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Transcript of the Meeting of the
CHARTER REVISION COMMISSION
held on Tuesday, August 19, 2003
Economic Development Corporation,
110 William Street
Borough of Manhattan

AR-TI REPORTING COMPANY, INC.	
305 Madison Avenue	142 Willis Avenue
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New York, N.Y. 10038	Mineola, N.Y. 11501
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1 Meeting convened at 7:05 p.m.

2 P R E S E N T

3 FRANK MACCHIAROLA, Chairman

4 COMMISSIONERS:

5 BILL LYNCH

6 JERRY GARCIA

7 MOHAMMED KHALID

8 FRED SIEGEL

9 STEVEN NEWMAN

10 FATHER O'HARE

11 CECELIA NORAT

12 PATRICIA GATLING

13

Also Present:

14

DR. ALAN GARTNER, Director

15

ANTHONY CROWLEY, General Counsel

16

SPENCER FISHER, Representative, Law Department

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1 CHAIRMAN MACCHIAROLA: Ladies and gentlemen,
2 this is a hearing of the Charter Revision Commission.
3 The purpose of the hearing is to hear from the public on
4 questions that we have already discussed to put on the,
5 proposed to put on the ballot. The vote will take place
6 on the 25th, and therefore, between now and the 25th,
7 you will have the opportunity to testify, to tell us
8 what you think. We'll start the hearings.

9 The first speaker? Mr. Barry, do we have a
10 speaker? Donna Santarsiero. Is Donna here?

11 MS. SANTARSIERO: Chairman Macchiarola,
12 members of the Commission, Executive Director Alan
13 Gartner, and colleagues, I am pleased to have an
14 opportunity to present to you this evening for three
15 minutes or less. First I want to say I am Donna
16 Santarsiero, the Executive Director of the Brooklyn
17 Bureau for Community Service. The Brooklyn Bureau is a
18 not-for-profit 501(c)(3) nonsectarian community agency
19 that has been in existence since 1866. Way back then I
20 don't think they had some of these problems, they're
21 different problems, and we offer a wide range of
22 services to children, families and disabled adults
23 throughout the Borough of Brooklyn. We currently have
24 thirty distinct programs that are operating in contract
25 with ten City, State and Federal agencies. We currently

1 are contracting for fourteen of those programs with four
2 New York City agencies.

3 Two of the points that I'd like to make in
4 my limited time is, I had an opportunity this afternoon
5 to, I hadn't seen it before, look at the staff report of
6 the Commission on procurement and I want to commend the
7 staff for what I think is really an excellent job. I
8 also want to say and I want the record to show that the
9 Brooklyn Bureau of Community Service is in full support
10 of the testimony that was presented by Michael Stoller,
11 the Executive Director of the Human Services Council, of
12 which we are a member. I think Michael spoke very
13 competently in behalf of some of the critical issues
14 facing our sector.

15 We at the Brooklyn Bureau recognize that we
16 are in tight financial times; the City, the State and
17 the Federal Government and we think there are really two
18 key principles that we should keep in mind and we're
19 looking at some of the matters that are under
20 consideration before this Commission having to do with
21 procurement; effectiveness and efficiency.

22 There are a couple of areas in which the
23 City is clearly not operating in an efficient manner and
24 one of those, which is resulting in considerable cost to
25 the City, to the agencies in terms of out of pocket

1 costs and in terms of allocation of personnel that could
2 be used to deploy in more effective ways is in the
3 matter of audits, and we would subscribe to the City
4 building upon the Federal OMB A133 audit which some of
5 the agencies, like the agency, the Administration for
6 Children's Services is doing quite effectively. The
7 other agencies in contradistinction are sending in
8 different audit firms to audit the various contracts.
9 So that's a tremendous financial cost to the City and
10 it's a great cost to the not-for-profit agencies,
11 because each time a new firm comes in, they go through
12 the process of attempting to become acquainted with the
13 agency and its financial operations, sometimes ignoring
14 the information that they can find in the agency's
15 private audit, in the OMB133 audit, and putting a
16 considerable burden on the agency's personnel and staff
17 to develop all kinds of reports and schedules.
18 Sometimes they stay with us as long as four or five
19 weeks, two or three auditors.

20 So I would support the Commission really
21 trying to move in a direction of seeing that the City
22 would adopt a law to have single audits and to
23 strengthen the Procurement Policy Board's rules and
24 regulations with respect to audits.

