

CHARTER REVISION COMMISSION

OPEN PUBLIC MEETING AND PANEL DISCUSSION

BARUCH COLLEGE, NEWMAN VERTICAL CAMPUS

55 Lexington Avenue

New York, New York

6:04 P.M.

MAY 17, 2010

CHAIR: DR. MATTHEW GOLDSTEIN

COMMISSION MEMBERS:

JOHN H. BANKS, VICE CHAIR

ANTHONY PEREZ CASSINO

BETTY Y. CHEN

DAVID CHEN

HOPE COHEN

ANTHONY W. CROWELL

STEPHEN FIALA

ANGELA MARIANA FREYRE, SECRETARY

ERNEST HART

REV. JOSEPH M. McSHANE, S.J.

KENNETH M. MOLTNER

KATHERYN PATTERSON

CARLO A. SCISSURA

BISHOP MITCHELL G. TAYLOR

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CHAIRMAN GOLDSTEIN: Ladies and

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gentlemen, we're about to begin.

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We're going to begin. We're about to

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begin.

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Good evening, everybody. I'm

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Matthew Goldstein the Chairman of the

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New York City Charter Revision

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Commission. I'm pleased to welcome

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you to Baruch College, and I want to

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thank Interim President Stan Altman

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and everybody at the college who has

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graciously helped in hosting this

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event this evening.

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Today we are joined by a very

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distinguished panel of former Charter

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Revision Commission Chairs who will

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share their experiences with us in

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just a few minutes.

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Let me make a few announcements

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before I introduce the panel. First,

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I am pleased to announce the next

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phase of our outreach activities to

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gather input and information relating

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to our review of the existing City

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Charter.

The Commission held public hearings in all five boroughs in April to solicit suggestions and opinions from New Yorkers. We deeply appreciate the participation of the public throughout the hearings, and we remain committed to an open and welcoming process of public engagement.

Commission staff has carefully reviewed the written and oral testimony from the hearings as well as communications received electronically and by mail. Based on this feedback, for the next phase in May and June, the Commission will hold a series of issue forums to gain a better understanding of several topics frequently raised during the public hearing.

Panels of experts, including academic and practitioners, will participate in each forum and explain

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and answer questions about these issues and the current Charter Revision. A public participation component will be included.

I want to thank our very distinguished Executive Director Lorna Goodman and our research Director Joseph Viteritti and our outstanding staff for their professionalism and diligence during the development of these issue forums.

Issue forums are currently scheduled as follows. They will all start at 6:00 P.M. On May 25 term limits will be held, the issue dealing with term limits will be held in Brooklyn Borough Hall. On Wednesday, June 2, voter participation will be the subject of discussion. That will take place in Lehman College in the Bronx. Thursday, June 10, the topic is government structure. That will take

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place at Staten Island Technical High School. Wednesday, June 16, the topic of public integrity, that will be held at the City College of New York in upper Manhattan. And lastly, June 24, the issue of land use, and that will be at the Flushing Library in Queens.

The issue forum schedule has already been sent by E-mail Blast to 44,000 citizens who subscribe to NYC.gov, our listserv, as well as to an additional 1,800 individuals comprising representatives from Community Boards, civic and community groups and not-for-profits, as well as elected officials and City Council members and staff. We also reached over 1,800 press contacts from every major media outlet, including over 200 ethnic and community news outlets. I've additionally sent Messages from the Chairman about the issue forums, publications and other

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media editors, encouraging both attendance and coverage.

As a reminder, information about the Commission and its members can be found on its Web site, NYC.gov/Charter. Hearing schedules, transcripts and videos are available on the site along with a downloadable copy of the current City Charter and directions to all of our meeting sites. Translations are offered in several languages, and the Commission's work is also available on Facebook at New York City Charter Revision Commission and Twitter at City Charter NYC, part of an extensive and growing use of technology to reach all New Yorkers.

The Commission's ongoing goal is to enhance outreach and public access. As you know, with the help of CUNY TV, all of our meetings and hearings are Webcast, a Charter Revision first. Public service

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2 announcements to promote public  
3 awareness of the work of the  
4 Commission are being developed also  
5 as a first, and additional efforts  
6 are under consideration.

7 In addition to allowing Webcast  
8 viewers to pose questions and/or  
9 comments in real time during the  
10 public hearings, providing regular  
11 E-mail communications that will alert  
12 the public of Commission updates,  
13 creating a searchable online archive  
14 and other innovative options and  
15 inventions.

16 Now, for the benefit of our  
17 guest panelists, I would like to ask  
18 each of our Commission Members to  
19 identify themselves. First all, way  
20 on my left. Hope?

21 COMMISSIONER COHEN: Hi, I'm  
22 Hope Cohen.

23 BISHOP TAYLOR: I'm Bishop  
24 Mitchell Taylor.

25 COMMISSIONER DAVID CHEN: David

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Chen.

COMMISSIONER BETTY CHEN: Hi,  
good evening. I'm Betty Chen.

COMMISSIONER CASSINO: Hi, Tony  
Perez Cassino.

COMMISSIONER REV. MCSHANE: Joe  
McShane.

COMMISSIONER FREYRE: I'm Angela  
Mariana Freyre.

COMMISSIONER CROWELL: Anthony  
Crowell.

COMMISSIONER FIALA: Steve  
Fiala.

COMMISSIONER PATTERSON:  
Katheryn Patterson.

COMMISSIONER MOLTNER: Good  
evening, Ken Moltner.

CHAIRMAN GOLDSTEIN: And now let  
me just set a few ground rules. I'm  
going to introduce each of our  
experts this evening. I'm going to  
be somewhat brief in my  
introductions, because these are a  
group of very distinguished men and a

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woman here tonight. And all of us  
are deeply grateful not only for the  
work that they did on previous  
commissions, but for their  
distinguished work throughout their  
very prominent careers here in New  
York City.

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I will start by introducing the  
Commission Chair that goes back  
furthest among the group that we have  
today, that will be with Dick  
Ravitch. I'm going to add I'll talk a  
little about Dick and work our way  
down.

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I'll ask each of the Members  
that I introduce to make an opening  
statement eight to ten minutes. At  
the end of those statements we will  
open up the discussion with the  
members of the Commission who will  
engage in a conversation with each of  
you. And then we'll see where we take  
it from there.

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So let me start with the

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Honorable Dick Ravitch who chaired the 1988 Commission. Those of you know, of course, that Dick Ravitch is the Lieutenant Governor of our great state. He served as Chair of the Charter Revision Commission from 1986 to '88, which looked at government ethics and transparency. It established the Campaign Finance Board, the Voter Assistance Commission, and the Voter Guide.

Prior to his appointment as Lieutenant Governor in 2009, Mr. Ravitch was a partner in the law firm of Ravitch, Rice and Co., and served as Chairman of the Commission on MTA financing, which was formed by Governor David A. Patterson in 2008, to examine financing options for the MTA.

In the mid '70s, when many of us got to know of Dick Ravitch's work, he played an instrumental role in resolving the City's fiscal crisis

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where he negotiated long-term guarantee arrangements with the Federal government and acted as an intermediary between the City and the leadership of the municipal unions and their pension funds in negotiating Labor's contribution to the resolution.

From 1979 to 1983 Dick Ravitch served as Chairman and CEO for the Metropolitan Transportation Authority, where he led an overhaul of the Authority's operation. And his very impressive curriculum goes on and on.

Let me move now to Fritz Schwarz who chaired the 1989 Commission. Fritz Schwarz currently serves as Chief Counsel of the Brennan Center for Justice at New York University School of Law and as Senior Counsel to Cravath, Swaine & Moore.

Mr. Schwarz served as Chair of

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the 1989 Charter Revision Commission,

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which extensively revised New York

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City's Charter after the United

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States Supreme Court ruled the City's

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existing governments structure

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unconstitutional.

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The 1989 Charter amendment

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created the modern composition of New

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York City's government, which

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included redistributing powers of the

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City's elected officials and making

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changes to the City's land-use

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process among other measures.

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From 1975 to '76 Mr. Schwarz

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was Chief Counsel to the Church

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Commission, the Senate Select

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Committee to Study Government

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Activities with respect to

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intelligence activities.

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From 1982 to '86 he served as

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New York's Chief Corporation Counsel

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under Mayor Edward Koch.

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Moving on to Randy Mastro whose

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1999 and 2000 Commission he chaired.

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Randy is currently a partner in Gibson Dunn, where he's litigated several high profile cases in New York City.

Mastro served as Chair of the 1999 and 2001 Charter Revision Commissions, which looked at agency creation and reclassification of the budget and public safety issues.

From 1994 to 1998 Mr. Mastro served as New York City's Deputy Mayor for Operations under Mayor Rudolph W. Giuliani, where he oversaw all of the City's operating agencies, the budget, and served as the Mayor's chief liaison for elected officials.

During his tenure, Mastro spearheaded the City Commission heads to remove organized crime from the Fulton Fish Market, the private carting industry and the San Gennaro Festival. He also oversaw the successful turnaround of New York City's Off-Track Betting Corporation.

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2 And he served as a very distinguished  
3 member of the Board of Trustees of  
4 the City University of New York.

5 Thank you, Randy.

6 Frank Macchiarola. Dr.

7 Macchiarola is the Chancellor of  
8 St. Francis College in Brooklyn, his  
9 Alma mater, where he served as  
10 president from 1996 to 2008.

11 Dr. Macchiarola served as Chair  
12 of the 2003 Charter Revision  
13 Commission, where he examined  
14 nonpartisan elections, the City's  
15 procurement process, agency  
16 reorganization and government  
17 accountability.

