered one solution. But back home, in my own  
22 Borough, in my own Borough, we don't agree on my  
23 prescription. And in every one of your Boroughs  
24 there is disagreement. And in this Commission, on  
25 this Commission, we ourselves, there's not

1 consensus on these weighty issues because they're  
2 extremely weighty. They're extremely complex.

3 Mr. Chairman, you've used the terminology  
4 "we have dug deep into the bedrock" over and over  
5 again and I think it's a great analogy. I walk  
6 away from this realizing that the deeper we've  
7 dug the more we've realized that these issues are  
8 very, very complex. But the fact that we've dug  
9 deep is what matters. Unlike all the subsequent  
10 Commissions to Ravitch and Schwarz, this  
11 Commission actually has done a top-to-bottom  
12 review by bringing the public in, and by building  
13 that foundation we provide a future Commission  
14 with a foundation, and now they get to build and  
15 frame the house and furnish the rooms. They  
16 don't have to start from scratch.

17 Now the specific areas that you raised. My  
18 position on Top Two is well-known. I won't spend  
19 any more time on it. I do want to associate  
20 myself with Commissioner Freyre to say her work  
21 in the area of conflicts of interest is  
22 well-established. I concur completely with the  
23 arguments that she has articulated throughout and  
24 have been reinforced by members of the public and  
25 experts that have testified before us. Conflicts

1 of Interest Board is a different animal from any  
2 other in this government agency -- in this  
3 government, and I trust that owing to your  
4 direction to the staff, Mr. Chairman will  
5 certainly be there. I have had discussions with  
6 the executive Director and Counsel. Every entity  
7 that we have heard about during this Commission  
8 will find its way into our report. And that's the  
9 report that a future Commission will use on which  
10 to build much of its agenda. I share many of the  
11 goals that Commissioner Cassino has. But again,  
12 owing to time, and owing to the lack of bringing  
13 the City Council in and finding out where they're  
14 at and what these types of reforms will lead to  
15 either a strengthening or weakening of the  
16 institution vis-a-vis the power of the mayoralty  
17 and the impacts on the long-term, I agree there  
18 are intended consequences from many of your  
19 proposals. It's the unintended consequences that  
20 prompt me to say we need more debate.

21 My position on Borough empowerment is also  
22 clear. So I'm looking forward to the final  
23 report. I know it will be chock full of more  
24 material than anybody is going to want to read.  
25 But more importantly than that, it's the

1 historical record upon which the next Commission  
2 will be able to build, or should I say what do  
3 you do when you -- remodel, remodel a home. And  
4 I think we've given a great foundation from which  
5 to work on.

6 CHAIRMAN GOLDSTEIN: Let me just read one  
7 statement, and then I'm going to ask that this be  
8 approved by acclamation. And I'd like to make a  
9 personal statement to all of you.

10 Be it Resolved that the New York Charter  
11 Revision Commission hereby direct that the staff  
12 prepare the following items described in the  
13 forgoing resolutions which we have voted upon:  
14 Ballot propositions and abstracts relating to  
15 such amendments and a draft final report to be  
16 presented for the approval of the Commission  
17 incorporating such amendments, questions and  
18 abstracts as well as other issues and  
19 recommendations considered by the Commission.

20 I'd like to just ask for a vote of  
21 acclamation on that. Everybody say aye?

22 (A chorus of aye's.)

23 CHAIRMAN GOLDSTEIN: Opposed?

24 Thank you very much. And on a personal  
25 level, before I ask for a motion to adjourn.



1 approximately? Give me an approximate date.

2 EXECUTIVE DIRECTOR GOODMAN: Hopefully by  
3 Monday. This coming Monday. If not before.

4 CHAIRMAN GOLDSTEIN: Okay, great.

5 With that, could let met call for -- yes?

6 COMMISSIONER CASSINO: Let me just stay one  
7 last thing. I think if the public had any doubt  
8 about the independence of this Commission, the  
9 debates that we had, including tonight, really  
10 show that this Commission was truly independent.  
11 I think I'd like to say the Mayor deserves a lot  
12 of credit for not only putting together a very  
13 good Commission but also allowing it to do its  
14 work, because I can say personally I never  
15 received a phone call for any kind of pressure to  
16 do anything. And I believe that's the case will  
17 with everybody sitting here. And we had tough  
18 debates, but they're real debates. And I think  
19 it's just a credit to the process, to the Mayor,  
20 and it really has been an incredible process. I  
21 think that one when you enter into the first time  
22 I'm not sure whether that could happen, and I  
23 just want to say that it did, and it exactly  
24 worked out that way. So it makes you proud to be  
25 on it. And the City should know that that's the

1 way this played out. It was an absolute open  
2 discussion. There was no influence ever that I'm  
3 aware of other than just good debate back and  
4 forth. And I think the public, the  
5 personification of that shows that, and I just  
6 wanted to say that that was a pleasure to have  
7 that happen.

8 CHAIRMAN GOLDSTEIN: Thank you, Commissioner  
9 Cassino.

10 With that, let me call for a motion to  
11 adjourn this hearing? It's been seconded, and I  
12 assume by acclimation.

13 COMMISSIONER McSHANE: Amen.

14 (Whereupon, at 8:50 P.M., the above matter  
15 concluded.)

16  
17  
18 I, NORAH COLTON, CM, a Notary Public for and  
19 within the State of New York, do hereby certify  
20 that the above is a correct transcription of my  
21 stenographic notes.

22  
23  
24 \_\_\_\_\_  
NORAH COLTON, CM

25