25 Thank you. It goes so fast.

1 CHAIRMAN MACCHIAROLA: That's the train for
2 Brooklyn, Donna.

3 COMM. NEWMAN: Could I ask her a question?
4 You said you had two issues. What was the
5 other issue.

6 MS. SANTARSIERO: Prompt contracting.

7 COMM. NEWMAN: What were you going to say,
8 in thirty seconds or less?

9 MS. SANTARSIERO: The implications of that
10 having to do with delays in payments which are very
11 critical for agencies, and also have an impact in terms
12 of not being able to plan as effectively as we think we
13 need to in terms of the delivery of service. With
14 respect to prompt contracting, our line of credit at our
15 agency had been a million dollars. It's now two million
16 dollars and we usually have an outstanding loan balance
17 of about a million dollars because of receivables from
18 the City.

19 COMM. NEWMAN: Thank you.

20 CHAIRMAN MACCHIAROLA: We hope we can
21 address that problem. We're trying to convince some
22 people that what we want to do is not unlawful. There
23 are people that think that a lot of things we do are
24 unlawful.

25 MS. SANTARSIERO: Thank you for your time.

1 DR. GARTNER: Gretchen Dykstra.

2 COMM. DYKSTRA: Good evening, Chairman
3 Macchiarola, members of the New York City Charter
4 Revision Commission. I'm Gretchen Dykstra, the
5 Commissioner of the Department of Consumer Affairs.
6 Thanks for this opportunity to speak at the hearing on
7 proposed City Charter revisions to urge that the
8 Commission propose amending the Charter by adding a new
9 Section 2230-A to authorize the Department to use its
10 administrative tribunal to adjudicate all violations of
11 the laws it enforces. DCA proposes this Charter
12 amendment to strengthen and streamline the Department's
13 ability to enforce all the laws under its jurisdiction
14 and to create a level playing field for enforcing
15 consumer protection laws, regardless of licensed status.
16 We have forwarded a letter to each of you providing
17 background on our proposal.

18 The Department currently faces a significant
19 obstacle that dilutes its effectiveness and undermines
20 its ability in an even-handed way. DCA licenses 55
21 different types of businesses and enforces the Consumer
22 Protection Law and the Weights and Measures Law, but DCA
23 can use its administrative tribunal only to adjudicate
24 violations committed by licensees and a few specific
25 other laws. When a non-licensed business breaks the

1 Consumer Protection Law, we must take the case to court
2 to enforce it. The Charter amendment proposed by DCA
3 would clear away this obstacle by authorizing the
4 Department to use its administrative tribunal to
5 adjudicate the violations of all the laws it enforces.
6 The proposal puts in place safeguards that have been
7 carefully tailored to insure that the due process rights
8 of business are fully preserved and that businesses are
9 adequately informed about default decisions before such
10 decisions can be enforced. It also provides businesses
11 ample opportunity to respond before a default decision
12 can be docketed as a judgment.

13 This proposal would ensure that the laws
14 under the Department's jurisdiction would be enforced
15 across the board against all business to which they
16 apply. The Consumer Protection Law is the broadest of
17 all the laws the Department enforces, covering a wide
18 range of practices and businesses. Licensees charged
19 with a CPL violation must resolve the violation or risk
20 losing their license. Unlicensed businesses are
21 encouraged to resolve the CPL through informal
22 settlement hearings, but the Department cannot hear the
23 case and as a result most unlicensed businesses can
24 simply ignore outstanding CPL violations. By
25 authorizing the Department to hold administrative

1 hearings on all violations it enforces, this bill will
2 give all respondents an equal opportunity to resolve
3 disputed violations by defending their actions and
4 practices before an impartial tribunal.

5 This authorization would also make it
6 possible to resolve such disputed violations more and at
7 less expense to both businesses and the City than the
8 current protracted State Court proceedings. Finally, it
9 will level the playing field to all businesses subject
10 to those laws.

11 It is ironic, as the Department's inability
12 to use administrative tribunals to adjudicate violations
13 of the CPL was originally written into the law by its
14 principal authors and advocates. It was a policy
15 miscalculation. The authors did so because they
16 expected the businesses would routinely appeal
17 administrative decisions to the courts. They were
18 mistaken. Businesses rarely appeal routine
19 administrative decisions and their solution has instead
20 become a real obstacle for the Department. I would,
21 however, like to reassure you that the Department is not
22 seeking to remove this obstacle in order to deluge
23 businesses with tickets over petty issues.