18 Mr. Macchiarola served as Dean  
19 and Professor of Law at the Benjamin  
20 N. Cardozo Law School of Yeshiva  
21 University, and as Professor of  
22 Business of Columbia University's  
23 Graduate School of Business. He's  
24 also a faculty member at the City  
25 University of New York, serving both

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at Baruch College and the City

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University Graduate School. He's also

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been a Professor of Education at

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Teachers College at the Columbia

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University and has been President of

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the Academy of Political Science.

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He has served as Counsel to the

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New York City Assembly Committee on

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Code, and Special Counsel and

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Director of the Housing Study Group

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of the Scott Commission. Thank you,

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Frank, for agreeing to do this as

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well.

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And lastly, Ester R. Fuchs.

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Ester is Professor of Public Affairs

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and Public Science and Director of

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the Urban Policy Program at Columbia

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University.

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Dr. Fuchs served as Chair of

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the 2005 Charter Revision Commission.

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The first woman to serve in that

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capacity.

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The 2005 Charter amendments

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established an Administrative

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2 Judicial Code of Conduct and  
3 incorporated into the City's Charter  
4 several fiscal requirements imposed  
5 on the City by New York State  
6 following the 1970's fiscal crisis.

7 Dr. Fuchs is currently on leave  
8 as a Senior Policy Fellow at the  
9 Partnership for New York City. She  
10 served as Special Advisor to the  
11 Mayor for Governance and Strategic  
12 Planning under Michael Bloomberg,  
13 Mayor Bloomberg, in 2001 to 2005.

14 As Special Advisor, she was  
15 responsible for developing and  
16 implementing reform initiatives for  
17 City agencies as well as advising on  
18 new innovative and efficient ways to  
19 deliver public services.

20 Dr. Fuchs was a Professor of  
21 Political Science at Barnard, Chair  
22 of the Urban Studies Program at  
23 Barnard and Columbia, and founding  
24 Director of the Columbia University  
25 Center For Urban Research and Policy.

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Again, thank you all for being here this evening. We are deeply privileged and honored to be in your presence.

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With that, I'll turn the mike over to Lieutenant Governor Richard Ravitch for his opening statement.

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LIEUTENANT GOVERNOR RAVITCH:

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Thank you very much.

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First a bit of history. The precipitating reason for the creation of the Charter Commission which --

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UNIDENTIFIED VOICE: I can't hear anything.

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LIEUTENANT GOVERNOR RAVITCH:

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The mike isn't on. Is it on now?

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Sorry.

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Precipitating reason for the creation of the Charter Commission that I had the honor to Chair was, of course, the Federal Court decision that found the Board of Estimate violated the one person-one vote rule. I doubt very much if there

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would have been a Commission but for that, of that reason at the time. And just I'm not sure how relevant any -- some of these facts are. But I then sought to find the most talented people I possibly could to staff this Commission. And though some people criticized it at the time that I retained people whose experience had been in state government, the fact of the matter was that neither distinguished Counsel Eric Lane or Frank Mauro who was the Executive Director, if I remember his title, whom I had known well from my experience in Albany in the late '70s and early '80s, both had a very, very broad vision of government and a lot of sophisticated knowledge of the issues without ever having been implicated in any particular New York City issue or controversy before.

So having both admired their talents and with the confidence that

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they could best start this  
challenging quest to finding an  
alternative structure of government  
that had the support of the balance  
of the Commission.

We did, as you are doing, we  
held a series of hearings and for the  
purpose of finding out what was on  
the public's mind, what were the  
issues that they were most interested  
in. And I have to tell you that  
other than the fact that everybody  
recognized one had to deal with the  
question of the Federal Court  
decision -- about which there was no  
unanimous view amongst the members of  
the Commission or amongst the  
public as they were represented in  
all of the civic groups and  
individuals who testified before  
us -- there was no sort of single  
point of view of how to address the  
issues.

Again, I'm not sure how germane

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it is, but I will tell you that my guess is we might have come out a little differently, not necessarily any wiser, than the Commission that succeeded me -- although many of the members are present but I think a lot of people to begin with had a lot of questions about the utility of keeping the office of Borough President. I think a lot of people wondered whether or not instead of having a Public Advocate whether or not there wasn't some virtue to the idea of balanced tickets and whether or not the success or in the event of death or disability of the Mayor shouldn't be somebody who ran with the Mayor on the ticket in the same way that the Lieutenant Governor runs -- not me but others -- and the Vice President of the United States.

And we struggled with the fundamental questions which were addressed -- I think very wisely and

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intelligently by my successor -- with the most fundamental of problems, which is what do you do with the land use power given the fact that there was a lot of good valid argument to be made.

The virtue of having an institution like the Board of Estimate, which represented both citywide interests and borough-wide interests in terms of log rolling -- and I don't use that phrase in the pejorative context -- to ensure that City capital funds and projects that the City would support were reasonably dispersed throughout the City.

And there was considerable concern about delegating that power to a body like the City Council. Particularly since we had clearly unanimously agreed from the very beginning that to meet the sense of the Federal Court decision it was

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clearly correct to expand the size of the Council. We did that, or would have recommended that, largely on the basis of the fact that we thought if we're going to give the Council more power under the new structure of government then you would want two things. You would want it to be more attractive an office for people to hold given the fact that the institution of the City Council would have more power. And you hoped it would attract more thoughtful people who might consider making a longer term commitment serving in that role, and I'll come back to that later when I comment about term limits.

There was a lot of concern and interest in ethics reform. We rewrote that provision of the Charter. I don't think it's particularly germane. There was nothing that I am aware of that would require any fundamental change that I could

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recommend to you in the current

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ethics of the City. And because of a

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very strong view that I shared with

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the other members of this Commission,

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we thought it was time to introduce

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the concept of public financing of

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campaigns. And given all the

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constitutional limits that exist on

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what you can do with those limits,

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those were the two major items we put

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on the ballot, or recommended, and

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were placed on the ballot in that

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fall's election, and fortunately they

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both passed. I'm not sure either of

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them is terribly germane for your

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Commission to consider.

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I cannot help but remark quite

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gratuitously the lesson of public

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campaign finance is something that I

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would hope some day soon the

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legislature of the State of New York

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would consider to be equally wise.

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I will say again very briefly I

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prefer to get into detail, if you're

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2 interested, because gratuitous advice  
3 generally isn't worth very much, but  
4 I will tell you at no point during  
5 those hearings that we had that year  
6 did anybody suggest that the  
7 government of the City of New York  
8 would be enhanced by having term  
9 limits. And indeed, when that  
10 proposal came up subsequently and  
11 during which a great deal of money  
12 was spent advocating, I took, having  
13 no public office at the time, but  
14 since I had been Chairman people were  
15 interested, and I expressed my grave,  
16 grave concern that that was  
17 fundamentally a major disincentive  
18 for people to seek the office of a  
19 member of the City Council; that it  
20 would impair their ability to serve  
21 their constituents well since it  
22 takes a lot more than a small number  
23 of years to have the knowledge and  
24 equipment and resources --  
25 intellectual as well as

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conversational, if you will -- to

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know how the government runs to help

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your constituents, and, furthermore,

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enhance rather than diminish conflict

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of interest, which inevitably

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everybody in their second term would

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be figuring out what to do next, and

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be cultivating those opportunities,

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and that had to be a major priority

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for them.

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So those were the three major

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reasons why I suspect that there was

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no serious consideration of term

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limits by the Commission or any of

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the civic groups that were advocated.

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I don't know anything else I

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can tell you that's germane. I have

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views on some of the other issues

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which I read in the press that you're

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going to be thinking about. I'll be

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glad to comment on them, but I don't

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want to gild the lilly.

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I just want to make one final

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statement and that is that nobody who

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is going through what I'm going

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through now in Albany can't have

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difficulty retaining one's faith in

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the virtues of the Democratic

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political system and politics. It's

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tough. On the other hand, I do not

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believe that you ever solve a public

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problem by taking politics out of

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politics. And I don't know any other

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way in a rational Democratic society

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that you can resolve conflicts, which

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are inevitable and in inexorable

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except for our political process.

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You could tinker with it, you

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can change it, you can change terms

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of office. You can do a lot of things

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which would improve the system that

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we have now in terms of public

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disclosure.

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And as I said, public campaign

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financing, that would improve

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significantly, I think, the product

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the political process produces. But I

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find it very scary to sense the

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2 frustration that the public has today  
3 about the economic situation, about  
4 their sense that the people in public  
5 office, around the country, are not  
6 doing what they want to do, even  
7 though what they want is internally  
8 very conflicted amongst the  
9 population.

10 I find it very, very difficult  
11 to think that the anti-politics mood  
12 in this country should affect the  
13 fundamental business of making sure  
14 that representative democracy is just  
15 what's it's supposed to be, which is  
16 politics. It's not a pejorative  
17 word. It's not a pejorative context  
18 people should make decisions in, and  
19 as a general principle, I urge you to  
20 think about that as you deliberate  
21 all kinds of proposed reforms.

22 CHAIRMAN GOLDSTEIN: Thank you  
23 very much, Dick.

24 I'll now move to Fritz Schwarz.

25 MR. SCHWARZ: Thank you, Mr.

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Chairman. I'm appearing here as myself and not as a representative of the Brennan Center. It may come in before you in other proposals. Those would not be me speaking.

Secondly, I want to congratulate all of you on the responsibility you've taken on. It's where you will learn a lot about the City, you will learn a lot about yourselves. You'll have a good time and you'll make a difference.

I think this Commission has gotten off, started using the right approach and thinking about issues in the right way.

Third preliminary point I want to say is that I inherited a wonderful staff that Dick had chosen and we benefited enormously. They were not able to get done as much as they wanted. The Supreme Court got in the way. We benefited enormously from their work.

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The total that led to the 1989

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Charter was three years of work.

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Their work and our work. And so it

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was a substantial amount.

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Now, I'd like to make seven

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points of context. First is that

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charters are blunt instruments.