24 Let me illustrate this by citing three
25 Departmental policies. First, as a general principle

1 DCA focuses on the problems that cause the greatest harm
2 to the greatest number of consumers. The resources
3 available to the Department really do not permit us to
4 do otherwise. In order to implement this policy
5 effectively, however, those causing the greatest harm
6 must also be made to feel the full weight of the law.

7 Second, the Department's own history
8 illustrates that the goal in obtaining hearing authority
9 is to be more efficient, not to generate more
10 violations. In the early 1990's DCA reviewed all of its
11 licensing categories to determine if the licensing
12 requirements were sensible. Between 1992 and 1996 the
13 Department eliminated the licensing requirements for 24
14 categories that had become outmoded. This freed nearly
15 5,000 businesses from licensing requirements, thus
16 preventing the Department from holding hearings on
17 potential violations.

18 We currently have embarked on a review of
19 the entire Code to eliminate other anachronistic rules
20 and laws. Third, the DCA aggressively pursues business
21 education, working with LDC's, BIDs, trade education and
22 the press. DCA is educating businesses about the law.
23 Our staff, including the enforcement personnel from our
24 five borough offices, recently distributed information
25 written in five different languages on the license law

1 and the consumer protection laws. We rearranged our
2 website to provide this information to businesses and we
3 communicate regularly with our small business
4 constituents. Commissioner Macchiarola, I hope you
5 remember our proactive communications in the previous
6 Charter revision.

7 In addition, our proposal would fit nicely
8 and thematically within the Charter question dealing
9 with efficient agency procedures and the standardization
10 of administrative tribunals generally. Your favorable
11 action on this proposed Charter amendment will
12 significantly enhance the Department's ability to
13 adjudicate on an equal footing the violation of all
14 consumer laws the Department is authorized to enforce.

15 Thanks again for this opportunity. It was
16 nice seeing you.

17 CHAIRMAN MACCHIAROLA: Thank you. Are there
18 any questions for Commissioner Dykstra? Can I just --
19 Steve?

20 COMM. NEWMAN: There's a proposal before the
21 Charter Commission to set up a function in the Mayor's
22 Office to coordinate all the administrative tribunals.
23 Do you agree with it or have any comments?

24 COMM. DYKSTRA: To agree with them or
25 standardize the procedures?

1 COMM. NEWMAN: Standardize.

2 COMM. DYKSTRA: It's a good idea. We are
3 proud of the independence of our administrative
4 tribunal. When we tried to get authority in Albany, it
5 was late in the game. We were hit with that, because
6 there are actually unequal standards among
7 administrative tribunals. I would like to point out
8 that ECB can hold hearings on violations it writes
9 against businesses that are not licensed, so we think
10 that it's one of the things you could equalize.

11 COMM. SIEGEL: The sale of box cutters,
12 etching acid and spray paint to minors, is that a civil
13 violation? What kind of violation?

14 COMM. DYKSTRA: It's a civil violation. We
15 write violations against those. That's a perfect
16 example. We do not license hardware stores, for
17 instance, but we can write violations, that's considered
18 violation of the Consumer Protection Law.

19 COMM. SIEGEL: Thank you.

20 CHAIRMAN MACCHIAROLA: Any other questions?
21 Could I ask, then, if there are no other questions,
22 could I ask, Alan, if you would be good enough to look
23 into the question that's been put to us, to get some
24 input from some of the agencies and organizations that
25 are regulated and those not regulated, what the effect

1 might be, so that we can get a summary of your findings
2 and then have that discussion at the next meeting of the
3 Commission on Thursday.

4 So we will --

5 COMM. DYKSTRA: Thank you.

6 CHAIRMAN MACCHIAROLA: We will put it to a
7 vote.

8 COMM. DYKSTRA: That's the best we can hope
9 for. Thank you.

10 DR. GARTNER: Speaker Miller.

11 SPEAKER MILLER: Mr. Chairman, members of
12 the Commission. I appreciate the opportunity to testify
13 before you here today about the proposals that I
14 understand are before you. But before I get to the
15 specifics, I want to say something about the process as
16 a whole, and that is that I'm very, very concerned
17 generally about this proliferation of Mayoral Charter
18 Revision Commissions. This is the sixth Mayoral Charter
19 Revision Commission in the last seven years, and in the
20 last year and a half there have been two Charter
21 Commissions whose agendas have ignored and I think were
22 missing the sort of purpose of the Charter Revision
23 Commission at its basic level, and that is to go back
24 and consider what Charter changes are necessary as
25 opposed to what legislative changes are necessary, but

1 the Mayor hasn't gotten through, the Mayor hasn't
2 proposed to the Legislature.

3 I'm particularly concerned, for example,
4 that it seems to me that issues such as cleanup of the
5 Charter were sort of ignored by this Charter Revision
6 Commission and previous Commissions in favor of other
7 issues that were pet Mayoral projects. I'll give you an
8 example. The example is there are 300 references to the
9 Board of Estimate that remain. 300 listings of where it
10 says "the Board of Estimate." The Board of Estimate
11 does not exist. It has not existed since 1989 or '90 or
12 so. And yet six successive Mayoral Charter Revision
13 Commissions have failed to address that and have instead
14 focused on various more higher priority proposals that
15 are of higher priority to successive mayors, and I think
16 that we're in danger here of seeing Mayoral Charter
17 Revision Commissions becoming a substitute for the will
18 of the people and for the processes of city government.

19 I'll give you an example.

20 Imagine if President Bush were to propose a
21 Presidential Charter Revision Commission every year in
22 which he took issues like campaign finance or
23 procurement issues or anything else, and he were to
24 propose them in a new voter initiative form and they
25 were taken directly to the voters. I think people

1 generally would be extremely concerned about what this
2 was doing in terms of our representative government
3 generally, and so sort of at the general level, I want
4 to say sort of two things. I believe that the issue of
5 non-partisan elections is an entirely appropriate thing
6 for a Mayoral Charter Revision Commission to consider.
7 I happen not to agree with the proposal that I
8 understand is before you at this time, and I'm happy to
9 talk about it, I talked to you about it before once, but
10 I'm happy to talk to you about it again. But it's a
11 legitimate issue that requires a Charter Revision
12 Commission. It cannot be done through Local Law and it
13 should not be done through Local Law. The Charter as it
14 currently stands appropriately requires that this sort
15 of an effort be done through a Charter Revision
16 Commission or a voter initiative, because that sort of
17 an issue should be taken to the voters.

18 It is fundamental. It goes to the powers,
19 it goes to the process, it is fundamental to the Charter
20 and so as appropriate for a Charter Revision Commission.

21 So while I oppose the non-partisan proposal
22 or partisan non-partisan proposal or whatever it is that
23 we are actually considering, I don't think, I believe
24 that it is a serious matter, that it will have a large
25 impact on the future of the City of New York in terms of

1 its Government and functioning, and it is an entirely
2 appropriate thing for the Charter Revision Commission.

3 What I worry about is that most of the rest
4 of the proposals are issues that should be appropriately
5 referred to the Legislature. And I think that it is
6 unfair of the staff of the Charter Revision Commission,
7 which seems to be making these proposals to the
8 Commission itself to ask the Commission to make these
9 kinds of considerations in this kind of a format,
10 because this is precisely why we have representative
11 Government.

12 So let me say a few things on the subject of
13 what's before you today. The non-partisan elections
14 issue. I don't see any reason for me to belabor my
15 previous testimony. Nothing has really changed from the
16 time I was here before. I think this is a bad idea, I
17 believe that it won't increase voter participation, I
18 think that the evidence is at best mixed. I think that
19 people deserve clear choices and I think that it just
20 doesn't make sense. It's confusing, as I understand it,
21 it's a partisan, non-partisan, non-primary runoff
22 election system to begin in six years. I think that's a
23 hard thing for voters to get their minds around, and to
24 be clear about exactly what the purpose is, but -- and
25 ultimately, I think it doesn't make sense to me at

1 least, but I said that before to you, so I don't want to
2 belabor it.

3 On the subject of procurement, you have a
4 variety of recommendations, some of which I personally
5 think are pretty good ideas, and all of those that I
6 think are pretty good ideas are precisely the role of
7 the Legislature to consider, you know, the procurement
8 threshold levels and other things like that, this is
9 exactly what the City Council and the Mayor are supposed
10 to do together. And to me it is not the role of a
11 Mayoral Charter Revision Commission or of any Charter
12 Revision Commission to sort of find a way to do an end
13 around so that the Mayor doesn't have to go through the
14 difficult process of proposing the law and then having
15 the Legislature consider it, have hearings and then
16 adopt it.