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Charter Commissions are blunt

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instruments. You're not elected. You

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can't be removed. You can't be

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fired. Your budget is protected and

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your end product will come at a

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referendum, which itself is a blunt

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instrument. Referenda have too much

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money and too many poor people don't

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vote, so for all those reasons you

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have to be careful.

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Second thing is I used an

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analogy or metaphor which I think was

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useful during our work. The Charter

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is the foundation. It is not the

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building. You help with the

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foundation. Elected officials later

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on do the building that comes out of

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a good foundation.

The third thing is that we have in our Charter a very strong mayoralty. I'm going to come back to that point and why I think it's important to your work.

The fourth point is, obviously, substance is key. You don't have good substance you're not going to prevail and you shouldn't prevail, but you also have to prevail. So you need to think about how you're going to put together the coalition first among yourselves and then the City. That's important, and don't forget that it's ultimately a political process, and as Dick said, politics is good, not bad.

The fifth point is independence is important. I'll come back to that again.

The sixth point is don't forget about the Justice Department both because they're a formal hurdle you

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have to cross, and, secondly, the

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moral principles that underlie the

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Voting Rights Act are relevant to how

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you think.

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And the final structure point,

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or context point, is process is

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important. And I'll turn to that.

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Process as a general point, process

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relates both to the wisdom of what

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you end up doing and it relates to

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winning. If you have an open process,

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that you listen and learn. It

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increases the chances of your vote

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being wise and your winning.

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Early listening is vital. But I

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think you will not begin to get from

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the public a response that is enough

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for what you need until you first

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come forward with your initial

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tentative proposals. We did that by

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having the Chair issue tentative

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proposals. It's a risky thing to do

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because you're out on the line. You

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know you're going to propose some

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2 things that won't turn out to be  
3 wise, that the majority of you won't  
4 accept. But I thought it helped us a  
5 lot by having the Chair come up with  
6 something specific that then the  
7 public can come in and not just give  
8 useful generalities but can also give  
9 specifics.

10 Open meetings are vital. First  
11 place, I believe the law requires  
12 them. But secondly they make you do  
13 better. A lot of people say "Gosh,  
14 how can we discuss these difficult  
15 issues with the public?" It works.  
16 You'll get used to it. You will  
17 disagree in public. That's not  
18 terrible. It's good. And the public  
19 open meeting helps your process. And  
20 again process, good process, helps  
21 ultimately have a better chance to  
22 prevail.

23 I like the idea of the hearings  
24 that you're scheduling. We called  
25 them legislative hearings. We

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brought in experts. We heard a lot of points that were valuable. Many good ideas that ultimately appeared in the Charter came out of those legislative hearings. When I saw your list of five or six the only thing that I didn't see there is the word "budget" but that may be included under your structure of government. Anyway, I think budget is something you want to look at. So several rounds of hearings are good. The back and forth, that's all good.

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So the conclusion on process is the wider the interest participation and community pressure the wiser you will be. The less special interests will influence you and the better chance you have to persuade the public that you're doing a sensible thing.

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We had in our work, leaving out all the work that Dick's Commission did, 13,000 pages of hearings and

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meetings. That's a lot. But three years it was probably double that.

Now, independence. You've talked, Mr. Chairman, a lot about that, and again in a useful way you talked about it. Again it relates both to the wisdom of what you'll end up doing and the likelihood of your prevailing.

You don't represent, you've been appointed, but you don't represent any person or any office. All points that are made to you by anybody should be made publicly. You don't want people lobbying you in secret. It's not true to the process that you've committed to, and again it's not wise, because if you have people lobbying you in secret, not either coming forward to testify or giving you writings, you're going to have suspicions about your independence and that will not be good either for wisdom for what you

1

2 do or the chances of winning.

3 Now, specifically, I think that

4 comment is important with respect to

5 the mayoralty. And I use

6 intentionally the word "mayoralty"

7 instead of "mayor" because I think if

8 you use the word "mayor" people start

9 thinking about a specific person

10 versus I think you should be thinking

11 about the institution. And that

12 institution perhaps particularly

13 should always come forward publicly,

14 either in testimony or in a writing

15 rather than behind the scenes.

16 With Ed Koch who I had been

17 Corporation Counsel for and was a

18 friend, although I disagreed with him

19 on some issues, he just once tried to

20 lobby us in a sort of private meeting

21 and we rejected his proposal and

22 thereafter every single communication

23 from Ed Koch was either in person or

24 more often in letters.

25 Now, the power of the mayoralty

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is important as one of the context points. The City has a powerful mayoralty. In the 1989 Charter we left that as it was. And we believed in a powerful mayoralty and I could answer questions on that subject and on any other subject. I'm not going to cover substantive issues, but I'd love to engage in a dialogue.

We have a powerful mayoralty. And in addition to having a powerful mayoralty, our chief executive is responsible for service delivery. It's a little different than the job of the President or the Governor.

In some ways our Mayor is more powerful in his or her field than is either the President or the Governor. One of the reasons for that is that the Mayor is responsible for service delivery. Both because we have a powerful mayoralty in the Charter and because of the service delivery, the implication, it seems to me, we

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thought for our work and I think for your work is a couple of implications.

You should not make the mayoralty any stronger than it now is. And you should be sure that other voices are adequately heard. Both voices and checks. And to me that means because of the nature of the City, it means preserving a Borough voice. How that works is something you're going to want to get into. But preserving that voice I think is important. It means preserving, in my judgment, the Public Advocate, and it means preserving the strength of the Council. And that's something you need to look at.

Are there areas where they might be strengthened? I think you ought to look at whether those offices need some protection in the budget process. We did that only for the Independent Budget Office. But I

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think the history in the 20 years of chipping away through the budget, the powers of those offices is something you should look at.

And finally, just to conclude my point about the Justice Department, you have to under the Voting Rights Act get consent of the Justice Department to do any changes you make. The U.S. Supreme Court may have recently, two years ago, maybe one year ago, narrowed that power a little bit. You don't know how the Obama administration's Justice Department is going to look at those responsibilities. But I think it would be a mistake for you to think of that hurdle as just a legal hurdle. I think it's a hurdle that goes to the soul of the City. And part of the soul of the City is to continue to strive to make sure that all peoples in the City are fairly represented. And that's what the soul

1  
2 of the Voting Right Act is. So it's  
3 not just a formality. I think it's  
4 something that ought to be part of  
5 sort of your goals and moral  
6 objectives.

7 CHAIRMAN GOLDSTEIN: Thank you  
8 very much, Fritz. We'll turn now to  
9 Randy Mastro.

10 MR. MASTRO: Thank you,  
11 Mr. Chairman, and thanks to all of  
12 you for your service. Because I  
13 enjoyed this job so much I did it  
14 twice. And the reality was that I  
15 think that as an alternative form of  
16 approaching important issues in  
17 government in the normal legislative  
18 process, what this Commission does is  
19 extraordinarily important and it  
20 enfranchises voters.

21 I am in agreement with many of  
22 the process points that have been  
23 made by both Dick and Fritz. I'm not  
24 going to comment on my personal views  
25 on issues that may come up before

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this Commission unless a Commissioner asks. But I am here tonight to say that process does matter, and I learned that the hard way the first time, because I think there was a perception in an off-year electoral process that the Mayor had a very strong view on a particular issue and we were not successful at the polls on that issue. Two years later when we put on the ballot every one of those issues that we sought to advance, we put them on the ballot separately and then subsequently the one issue that dominated the first Commission, mayoral succession, was put on the ballot early on in the Bloomberg administration, every single one of those issues passed. But the lesson of these is the process does matter.

I'll talk a little bit about process. First, your mandate is to review the entire Charter. Now, these

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two gentlemen chaired Charter Commissions at a pivotal moment in our City's history when we were literally forced constitutionally to undergo a restructuring, and through their leadership they each in their own very special ways restructured City government. And it may be that I don't agree with Fritz on every issue, and maybe some of those issues of restructured government should be revisited now, but the fact of the matter is that that was an extraordinary moment in time in our City's history, and the proposals tend to be more sweeping.

In subsequent Mayoral Charter Commission deliberations the issues tended to be more discrete. Your mandate is to review the entire Charter, and there are now in the past 20 years a number of issues that really haven't been revisited by Charter Commissions that deserve to

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be revisited.

Now, in terms of also the process. I think that it is important for you to take into account how you put your proposals to the voters. Will you put them as separate propositions each? Will you put them as a group proposition all up or down? Will you put them in discrete groups that make sense to put together? And you are ably assisted here by a terrific staff, and Anthony Crowell was invaluable in our Charter Commissions.

We learned again the hard way. We put a series of complex proposals together the first time as one, and I think that is also something the voters said "Hey let us break each down." And when we did break them down each of them passed overwhelmingly.

I also have to say that there's been some discussion here already

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about strong mayoralty, how the Mayor communicates with you all, what the Mayor's role should be.

The Mayor appointed this Commission because he wants a review of the entire Charter. I think the Mayor has been quite open about some of the issues publicly, doesn't have to communicate with you privately, but you know some of the issues that he wants this Commission to consider. Doesn't mean you are a rubber stamp, but a Charter Commission is a way for a Mayor to have a group like this put to the voters issues that a Mayor, particularly an independent or a Republican Mayor, is not able necessarily to legislate in a predominantly Democratic City Council. It empowers the rights of the voters to make those choices. So to me, as a Chair of a Commission, there's nothing wrong with a Mayor appointing a Commission and a Mayor

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having strong views on some of those issues. You are not a rubber stamp. But it is okay for you to consider the issues the Mayor wants you to consider, and I say that as someone who has taken on this Mayor occasionally. So it's not necessarily the issues that I put before the voters. But I believe the Mayor has that right, and that's one of the reasons why the Mayor appoints a Charter Commission. So it doesn't in any way, shape or form denigrate your independence to take up those issues and others.