17 I would note, however, I'm surprised that
18 the Mayor feels this is necessary, since we have
19 actually accomplished considerable procurement reform
20 under this administration and under this Council, and I
21 think all of the ideas that are good. I have no doubt
22 if the Mayor were to send over laws to propose them, we
23 would consider them and likely approve them, unless
24 there was in that process, which is a more focused
25 process, which isn't confused with other issues like

1 non-partisan elections or campaign finance reform or
2 other things that sort of distract the attention of the
3 members of the Commission. I don't mean this in a
4 negative sense, I just mean that there's only so much
5 you can focus on, and that's precisely why a Legislature
6 has committees, regular hearings, has people that are
7 aware of what the process of that legislation is, and
8 why we consider those things and ultimately I think the
9 best ideas win out.

10 There is one particular proposal that I want
11 to be very clear on, because it's my understanding at a
12 previous meeting that there may have been some
13 indication that the Council felt that the Vendex powers
14 proposal that is before you now was appropriate. That
15 is absolutely false. I think that the Vendex proposal
16 is extraordinarily damaging to the integrity of good
17 government in the City and I'm going to ask my special
18 counsel, Eric Lane, who was the Executive Director of
19 the Schwarz Commission who helped work out the
20 arrangement with the Department of Justice and with lots
21 of other people who were affected by the powers of
22 procurement to testify in a couple of minutes when I
23 finish, for a couple of minutes, and then we'll take
24 questions.

25 I think it's a very, very bad idea and the

1 notion that giving the City Council two opportunities
2 make a comment is acceptable to the Legislature, the
3 elected representative Legislature of the City of New
4 York as a balance, so sort of we get another chance to
5 say we like or don't like whatever the proposal is, is
6 some kind of a compromise, I don't understand.

7 On the agency reorganization, again, we're
8 back here at I think pretty much the same ground. Some
9 of these ideas on the Voter Assistance Commission and
10 others have I think on first blush, I think have merit.
11 That is what the job of the Legislature of the City of
12 New York is, and it is a serious, full time job that
13 requires serious attention, but I think that some of the
14 ideas have some merit.

15 There are others that I think do not. But I
16 think you should reject all of them, because that's not
17 your role and that wasn't what you were tasked with
18 ultimately and it should not be an excuse to sort of
19 gussy up other proposals and it shouldn't be an
20 opportunity to detract the voters from the serious
21 questions that will be before them, such as non-partisan
22 elections and it isn't an appropriate role for a Charter
23 Commission, but to give you two examples of things that
24 I think are bad ideas.

25 Eliminating the Preliminary Management

1 Report. I don't see the merit of it. We were very
2 surprised to hear about it. Certainly I heard there was
3 some suggestion the Council thought this was a good
4 idea. Let me stand before you today and say that no
5 member of my staff is aware of any conversation on this
6 subject in which -- not much conversation on the subject
7 at all, but certainly no conversation where the Council
8 thought this was a good idea. The Mayor's Preliminary
9 Report is an effective tool on doing oversight on the
10 City's functioning and we have by Charter mandated
11 oversight hearings which we take seriously and we'll
12 continue to do and we don't see why we want to take away
13 this tool. But if there was serious reasons for it, we
14 would have appreciated an opportunity for somebody to
15 reach out to us and explain to us why this was an
16 important thing to do to take this away. Since it never
17 happened, I can't comment other than to say in our view
18 this is not a good idea.

19 On the Campaign Finance Board proposals, I
20 am particularly concerned, because I am on extremely
21 strong supporter of our public campaign finance system
22 and I believe under the leadership of Father O'Hare,
23 that the campaign finance system that we have in this
24 City is one of the finest in the country, if not the
25 finest in the country, and that it has performed its job

1 extremely well, and that it always can perform its job
2 better, but again, the Legislature passed that law. The
3 Legislature then has passed various improvements to that
4 law, working with the Campaign Finance Board every
5 single time. Each time I think we've improved it. But
6 it has been a complicated and very thoughtful process in
7 which all aspects of the impact of this type of changes
8 were considered.

9 The two pieces that I think are before you,
10 one of which, one I think would have an extraordinarily
11 devastating impact on the campaign finance system and
12 that is the proposal to require the Board, as I
13 understand it, to adopt rules which would suggest, which
14 would say that any party expenditure that would directly
15 or indirectly benefit a candidate would be viewed as an
16 in-kind contribution, I think would actually eliminate
17 the system. Because I don't see how any candidate could
18 possibly participate in the campaign finance program
19 system under any circumstances. Because what you're
20 saying is, is that the candidate is responsible for the
21 actions of people that are not under his control, in
22 which he's not aware and by definition he or she is, by
23 definition unaware of what they're doing.