I think that one of the important things that will come out of this process is that you will put issues to the voters and there will be questions that arise about what decisions will stick and what decisions can simply be reversed later by the Mayor or City Council if they don't like what the voters said

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this time.

So I urge you to give consideration as you propose each change on ways you can implement them that empowers voters, that doesn't make voters feel like, as I think many of them did, that certain issues that they decided repeatedly they were not given the opportunity to decide again.

This is not a question of whether we support them as a matter of policy or not. It's a question of the voters being respected and heard.

And the State law, we are not a referendum friendly state in general. So it takes some care and consideration to figure out how to put the proposals to the voters and when they will stick as mandatory subjects of referendum or not. So I urge you to consider that in your deliberations as you put proposals on the ballot.

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And again, I finish where I

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started. I thank each of you for your

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service. I think what you're doing is

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extraordinarily important. And I

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congratulate the Mayor for appointing

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all of you to do this important job.

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Thank you.

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CHAIRMAN GOLDSTEIN: Thank you

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very much, Randy. We'll now turn to

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Frank Macchiarola.

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DR. MACCHIAROLA: Thank you

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very much, Mr. Chairman. I echo the

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comments that were just made with

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respect to the appreciation of the

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people of the City of New York, the

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work that you're doing for us. It's

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really nice to be in front of a

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committee like this without feeling

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that I have somehow created an oil

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spill somewhere or somehow the

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company has acted in a fraudulent

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way, so to be in front of so many

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people in a friendly audience is

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really quite unusual in this day.

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My experience with the Charter Commissions goes back. I served on the Sovereign Commission, I chaired that. I had the pleasure of serving with Dick Ravitch and his Commission. And I chaired the Commission that Anthony was on, Katheryn was on, Dick Rowles and Alan Gardener. Alan worked with us on districting, which we did the City Council District lines on the Charter Revisions, and the federal lines when the legislature couldn't do it. And I say that because we were really enmeshed in a lot of political questions.

For purposes of just letting you know also, my doctoral work was in municipal government and my articles were in finance when I started a long time ago as a young professor. And I want to make the comment that builds on what was said by Fritz, because when I studied government, local government law, it

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was not called "local government

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law." It was called "municipal

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corporations." Because municipalities

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were corporations, and if there was a

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legislature for the City of New York

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for most of this period of time,

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legislature was the New York State

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legislature, not the City Council. So

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to think the City Council is really

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the arm, of the legislative arm of

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government, the state of the role

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they play.

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Most of government is regulated

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by state legislature and it's

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implemented by the Mayor as the chief

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administrator of the City of New

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York. What role the Council plays is

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marginal at best. Although if you

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tell them that they get hysterical.

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They don't appreciate the limits of

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their own power.

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And so I think you've got to be

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careful about the issue of Mayoral

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control. If you don't have a strong

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Mayor in the City of New York you

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have nonsense abounding in the

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current structure of this government.

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And I say that because we have gotten

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to the point -- you just heard

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colleagues talk about campaign

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finance reform as if it matters.

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Campaign finance reform has built an

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industry of people who billed and

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billed governments for work they do

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to get people elected who would be

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elected without campaign finance

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money. All you have to do is look at

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who is getting the money. Candidates

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who win 70 and 80 percent of the

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vote. That's not where it's at. It's

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a process that prevents people from

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getting on the ballot. And from

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having a fair shot in an election

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where people vote.

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People who vote don't vote in

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primaries. And you have right now a

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party, which I have to give them

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credit, they have appropriately

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called themselves the Workers Party,

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which as those of you have who know

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history understand where the Workers

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Party comes from, okay, it comes from

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the Bolshevik Revolution right here,

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and they've taken over the Democratic

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party. They've taken it over in a

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primary system in which people don't

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vote. But they create those voting

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positions.

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I'm only stating it because I

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come from Brooklyn. And those of us

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from Brooklyn know we don't have an

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opportunity to express ourselves,

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because we have a closed system in

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this town. We have a lot of elites,

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we have an elite newspaper, and we

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are told what it is that was expected

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of us.

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So I as a member of the Green

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Tea Party, some environmentalist

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speaks to you about what I think is

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seething below, and what is seething

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below is a lot of unhappiness about

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structures that don't implement the public's right to participate in government. So if you want to get on the ballot you can't get on the ballot because they have ways of keeping you off the ballot.

There's an election right now that should have been held in the 39th Assembly District in Queens for the seat that was vacated when Peralta became Assemblyman. Why hasn't there been a special election called? Because the candidate of the party organization hasn't moved into the district long enough to run. That's the reality of what it is on the ground.

On the ground the people's frustration is grounded in rules that keep them out of the process. Primaries that they don't participate in. Most voters in the City aren't in any party. Party primaries -- and by the way, Voting Rights Act. You

1  
2 have in this city minority districts  
3 where there is no competitive  
4 election. And that is because of the  
5 system I've just described.

6 Then you have a citywide  
7 election. And you wonder "Why doesn't  
8 the minority vote come out?" Well,  
9 why are they going to come out?  
10 There's nobody running in the local  
11 level in a competitive election.  
12 There's no competitive election.

13 A nonpartisan election in which  
14 the two main contenders for whatever  
15 party runs on the ballot and you  
16 elect in a general election will  
17 enhance turnout, will give more  
18 people the opportunity to run, and  
19 will eliminate the frustration that  
20 occurs among a lot of people.

21 I want to harken to the  
22 Districting Commission just for a  
23 second. Most of the people down in  
24 Washington think that they know about  
25 ethnicity, because we're now in a

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situation where everybody's either

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black or white. Well, tell that to a

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lot of my friends who are both.

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Alright.

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When we districted in the

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districts we recognized a couple of

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categories that weren't in the

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literature, because we talked to the

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people on the ground. That's what

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you should do. It wasn't a Hispanic

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district in the northern part of

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Manhattan, it was a Dominican

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District. You created a Dominican

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District side by side with another

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Hispanic District. A Caribbean

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District in Brooklyn.

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We couldn't get people to

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understand that people on the ground

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told us that. So we created

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districts that more reflected the

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reality of ethnicity, not what people

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were writing about.

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Finally, and I want to say this

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about one other point. Term limits.

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I don't think you have a choice,

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because the people have spoken. The

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people have said "Don't keep bringing

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these people in. Give somebody else a

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shot." And so I think you owe it to

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the people in this City of New York

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to keep faith with what they ask you

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to do, and put in a clause that

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doesn't allow the self-serving

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members of the City Council and

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self-serving members of the

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government -- I'm not going to talk

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about my friend, my good friend, I'm

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not talking about him, but they did

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damage to the integrity of the entire

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government and the entire process.

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You have the ability to make

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that right. You are not going to get

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a shot again. This is a rare

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opportunity for you. It's a rare

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opportunity to put aside special

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interests and figure out what you can

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do for the people of the City of New

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York that really matters. If you do

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that you'll keep faith with the City  
and you'll produce a set of proposals  
that the public approves.

CHAIRMAN GOLDSTEIN: Thank you  
very much. Now turn to Esther Fuchs.

DR. FUCHS: Nobody told me I was  
going to go after Frank, but we'll  
give it a try.

First of all, it really is a  
pleasure to be here this evening and  
in such esteemed company. I know I'm  
often lending gender diversity to the  
room but in this instance I do, don't  
I?

But in all truth, my experience  
serving as Chair of the Charter  
Revision Commission is actually one  
of the high points of my career  
partly because I had such  
extraordinary members of the  
Commission, some of whom are here  
today, David Chen, Anthony Crowell,  
Steve Fiala (inaudible) and I think  
managed to put together the

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Commission that time as well.

I have a couple of points to make, and I will try not to repeat what everybody else has already said, which I think is powerful and important.

First, I would just encourage everybody here to do no harm. Now, I know that sounds very simple. But in fact, the issue of doing no harm is not quite as simple as one might expect it to be, because you have to do no harm to the Democratic process, as many of my colleagues have alluded here, and you also at the same time have to do no harm to the structure of City government, which is not perfect, neither is the Democratic process.

On the Democratic process side, the real key issue is legitimacy. Legitimacy is the process of the Charter Revision Commission and really engaging the public in a way

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that they don't feel like the process is a sham. And here's the kicker. Here's the most difficult part. Charter Revision Commission process, which invariably results in propositions on the ballot, is the really the only thing we have that closely resembles direct Democracy.

As was mentioned earlier, we are basically a representative Democracy. We elect a Mayor, we elect our members of the legislature, and we ask them to represent our interests during the four-year period between elections. And then some of us might engage more directly by going on the steps of City Hall, by writing members of government, or by sending checks, or whatever we do to get our voices heard. But in reality it's a representative form of government. And the only time that we have something called direct Democracy is when we're asked to

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2 directly vote on a ballot initiative,  
3 and that's what I think makes this so  
4 difficult and so important.

5 So the public has to be  
6 engaged. It has to be considered,  
7 consider the process legitimate. And  
8 you have to trust the public at the  
9 end of day, which is actually quite  
10 difficult. There is more cynicism  
11 now, as was mentioned, about  
12 government, which makes this a  
13 particularly difficult time to engage  
14 in a Charter Revision Commission.

15 If you talk to ordinary people,  
16 which I know you do at these  
17 hearings, you will find people saying  
18 "The legislature?" And my heart goes  
19 out to Dick Ravitch who is doing  
20 God's work in Albany. It is a period  
21 in which the public, if you don't  
22 like a pox on everybody's house, they  
23 feel like "What do we need a City  
24 Council for? What do we need a state  
25 legislature for?" There's very little

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comprehension that a lot of our  
elected officials do anything  
worthwhile for them.

    You know, government is local,  
politics is local, and people are not  
feeling very good about government  
right now. And so the last thing we  
need is more cynicism that emerges  
from proposals that might come out of  
the Charter Revision Commission and  
also that would come out of the  
process itself. So I know that the  
Commission is working very hard to do  
this outreach, to bring the process  
to the public. And it's very hard  
because the public is cynical and the  
public is judgmental and then they  
don't show up. And I like to say that  
Gene Russianoff is the public,  
because he comes to every Charter  
Revision Commission, but you need a  
couple more people in the room. You  
really do.

    And the fact that you're using

1  
2 the Web now and simulcasting and  
3 doing the kind of outreach, the more  
4 you can do of that I think the better  
5 it is for the process and the better  
6 it will create a robust debate that  
7 you need to make this work. As much  
8 public information as you can get out  
9 there as possible.

10           And I do agree with Fritz.  
11 Preliminary proposals are very  
12 important. So when you get toward  
13 the middle of your time frame, get  
14 that proposal out, get people focused  
15 on something specific, because from  
16 that will emerge something along the  
17 lines, I think, that will resonate in  
18 the public domain. So process is  
19 pretty straightforward but it's  
20 difficult and I think everybody in  
21 this room is aware of that.

22           The other area of doing no harm  
23 is really about the structure of the  
24 City government, and while the  
25 process is difficult we know what we

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have to do.

On the structural side, you will start hearing very smart people, probably all of us, to disagree with each other about where the changes in the structure of City government should take place.

I said do no harm, so the first question you should ask yourself, "Is this going to make things worse or better?" Now that sounds obvious. But again, worse or better for whom? It's not always obvious when you change structure. The unintended consequences of structural changes are really something that you have to think about a lot. And also this question of who would ultimately benefit from the change in structure? I think in this area again we're in this highly competitive global economy and we had to balance local Democracy with managing a complex city government.

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When my colleagues talked about

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managing city government, when Frank

4

talked about the issue of governance

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and municipal corporation, this puts

6

the public to sleep. In fact, it

7

puts my students to sleep, too, so I

8

understand that this is not the most

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exciting thing you have out there.

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But the reality is, is that you've

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got to focus on the issue of

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structure, because in fact, since the

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1989 Commission, where we did the

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most elaborate of these structural

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changes, things are different now.

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There's a couple of things that

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I think need to be reconsidered. And

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both from the perspective of making

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government more efficient but also

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making government more democratic,

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small key, and enhance our Democracy

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obviously needs to be part of this

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discussion.

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Now, in my Commission we had a

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very limited task. Even though as

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Randy said, every Commission really must review the entire Charter, you're tasked with examining the entire Charter, and I did that. And I had just a terrific staff like everybody else did, Terri Matthews and Frank Barry who is here, and Abby Gluck, and I had Anthony on my Commission, which you're very lucky to have him and his incredible depth of knowledge about city government, and the tasks as well as what we might want to see in the future. But we had a very specific agenda which related to fiscal stability, administrative judicial reform and government efficiency and accountability.

We managed to put two issues on the ballot, which were very straightforward, and we left a couple of things on the table. And I would suggest you to two things. Go back and look at what other Commissions

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left on the table. There are lots of proposals in there that can be looked at.

We had an issue around government efficiency and the problem of reporting and how you make government more transparent for the public so they can engage. It's not in the 21st Century what the Charter has in terms of reporting requirements now, and it's not useful to the advocacy community or ordinary people who want to engage. Those are the kinds of things that you might be able to address in the window of time that you have before you.

I would also suggest that not everything has to go on the ballot. The work of the Commission is very important, as was mentioned here, because you can also direct other levels of government or the City Council to act and to take up an issue. So you don't necessarily have

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to bring your issue in as a ballot initiative. But if you want to do something, for example, on redistricting, on a redistricting commission, you can direct the state legislature to take that up and act. And, you know, people might think that's funny, ha, ha, a Commission trying to direct the state legislature. No one seems to be able to direct the state legislature. But the bully pulpit is profoundly powerful here, and I think you need to use it in very creative ways.

Finally, I will say that in thinking about the task before you, you really have to recognize that you have a limited amount of time, and I think it be would foolish to try and tackle issues in this short period of time that we really haven't had robust public discussion. So I think everybody agrees that land use is something, for example, that needs to

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be fixed. But I don't really see if you're going to go, if you're going to do voter participation, term limits and a variety of structural issues that relate to Borough Presidents, the Public Advocate and Community Boards, how you give land use the kind of discussion it needs unless you're planning to extend the Commission for another longer period of time. So my personal experience leads me to believe that at some point soon you need to narrow the focus of this Commission if you're really going for the next election, which is around the corner.

Summer is a very dead time. You may be working hard but the public doesn't know it and, again, the public needs to know what you're doing. So I will just suggest that if you can narrow the focus of your work right now, stick to term limits, very contentious, wonderful issue. I'm

1  
2 not articulating my position yet, but  
3 if you push me hard enough I might.  
4 Stick to the issue of nonpartisan  
5 elections, bring that back, because  
6 it's been discussed and you want to  
7 take it someplace.

8 And I would also focus on  
9 Community Boards, Borough Presidents,  
10 Public Advocate and how those forms  
11 of representative Democracy are out  
12 there, how you can strengthen them.  
13 I know the issue to strengthen or  
14 eliminate, but leaving it the same  
15 would be a shame at this point.

16 So I'm looking forward to the  
17 rest of the work of this Commission,  
18 and I have complete faith that the  
19 members here will put initiatives on  
20 the ballot that are understandable to  
21 the public and of value to the City  
22 of New York. Thank you.

23 CHAIRMAN GOLDSTEIN: Thank you  
24 very much, Esther. That was  
25 wonderful as always.

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I'd like to give an opportunity now for the Commission to engage in a conversation with our experts on the panel. Our experts by virtue of their many, many experiences, but in particular chaired this prior Commission.

Let me see if I can start. Fritz, when I read the history of the 1989 Charter Revision Commission that you and Eric Lane wrote -- and you repeated it again tonight -- the one thing that jumped off the page for me, and it was subtle but it really resonated well, was the notion that you as a Commission really should be looking at foundational matters as opposed to attempting to build something; and that as someone who has studied mathematics, that said to me concentrate not so much about proving new theorems but establishing the axioms for others to build upon. Or develop the toolbox that future

1  
2 generations could be using to refine  
3 the processes of government.

4 Can you talk a little more  
5 about that, why you stressed it so  
6 much in that history, you stressed it  
7 again tonight, as one of your very  
8 fundamental principles?

9 MR. SCHWARZ: I think it's a  
10 good metaphor to say you're working  
11 on the foundation and not the  
12 building. And it's valid, it's also  
13 self-protective. Let me use that  
14 last point first, although the most  
15 important. You create the  
16 foundation. It's up to the  
17 politicians to build the building.  
18 They may not build the building that  
19 you would have built, but that's not  
20 your responsibility. You just have to  
21 create a good foundation.

22 I think it helps you decide  
23 there are some things that you ought  
24 not to touch because they're better  
25 worked out through the legislative

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process. You might have great ideas.

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You might be yourself wonderful

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legislators. But you're not. You're

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a Charter Commission. So I think the

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metaphor is helpful and I think the

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substance of it is right. But it's a

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foundation you're creating and not a

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building.

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Just like the founders of our

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nation. They left much more detail

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for the future. But what they

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thought they were doing was creating

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a foundation that they hoped would

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blossom and which was necessary to

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improve in time. But they didn't

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think with the few exceptions that

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they were becoming in effect

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legislators for the future. They

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were foundation builders for the

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future.

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CHAIRMAN GOLDSTEIN: Thank you.

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Hope, you want to start off?

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COMMISSIONER COHEN: Sure. How

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did you know I had questions? Because

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I just had that look?

Yeah, actually, I probably have questions for all of the distinguished former Chair people. But starting in chronological order. Just so the members of the public know, we have crib sheets for what each of the Commissions chaired by these illustrious folks did, what they put on the ballot, what they decided not to put on the ballot.

And so I note that the Ravitch Commission had among other things -- has, we still have the, you know, we still work this way, nonpartisan special elections to fill vacancies. And we've been hearing in our first round of public hearings quite a bit about nonpartisan elections, and people calling for them, and this was a good reminder for me that actually New York City already has nonpartisan elections for these special elections to fill vacancies.

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So I'd like to hear, I guess,

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from former Chairman Ravitch about

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that particular provision and how you

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got there and whether you think it's

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worked in this intervening time. And

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what the distinction is between a

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special election and an ordinary

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election that we have partisan for

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one and nonpartisan for the other.

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MR. RAVITCH: Again I want to

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thank everybody in chronological

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order so (inaudible).

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COMMISSIONER COHEN: The

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earliest Commission.

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MR. RAVITCH: I can't guarantee

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you that I will remember all the

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reasons precisely. But I think given

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the importance of filling vacancies

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that the nominating process, I think

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Fritz may recall, or Eric probably

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has a far better memory, that the

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process would occur a lot more

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efficiently if you didn't have to go

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through the nominating process in

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order to have a special election,  
because you want to make sure it can  
be done expeditiously.

I'm not sure what nonpartisan  
elections, how it would work until I  
see a proposal on that. What I would  
refer to, by the way --

COMMISSIONER COHEN: Same here,  
by the way.

MR. RAVITCH: What?

COMMISSIONER COHEN: Same here,  
by the way.

MR. RAVITCH: But what I meant,  
what I said, you shouldn't try to  
take politics out of politics. I  
think that the reason that political  
parties have been a stabilizing force  
in American history is that as  
Madison said in the famous Federalist  
Paper No. 10, "The larger the tent  
the larger the umbrella, the better  
it is for the resolution of all our  
conflicting interests, factions, that  
a Democratic society have."