24 So to take, for example, somebody runs for
25 Borough President and decides to participate in the

1 system, and during that same election there is a
2 district attorney who is running or there's a special
3 election for Assembly or there's any other kind of an
4 election, and a party decides to spend some money to try
5 to increase voter turnout among their membership.
6 Without consulting with that candidate whatsoever.
7 Let's say they spend \$500,000. Now, Father O'Hare would
8 know better than I. But under what you're saying, that
9 candidate who has no knowledge of it and absolutely no
10 control over it whatsoever is assumed to be responsible
11 for that in-kind contribution and I think the fine,
12 then, could be, it's a maximum of 3,700 or so dollars
13 you can make to a Borough President, the fine would be
14 three times what the additional contribution would be
15 and the candidate would have to repay I think the
16 additional \$497,000.

17 I'm a candidate running for Borough
18 President. I get a fine of \$1.5 million and I had to
19 pay \$500,000 and I had absolutely no control over it
20 whatsoever. None. I actually think you could destroy
21 the system, and I don't think you've given it a great
22 deal of thought. And I certainly know I haven't given
23 it a great deal of thought, because I heard about this
24 just like two days ago. And that's why we have a
25 Legislature that considers these things.

1 The second proposal that I understand just
2 changed as I arrived here, again, now what I understand
3 it to be is that political committees of parties and
4 parties themselves would be prohibited from making
5 contributions to candidates. I think it's a certainly
6 less sweeping and potentially less damaging proposal
7 than the original, but I fail to understand what the --
8 I just don't understand it generally. I don't know what
9 you mean by political committees of parties, does it
10 mean clubs, does it mean candidates of parties? I'm not
11 clear on it, so I don't know how to testify really to
12 it, and I think that ultimately underlines the weakness
13 of this process; that this proposal was made at the last
14 meeting on August, I don't know when, August 13th or
15 14th or whatever it was, that there has not been
16 sufficient publication of it, because most people think
17 that what you're doing is proposing non-partisan
18 elections or partisan non-partisan elections or whatever
19 it is that you're proposing, and so what the public is
20 left without a real opportunity to comment, there isn't
21 a serious consideration I don't think or an opportunity
22 to really consider what the impact is on the system, and
23 so I think that playing around with the campaign finance
24 laws in this fashion have an enormous amount of concern
25 about.

1 The City Council has repeatedly entertained
2 from the Campaign Finance Board, from good government
3 groups, from administrations, thoughtful, reasonable
4 proposals on how to improve the system. Just recently
5 under Father O'Hare's leadership the Campaign Finance
6 Board and the City Council enacted some serious and
7 thoughtful improvements to the campaign finance system
8 in order to improve it. There is no suggestion, I don't
9 think, since the proposal originally went through the
10 City Council, that the Legislature is some kind of
11 enormous stumbling block to improve the campaign finance
12 system, which is the finest in the land and was enacted
13 through the City Council. So I don't, I just don't
14 understand what the purpose really is of considering
15 these kinds of changes which could have serious, serious
16 impact on that system in this kind of a process.

17 So I, in closing, I don't want to denigrate
18 the work of the Commission either at the staff or
19 Commission level. I take very seriously and thank all
20 of you for your service to the City. This is an
21 important job being on the Charter Revision Commission
22 and I would urge you to focus on what Charter Revision
23 Commissions should focus on, not consider yourselves to
24 be a mini Legislature and to supplant what it is that
25 our representative Government has attempted and which,

1 by the way, which the Charter which you're mostly
2 leaving intact, if your view is the Legislature isn't
3 doing its job and the Legislature should be replaced by
4 appointees of the Mayor, then that would be an
5 appropriate consideration for the Charter Revision
6 Commission, and something that would have to go before
7 the voters, because that's what Charter Revision
8 Commissions should do, consider major changes to the
9 Charter that cannot be enacted legislatively. And I
10 think that your consideration and serious thought that
11 has been given to the issue of non-partisan elections is
12 appropriate and exactly the kind of debate that we
13 should engage in in this city.