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And I think having two major political parties has served the Democratic process a lot better than a multiparty system that exists in many parts of the world. In many cases causing serious dysfunctionality. Not that ours always functions well either. But I also think that it makes it possible for a process to take place that in fact damages people who don't necessarily have the wherewithal to incur the expenses to get on the ballot without the support of a political party. So I think that it runs the risk of being extremely elitist.

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As far as the suggestion it's a good thing to replace everybody on the City Council now, I don't know how much, in all respect to my friend Frank, on what he bases this supposition that the people who will replace them will be any better than

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the people who serve them now.

DR. MACCHIAROLA: I didn't  
say --

MR. RAVITCH: And that as  
flawed as the result may be in many  
cases, in my judgment it's because  
not enough young people are willing  
to suffer the invasions of privacy,  
the indignities, the expenses that  
are intrinsically involved today from  
the participation in politics. I  
think that's the problem, is the  
environment in which politics occurs  
and the disincentive for people to  
participate in. And I think  
eliminating party from the process  
doesn't automatically change that.

CHAIRMAN GOLDSTEIN: Frank, did  
you want to respond?

DR. MACCHIAROLA: Yes. I  
respond to the question. I think the  
governor has been in Albany too long.

Let me explain what happened,  
because I was a member of that

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Commission, and it was my resolution that proposed nonpartisan elections.

The situation in the government of the City of New York and the City Council was as follows. If a vacancy occurred, the members of the political party of the Borough would appoint a City Council member. And so no one who lived in the District would have the power to vote for the person who was going to represent the District. That was the prevailing ruling.

It was then thought special elections should occur, and that was a proposal that the committee was considering, special elections when vacancies occurred. And it was appropriately noted, as the governor indicates, that it would mean a primary election if we went to an electoral system, primary election, special election, primary for the regular election and special regular

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election. You could have four elections in one District in the space of two years.

When we discussed it further we came up with a proposal that said why not eliminate one of those special primary elections by allowing the candidates in the District to circulate petitions without party designation? Hence the time system that the voters approved of and that we now have. There would be a special election to replace the absent Council Member and then the general election, the reversion back to the system.

Now, it was said, "Oh you're going to destroy the two-party system." Well, we've had at least eight elections in the City of New York under that proposal. In every instance but one the party of the candidate who was replaced, a member of that political party was elected.

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So when a Democratic councilman lost

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or left, most of them were Democrats,

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two Democrats would be competing

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because of the way the system

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operated. Generally, two Democrats

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would be competing, and that in every

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instance but one the member of the

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same political party was elected. So

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party politics didn't disappear. But

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the party didn't control the

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apparatus of electing the person.

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And lo and behold what did you

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have? Increased participation in each

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of those districts by the voters.

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They were forced out by a mechanism

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that we now have, for example, in the

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state government. When an assembly

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person leaves the governor calls a

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special election. And as I told you

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before, this governor, while he gives

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the budget a week, you know, every

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week a new budget, can't figure out

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that we need a special election in a

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District in Queens because the

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political party in charge has told

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him no. So the voters are being

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denied the right to vote in an

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election in which budget issues are

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being considered because it's

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inconvenient to the political party.

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That's the dominance that they have.

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Now, the one exception was the

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special election in Queens. And in

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that instance a Republican was

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elected to a seat that was given up

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by a Democrat who had been elected to

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the State Senate. It was a fiercely

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contested special election. And it

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was won by a Republican. And that

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Republican has been reelected on a

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party line, on the Republican line,

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in a regular election. Which

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demonstrated voter satisfaction with

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the result that had occurred with a

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minority candidate person being

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elected.

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What I'm talking about is not

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an abstract concept of parties,

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which, incidentally, didn't find it's

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way into the United States

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Constitution. There's no reference

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to parties. The Federalist Papers

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didn't want parties, and the first

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elections for President and Vice

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President were elected by other than

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parties. There were no parties. They

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came later on to serve the

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convenience of those who run the

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system.

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Allowing people in this city to

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be able to organize and to put on the

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ballot, you put on the ballot in the

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primary, eight, nine, ten people, the

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top two go into November, you

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guarantee a competitive election in

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every District with the top two

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people running. You increase voter

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participation, and all that money

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that you're wasting on campaign

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finance, which is being given to

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people who have no opposition, can

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now be given to people who really

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want to --

MR. RAVITCH: I would just like to say a few things. Under the system that describes when you have ten candidates running that money becomes -- the ability to have money to raise money becomes the dominant factor in the results of such an election and the party process is very ameliorative, in my judgment, as flawed as it may be in results.

Second of all, the law says that if you can't have a special election by April 30th there shall be no special election. So the failure to have a special election for Peralta's seat was the function of the fact that the special election they didn't throw Monserrate out in a timely enough fashion, which I'm sure they could have had two special elections before the statutory requirement of April 30th. I wasn't involved in the decision. But just

1  
2 that statute itself is what  
3 controlled the existence, not the  
4 will of some hypothetical party boss  
5 like Hiram Monserrate.

6 COMMISSION GOLDSTEIN: Steve  
7 Fiala.

8 COMMISSIONER FIALA: Thank you,  
9 Mr. Chairman.

10 Let me echo Chairman  
11 Goldstein's earlier remarks by  
12 thanking this distinguished panel for  
13 volunteering their time tonight, it  
14 help us march forward and see  
15 perhaps, if not more important, the  
16 remarks that each of you have  
17 advanced earlier help to educate  
18 hopefully thousands of people.

19 I share the opposition on this  
20 but hopefully thousands of people  
21 that will be watching this on Webcast  
22 providing an understanding of what a  
23 Charter Revision Commission is, and  
24 Chairman Macchiarola's lecture on  
25 municipal corporations, and it helps

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educate people. And there are limitations to what a lecture can do notwithstanding what they think they could do.

I could spend hours with you. In fairness to the other members, there are only two issues on this round, if we're permitted to go through additional rounds.

First, to Chairman Schwarz's earlier comment related to incorporating some discussion regarding budget. And that is part of the government structure. I happen to share your assessment there. As a matter of fact, it's my singular priority, and has been, I have testified and participated in every Charter Revision Commission from Fritz Schwarz forward, and I had the privilege of serving with you on the Schwarz Commission.

We in 2005 placed before the voters in addition to the judicial

1  
2 ethics question a proposition that  
3 simply says shall we incorporate into  
4 the Charter those fiscal tools that  
5 have served this City so well but are  
6 not in the Charter? And because the  
7 Financial Emergency Act was due to  
8 expire, the Commission put this issue  
9 on the ballot and a majority of the  
10 voters passed it.

11 The Lieutenant Governor was  
12 working feverishly up in Albany,  
13 advanced a very thoughtful proposal.

14 Here's the question I have for  
15 all of you, given your expertise in  
16 government. I'm a former legislator,  
17 so I can speak with some authority on  
18 this subject. Not to denigrate  
19 legislative bodies, but it is my  
20 experience that left unchecked, a  
21 legislative body, regardless of what  
22 local government is at, would spend  
23 not only the last dime but the  
24 unearned dime of my grandchildren.

25 Having said that, if we all

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agreed with that, which is just the

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nature of legislators, that they

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don't have the senior responsibility

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that a chief executive has to look at

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the broader issue and have the

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ultimate responsibility of balancing

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a budget, the '89 Charter, which we

9

now have 20 years' experience with,

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has done a very good job in setting

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up fairly stringent fiscal controls.

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Relative to other roles of

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government, we're in great shape.

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Having said that, with twenty

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years' experience and given the dire

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fiscal situation this country finds

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itself in, could we, in your

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estimate, would it be advantageous

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for us to look at possibly taking one

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step further and the step further is

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the Charter as adopted by the voters

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in '89 carving out a Fiscal Impact

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Statement?

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As a City Council member, if I

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advanced a piece of legislation and

1  
2 the Council finance division, OMB, as  
3 the Deputy Mayor calls it, we cost it  
4 out, we know what that legislation  
5 would cost if implemented. So the  
6 Charter requires that as part of the  
7 bill a Fiscal Impact Statement be  
8 included. That's wonderful. But  
9 that's only half the equation. How  
10 much Fiala's bill will cost this  
11 year? How we're going to pay for it?  
12 Well, that's a bigger issue. And it  
13 seems to me that the legislative  
14 bodies have this loophole to pass  
15 bills that have a tentative cost  
16 associated with them and then punch  
17 to the chief executive who has to  
18 make the popular or unpopular  
19 decision on whether to veto or  
20 support, and then, more importantly,  
21 how to pay for something. So should  
22 we look at adding that one additional  
23 step that says in addition to the  
24 Fiscal Impact Statement that the  
25 City legislative body, the City

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Council, has the responsibility to show exactly how it's going to offset the costs and not leave up to a mayor who then has to suffer the scorn of the public if he or she decides we simply cannot afford it?

MR. SCHWARZ: Well, I think that's something you should look at. We did put in the requirement of the Fiscal Impact Statement. The pay/go is what the Federal government just reinstated. Now they have to do that. So it may be something that's worth doing.

By the way, I like your testimony that I read -- I read all the testimony -- your comments, how you voted against the 1989 Charter and then decided to work with the system of government. I think that's a very astute comment.

COMMISSIONER FIALA: You do great work.

MR. SCHWARZ: But the fiscal

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conservatism, it's the reason I can say that the Mayor has more power than the Governor or the President in his sphere, because the Mayor can set the revenue estimates. There was a push by some people to change that. I strongly resisted it. I think it would cost the City its bond rating, and that would cost the City, you know, drop us a notch. That would be a very bad thing to do. So I think conservatism on budgeting is very valuable and it's good to have the Mayor with that power.

When I said I thought how the budget provisions had worked, it would be -- and by the way, what Esther Fuchs did, in effect, putting in the Control Board rules into part of the City Charter, that was a very good thing to do.

When I mentioned that I thought budget questions were ones you should look at, these are more detailed

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2 points, but I think you ought to look  
3 hard at how the Borough Presidents'  
4 right to insert 5, basically 5  
5 percent of the Mayor's budget on both  
6 the expense side and the capital side  
7 can be inserted by the Borough  
8 Presidents and then it's up to the  
9 Council whether or not to accept  
10 those things. I thought that was a  
11 good concept of adding some power  
12 that's between the Mayor who controls  
13 the whole city and the councilman who  
14 controls 144,000 people. So I think  
15 you want to keep the powers of the  
16 Borough President. But look hard at  
17 how that has worked. Are there  
18 suggestions to pay attention to? If  
19 not, why not? Do they have enough  
20 information to make their suggestions  
21 in a sensible way? I don't know the  
22 answers to that. But I thought that's  
23 something you should look on the  
24 budget.

25 Another one is there are very

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complex questions about what happens in the middle of a budget year. And I know, I left 1989 thinking, "Well, we resolved that." But I wasn't sure that our resolution would be the one that stood the test of time.

And just to really generalize, my recollection of it is that the Council's powers on the initial budget can be diluted by the lack of powers on budget modifications. But I don't have a clear memory of it. I'm just certain that's something you guys ought to look at closely.

MR. RAVITCH: I can add just one historical fact. I certainly agree with you that the legislators ought to have generally a spending -- but I do want to point out it was the New York State legislature that imposed on the City of New York budgeting that they have a balanced budget and that the Mayor have full control. And I agree with what Fritz

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said totally: Full control over expenditure estimates.

I also point out that if you actually study the history, as I have, very carefully that of the \$25 billion in one-shot's that were used as borrowing and assets sales that we used to balance the State's budget in the last 10 years, thus digging a deep hole that we're now in, were about 75 percent of them were initiated by the executive branch of the government. So, therefore, I would respectfully submit to you that the spending addiction has been an affliction in most people in politics in a society that though (inaudible) the reality is today that that mythology is not true. It's a very tough adjustment for the political system to make.

CHAIRMAN GOLDSTEIN: I like to give some other Commissioners a chance to be heard.

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Commissioner Angela Freyre.

COMMISSIONER FREYRE: I believe the issues for the Commission, the two issues that we should be considering in this Commission, I think you, Esther Fuchs, spoke about going back to proposals left off, and Mr. Ravitch spoke about issues that deserve to be revisited.

I think, Mr. Schwarz, you referred to the budget issues that I believe you now elaborated on. Could you elaborate a little bit more on the things that you feel should be considered?

MR. MASTRO: Well, I think one of the issues that the Mayor has very openly discussed publicly, term limits, I believe it's incumbent upon this Commission to take up that issue. And I started from the following premise. Whether you agree with term limits or you disagree with term limits, what happened last year

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in New York City, an act taken by our

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Mayor and our City Council, was an

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outrage. The voters felt

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disenfranchised, having repeatedly

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spoken at the polls in favor of term

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limits. They were not given that

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opportunity again.

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And it may well have been that

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the voters would have appreciated in

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the immediate aftermath of the worst

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economic crisis in this country since

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the Great Depression that had that

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issue been put to them, had the Mayor

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and the City Council had the

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confidence to put it to them, that

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they would have decided "Yes, perhaps

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you should have another term in

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office." But they took it upon

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themselves to do that.

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And a commitment was made by

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the Mayor then that he would endeavor

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to see that the issue went back on

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the ballot. And while that doesn't

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excuse the outrage, I think that it

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is something that the voters have a right to decide whether you agree with term limits or not.

I have litigated the question. I have established some of the most important precedents in this area. Unfortunately, they all went against me. But the reality is, the reality is that when you do this -- and I have been asked about this by a number of parties -- when you do this, if you simply put it on the ballot and put it back to the voters the Mayor and the Council will once again have the opportunity to reverse it by legislation.

You need to think long and hard here about ways that that issue can be put back on the ballot coupled with related issues that will ensure that the will of the voters is respected in this regard, in my view, because otherwise individuals who hold office, when the time comes for

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them to leave office, they may be inclined to go the legislative route again.

So whether you favor term limits or you don't -- and I have great respect for Dick Ravitch -- this is not about whether you favor them or you disfavor them. I think the voters of New York City felt terribly disenfranchised and offended that it almost brought down a Mayor who by most voters' account has done a good job in office. But they were so offended by that, that it almost caused him not to win re-election.

I don't think we want to see that situation repeat itself. I think we want to give the voters the opportunity to decide one way or the other and then to see to it, and there are ways to address this, that the voters' will is respected, and if there's going to be a change it goes back to the voters. It's not enough

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to just say to this Commission, "Put  
it on the ballot." The voters decide.

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If they decide in favor of term

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limits it has to go back to the

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voters, because State law ultimately

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controls on that question. So it

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will take some creative thinking to

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address the process issue and make

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sure that it becomes a mandatory

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subject referendum in our local

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Democracy.

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But I think the voters of New

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York City feel very strongly about

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it. So I think this Commission has

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to take up that issue.

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DR. FUCHS: I think I want to

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address the general question you

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asked and also address what Randy

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talked about with regard to the term

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limits.

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I think there's really some

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confusion here about those two issues

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and how they interact with each

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other. There is the issue of ballot

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initiatives and when should a ballot

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initiative, if it's going to be

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changed or overturned, be forced to

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go back to the voters? Which is to

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say when does the legislature have

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authority to reconsider ballot issues

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and are there any specific ballot

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initiatives that you want to take

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away the authority of the Council,

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the legislature, from reconsidering

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what the voters, the so-called

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voters' will was in that previous

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election?

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Now, to clarify that point, as

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it stands right now, we had a system

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of checks and balances, and we had a

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system in which the legislature can

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overturn a ballot initiative. And

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for better or for worse, if we

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compare that --

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MR. MASTRO: Not all times,

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Esther.

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DR. FUCHS: I understand not

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all times, so there are specific

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exceptions, but in general we can do that. And if we compare ourselves to states in which ballot initiatives are rampant, there's huge problems if you take away the capacity of the legislature to change ballot initiatives.

And you can just see California, what Proposition 13 has wreaked havoc over the long term with the California budget. The Governor can't really govern in a responsible way because of ballot initiatives. And ballot initiatives are often captured by special interests the same way that a legislature can be captured by special interests. So I won't go into the details, but I want to correct the record here, because low turnout elections, a percentage of the people wasn't represented. Those are all empirical questions which the Commission can look into. There's many articles written on

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that.

Having said that, I think Randy has a legitimate point in the sense that there may be specific kinds of ballot initiatives. The "self-dealing issue" as it's characterized in the press when you want to take away the authority of the legislature to overturn a ballot initiative. And I think that has to be considered carefully. And it's not obvious to me what those are, but one could have a reasonable conversation about that.

The term limits question is a different question. The question of term limits is do we want to take away the voter's right to vote people out in elections by imposing term limits? And a lot of people have argued that we do in fact want to do that, because we don't have sufficiently competitive elections in local elections, and people go back 99.9 percent of the time. Again,

1  
2 there's arguments to be made on both  
3 sides. There's a whole literature in  
4 political science now that shows that  
5 term limits actually affect minority  
6 participation in voting. So  
7 there's actually --

8 MR. MASTRO: There are more  
9 minorities in the City Council today  
10 because of term limits than there  
11 were before.

12 DR. FUCHS: I'm not talking  
13 about representation in the Council.  
14 That's because we increased the  
15 number of Council members.

16 MR. MASTRO: No, it's not,  
17 Esther. It's not. There's a higher  
18 percentage of Council members who are  
19 minorities after the change was made  
20 to 51 Council members.

21 DR. FUCHS: Oh, come on. This  
22 is called bad social science, Randy.  
23 "More minorities," that's a false  
24 correlation. You have no evidence  
25 that that's what increased the

1

2 minority representation. So I don't  
3 want to address that point. You don't  
4 have the data. And I, at least when I  
5 don't have data. Don't generalize.

6 MR. MASTRO: I actually have  
7 data that shows there's a higher  
8 percentage of minorities in the  
9 Council after term limits.

10 DR. FUCHS: That doesn't mean  
11 term limits are cause --

12 CHAIRMAN GOLDSTEIN: Can I  
13 just --

14 (Inaudible verbal exchange  
15 between Dr. Fuchs and Mr. Mastro.)

16 DR. FUCHS: If you go look at  
17 the Urban Affairs Review in other  
18 jurisdictions there are lower voter  
19 turnouts that have --

20 MR. MASTRO: Did the Justice  
21 Department approve every one of those  
22 term limits initiatives being on the  
23 ballot --

24 DR. FUCHS: -- issue --

25 MR. MASTRO: Absolutely, yes.

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DR. FUCHS: That's a legal issue. That's not an issue on the impact of turnout.

CHAIRMAN GOLDSTEIN: I would like to use the prerogative of the Chair.

Fritz, I know you wanted to comment. The warring parties here.

MR. SCHWARZ: That illustrates --

DR. FUCHS: I didn't even take a position, Randy.

MR. MASTRO: I didn't take a position.

DR. FUCHS: Oh, you didn't take a position? I'm just trying to lay out the issues.

CHAIRMAN GOLDSTEIN: I recognize Fritz Schwarz.

MR. SCHWARZ: Randy quite dramatically said you should put it on the ballot. Now, it needs to be resolved rationally by this body because there's no "it" that

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automatically gets put on the ballot. And I'll give some views on that. In theory maybe the term limits aren't a great idea. But in New York City having some term limits is a good idea because we need more competition.