14 I have my view, some of you have yours,
15 other people here have theirs and that is the kind of
16 debate that we should have in this City. But we should
17 not have a replacement of the legislative process by
18 Mayoral appointment and Mayoral controlled staff at a
19 Commission and I'd like at this point if it's okay with
20 you, Mr. Chairman, to ask because I have as my special
21 counsel the person who was the Executive Director of the
22 previous Charter Commission and could testify a little
23 bit about the Vendex compromise that was reached with
24 the Department of Justice and with regard to the
25 requirements of State Law just say a few words, if

1 that's okay with you, Mr. Chairman, if that's all right.
2 Then I'd like to answer questions.

3 COMM. SIEGEL: I would like to ask questions
4 before Eric testifies.

5 CHAIRMAN MACCHIAROLA: We've got a long list
6 of people. If Eric can contain himself to three
7 minutes?

8 SPEAKER MILLER: He'll be under three
9 minutes.

10 CHAIRMAN MACCHIAROLA: You have a question
11 you want to ask the Speaker.

12 COMM. SIEGEL: Three brief questions for the
13 Speaker. Mr. Speaker, given your concern for
14 deliberation and due process, tell me, how many
15 hearings, how long were the hearings that were conducted
16 on the largest single property tax increase in the
17 history of New York City?

18 SPEAKER MILLER: That's a very good
19 question. Let me answer it in this fashion. First of
20 all, we have one of the most exhaustive budget proposals
21 that have been -- and it's something that I by the way
22 this Charter --

23 COMM. SIEGEL: Give me a number.

24 SPEAKER MILLER: There was --

25 COMM. SIEGEL: An hour, half an hour,

1 fifteen minutes? How much time was spent deliberating
2 the property tax increase?

3 SPEAKER MILLER: There was at least months
4 deliberating the property tax increase, but in terms of
5 hearings, there was one hearing, I believe, before it
6 was enacted.

7 COMM. SIEGEL: My second question for you is
8 very quickly, how many members of your 51 members of
9 your Council, how many of them faced competitive
10 elections in the general election where they won by less
11 than 10 percent?

12 SPEAKER MILLER: I don't know the answer to
13 that question. I'm sure your staff could provide it for
14 you.

15 COMM. SIEGEL: I can give you the answer.
16 One. Finally, a third question. Do you think the
17 campaign finance system, which finances candidates in
18 the general election who run virtually unopposed, do you
19 think that's a good use of public money?

20 SPEAKER MILLER: Well, that's something
21 actually that we as a City Council actually addressed
22 partially in our last amendments that were made to the
23 campaign finance system in terms of making sure public
24 dollars were going towards more competitive elections.
25 I don't really understand precisely the thrust of your

1 proposal. I guess what you're saying is that if
2 elections were close, this is better than if elections
3 are not close. I'm not clear precisely on why --

4 COMM. SIEGEL: You're opposed to contested
5 elections?

6 SPEAKER MILLER: I'm not opposed to
7 contested elections. You're not saying for contested
8 elections, you're saying in close elections. Your
9 question was with a ten percent margin, so the question
10 was not -- by the way you only confined yourself to
11 general elections. There are very close primary
12 elections that occur all over this city in terms of what
13 the result is. So I'm not sure --

14 COMM. SIEGEL: Mr. Speaker, what's the
15 average turnout in those primary elections?

16 SPEAKER MILLER: I don't know the answer to
17 those questions offhand.

18 CHAIRMAN MACCHIAROLA: Could I suggest these
19 are very valid questions, but this may be an
20 inappropriate time to raise them, at least in the
21 context of trying to get the public to be -- one of the
22 advantages of having a Speaker like yourself, who is
23 engaged in and around, is that we all had the
24 opportunity to speak to you and to get your opinion.
25 The public out there really doesn't have that

1 opportunity as much, and so what I'd like to do, if it
2 meets with your approval and permission of my
3 colleagues, is to ask Eric to make his presentation and
4 then if you want to sum up, and then we'll move to the
5 public people for a hearing.

6 SPEAKER MILLER: I'm happy of that.

7 COMM. NEWMAN: Could I make one request for
8 the Speaker? It's not a question. You expressed an
9 opposition to eliminating the PMMR. We have another
10 meeting on Thursday. Could you have your staff draft us
11 a no more than two-page memo of your reasons for
12 opposition?

13 SPEAKER MILLER: Sure. It certainly won't
14 be more than two pages. I think it comes down to
15 something pretty simple. We think it's an effective
16 tool. We do oversight on it each round, but I'd be
17 happy to get you that memo.