Now, when we had two and two, two terms for citywide and borough-wide and the City Council, the result of that was substantially weakened the City Council vis-à-vis the mayoralty and that was not healthy. And there are reasons why it did weaken the City Council. I think most important when you think about the "it" should not have a situation where it's two and two, two terms and two terms, because that definitely for reasons I could explain, we don't need to spend the time, it significantly weakens the Council vis-à-vis (inaudible). So to me it's very important to keep the

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Council at three terms.

Whether the mayoralty and Borough Presidents and other citywide officials get two terms or three terms, I think doesn't matter very much.

There are arguments that executives tend to lose their initiative and their imagination in third terms. On the other hand, it's not an awfully powerful argument. But don't go back to, in my judgment, two and two because you end up with a substantially weakened City Council. Whether you entrench that issue in the Charter, I think picking up Esther's comment, you shouldn't entrench much, but this is a sort of self-dealing issue where a mayoralty and a Council who vote in their own self-interest to change. And so it might fit a narrow category of things, you do want to entrench in the Charter and say they can't be

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changed except by another referendum.

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Whatever you do.

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CHAIRMAN GOLDSTEIN: Thanks,

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Fritz.

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I note that Anthony Cassino

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wanted to jump in.

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COMMISSIONER CASSINO: Thank

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you, Mr. Chairman. Thank you to our

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guests here tonight. This is very

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educational for all of us. And I see

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that you have strong disagreement

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issues (inaudible).

14

There's so many questions that

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we would all have for you. We have

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to limit our questions here.

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Let me follow up on something

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Commissioner Schwarz, Chairman

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Schwarz, had said earlier in talking

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about strong mayoralty, because we're

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facing what you all faced, which is

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that challenge of local control

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versus strong mayoralty as the

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Council, the local structure, the

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Borough Presidents, the Community

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Boards. And I thought it was

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interesting that you said you support

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a strong mayoralty but at the same

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time we have to find room for those

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other voices. And that's something

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we're struggling with. And how do

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you incorporate that? And so I'd

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like to get anyone who has thoughts

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on how you specifically do that

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post-1989. We've seen the changes

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that were made then. What additional

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changes that might have been on the

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table maybe while you were discussing

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it, or something that you think

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wasn't fully vetted? Because that's

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a lot of what we're hearing about,

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that push and pull over local versus

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strong Mayor, City Council, Borough

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Presidents and Public Advocate. All

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of those offices play a role here,

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and we're struggling to figure out

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where it should go and how should we

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do that.

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DR. FUCHS: I'll just say

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quickly, I actually think the budget

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for the Public Advocate and Borough

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Presidents needs to be hard wired in

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some way; that while the Public

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Advocate's position is unclear, what

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it really is and what it really does,

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the one thing we know it does do is

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provide a voice, a citywide voice,

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that can counter a Mayor or a speaker

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of the Council speaker, or whomever

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you want to counter in the political

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dialogue.

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And the problem with having a

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budget at the mercy of the City

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Council or before the Mayor, we saw

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what happened with the previous

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Public Advocate, it's really

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detrimental.

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I think you should experiment

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and give them a budget the same way

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we give IBO a budget. I don't know

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what the formula is. I think our

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Commissioner who is a mathematician,

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our Chair here, could help figure out

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2 a formula that makes sense. But all  
3 of those positions -- and I think  
4 actually I would hard wire a budget  
5 for the Community Boards as well,  
6 because that's the real voice on the  
7 bottom that we tend to not be able to  
8 hear, and they have very little  
9 capacity because they have very  
10 limited budgets.

11 I don't mean that they should  
12 be in the process in the way the  
13 structure, is but at least in the  
14 process in the way that they can  
15 articulate issues in an intelligent  
16 way. Without budgets, the Borough  
17 Presidents, the Community Boards and  
18 the Public Advocate can't really  
19 operate effectively. So I would  
20 consider something along those lines.

21 CHAIRMAN GOLDSTEIN:

22 Commissioner McShane.

23 COMMISSIONER McSHANE:

24 Interestingly enough, I was going  
25 along the same lines as Tony was.

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But specifically, Mr. Schwarz, if I

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could push you on the question of the

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place and the role of the Borough

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President, something that we've heard

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a great deal about at our public

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hearings, and that we have wrested

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with privately as members of the

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Commission. I'm all for the balance

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of power, strong mayoralty. But a

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Public Advocate is, I would say, an

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ambiguous position and I think even

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Borough President is a very ambiguous

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position.

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I said to Frank Macchiarola

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last Friday I think in many ways the

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Borough President is what the Borough

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President makes out of the job. So

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any thoughts on this subject.

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MR. SCHWARZ: Well, it's such a

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big city, it's such a big city, and

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the Mayor has such wide

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responsibilities that I think you

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want a voice that's meaningful that's

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between the size of the Mayor and the

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small size of the particular City

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Council person. But I think you want

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to look very closely at the powers

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given to the Borough Presidents and

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see how they're working.

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I do agree with Esther that

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take the Public Advocate as an

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example, because that budget was not

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as she used the term "hard wired."

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The mayors have just decimated in the

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Roman sense a tenth of what it was

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when they started, and, therefore,

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they can do less. So I believe you

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need those offices, because while we

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want a strong mayoralty, we also

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want, I think to use your words,

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Father, you want a balance to the

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strong mayoralty.

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And if you got rid of those

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offices we would have too strong, in

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my judgment, a mayoralty. And also

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remembering that you want to prevail

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as well as being wise. I think you

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make a mistake to take on those

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2 offices. You make a mistake from the  
3 point of view of prevailing, but the  
4 wisdom point of view, I'm certain  
5 they help.

6 COMMISSIONER McSHANE: Would  
7 there be, just to follow up a second  
8 and I apologize, would there be any  
9 sense to creating a conversation  
10 around the possibility of having  
11 Borough Presidents actually do what  
12 they do now but in addition  
13 participation in the share of power  
14 of a strong Mayor, as we say?

15 MR. MASTRO: Sounds like the old  
16 Board of Estimate.

17 DR. FUCHS: No, it doesn't.

18 COMMISSIONER McSHANE: Also  
19 like a Deputy Mayor situation.

20 CHAIRMAN GOLDSTEIN: Frank, you  
21 want to respond.

22 DR. MACCHIAROLA: Yeah, I want  
23 to respond as an outer borough, other  
24 borough person.

25 (Inaudible verbal exchange.)

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DR. MACCHIAROLA: Well, it just

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so happens you're from the Bronx, and

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the Borough President you have in the

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Bronx is quite different than the

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Borough President you have in the

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Bronx and in other Boroughs.

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Now, I'm being perfectly frank.

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There is no quality control except in

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the election. And there is no quality

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control exercised by any of them

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unless they see you want to be

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responsive. Some are, some are not.

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Some make money in the business.

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Some provide service. That's what

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happens in a Democratic system. It's

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sort of like pigeons making love.

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It's very sloppy. They make love

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when they fly around.

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Now, to the question of Borough

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Presidents. Brooklyn has a Borough

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President that is responsive, has had

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a Borough President who has been

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responsive before, and it is

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important to the people of Brooklyn

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to have someone that represents them.

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And I think the people in Queens. I

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certainly know people in Staten

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Island feel that way. They want to

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secede. Now you want to take the

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Borough President away. So I would

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not tinker with that.

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The Public Advocate is another

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matter. What Dick was talking

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before. The Public Advocate survived

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the Charter Commission that we were

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on by a very close vote. And the

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reason that he did was because of who

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he was. Not because of what he did. I

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have never been able to figure out

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what the job of Public Advocate

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really is. Except what he'd like it

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to be. Or she wanted it to be.

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And I once thought I was going

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to run for Public Advocate. And the

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pledge I was going to make was if I'm

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elected I will fire everybody,

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abolish the office.

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And I'll install a telephone

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line to my office in Brooklyn which will be called when there is a tie vote in the City Council so that I could come across and cast a vote. The wire, the thing I would have is "You have reached the office of the ombudsman" or "Public Advocate. We decided that you have enough representation right now in the Council, in your assembly, in the Mayor's office, so you don't need us spending your money to do what is done by others."

And now, when we're laying off teachers, when we're putting cops back only because of the emergency we've had, we're now talking about giving more money to some guy or officer in -- and I like the guy, I'm not picking on him -- why do we have this office? What does it do? It does what everybody else is supposed to do. And if they do their job we wouldn't need him. So I don't

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understand why we have it. It's  
crazy.

MR. SCHWARZ: Your recollection  
is faulty. Your Commission didn't  
take up the issue of the Public  
Advocate's job.

DR. MACCHIAROLA: No, your  
recollection is faulty, because I was  
a member of that Commission and I  
know what discussions we had, some of  
which were not private -- were in  
private.

MR. SCHWARZ: Well, they  
shouldn't have been in private.

CHAIRMAN GOLDSTEIN: Alright let  
me interject --

DR. MACCHIAROLA: I understand  
that --

CHAIRMAN GOLDSTEIN: Frank --

DR. MACCHIAROLA -- but you  
weren't running that Commission.

CHAIRMAN GOLDSTEIN: We can  
talk on the side on this --

DR. MACCHIAROLA: We had a

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discussion. What are you talking about? I know what we did. I was there.

That's why you didn't want me on your Commission.

CHAIRMAN GOLDSTEIN: I had pledged to you, I had pledged to you that we would end these proceedings by 8:00 o'clock.

DR. MACCHIAROLA: You better explain that to Mayor Koch, because that's what he told me.

CHAIRMAN GOLDSTEIN: I had pledged that we would end these proceedings at 8:00 o'clock. We've taken a lot of your time and we really appreciate the wisdom.

The Lieutenant Governor was called to an emergency outside and won't be returning.

Thank you, Fritz Schwarz.  
Thank you, Randy Mastro. Thank you, Frank Macchiarola. Thank you, Esther Fuchs.

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(Whereupon, at 8:04 P.M., the  
above hearing concluded.)

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

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NORAH COLTON, CM