18 CHAIRMAN MACCHIAROLA: Thank you,
19 Mr. Speaker.

20 SPEAKER MILLER: Eric, do you want to say
21 something?

22 CHAIRMAN MACCHIAROLA: Mr. Lane.

23 MR. LANE: Thanks for giving me this time.
24 I'm certainly well aware of the demands for the public
25 to speak.

1 CHAIRMAN MACCHIAROLA: It's a pleasure to
2 see you. We've worked together before in many different
3 roles.

4 MR. LANE: I'm coming to talk to you just
5 about Vendex. I'm coming to talk about what I read in
6 the paper to be your most recent proposal, so I'm not
7 sure where you actually are in it now. I want to make
8 several points about it quickly.

9 First, if your proposal intends to remove
10 the power of the Council to enact laws with respect to
11 contracting, honesty in contracting, the integrity in
12 the contracting process, I think it's unconstitutional
13 under State law. I do not think you have the power as a
14 Charter Commission to remove the powers of the
15 Legislature to legislate. I don't agree with my friend
16 and client and Speaker that you could create a
17 legislative power in the Mayor to legislate. So I don't
18 think, I don't know if you're doing that, I would really
19 advise you to think it through carefully.

20 From a legal point of view, I don't think
21 you can take their powers away. Legislatures are the
22 only constitutionally created institutions of government
23 in the Constitution of the State of New York and they
24 are intended to legislate.

25 Secondly, I don't know why you would want to

1 do that. Vendex is a Council-created system in the face
2 of executive corruption at a time where you, Frank, were
3 on our one Commission and you, Father O'Hare, were on
4 another Commission and we were wallowing in executive
5 corruption and the Vendex system created by the Council
6 was one of those Council initiatives spurred by the -- a
7 lot of the work we had done on the Charter Revision
8 Commission and that John Feerick had done and then
9 Comptroller Regan had done in trying to clean up the
10 system.

11 From a slightly larger perspective, it is
12 separation of power and checks and balances which is
13 intended by our Charter Commissions in both Ravich and
14 Schwarz, to maintain this kind of distance between the
15 rules setting about contracts and the actual execution
16 of contracts, so I'm not sure what the policy
17 considerations are going on in your mind that want you
18 to merge these two together and create the possibility,
19 of course, it's never in this administration, but nobody
20 would believe it was in the Koch administration either,
21 where you start to have these very same kinds of
22 problems again.

23 Thirdly, I'm not sure why you want to do it
24 from a representative perspective. Our Commission, the
25 Ravich and Schwarz Commissions made a very important

1 step in separating power and saying that policy in the
2 City of New York ought to be the product of 51 members
3 of the Council, no matter what Mr. Siegel says, are
4 still more, even if they don't have a hearing, are more
5 democratic and representative than any Commission,
6 including Commissions I served with. I don't know why
7 you want to give the Mayor the power to replace the
8 policy considerations that should go into the Vendex
9 system.

10 And, finally, I'd like to say about that,
11 one of the big issues that we made with the Justice
12 Department was this when we gave the Mayor all of the
13 contracting power, every Executive decision which had
14 previously been held by the Board of Estimate and which
15 had been exercised unanimously for years, until Steve
16 Newman suggested to Comptroller Golden that he say "no"
17 on 141 contracts when he was thinking of running for
18 Mayor or running for Mayor, I mean, it had been a
19 system -- so we separated this, we made this system
20 where, we went to the Justice Department and we said
21 we're going to let the Mayor have all this power, but
22 we're going to let the Council do -- see if the rules
23 work, see if the system works, so I don't know why you
24 would wanted to undermine that arrangement that
25 benefited everybody in the City.

1 There's nothing that stops you from
2 empowering the Mayor and giving him guidance on
3 promulgating rules with respect to Vendex. You can do
4 that, I'm not arguing that point, he has the power to do
5 that and I can affirm that for you. But I think there's
6 a very serious problem when you say the Council can't be
7 involved, and I don't mean an oversight, where you send
8 it to us to say "that's nice." I mean the law making
9 role, where they see there's a problem in the Vendex
10 system in some other administration, and you know what,
11 the Council won't be able to enact a law to solve that
12 problem. I don't see what the goal is in that.

13 I hope you realize that's what you're doing
14 in this thing and I hope you really consider the effort
15 we arrived at this place where we do have this
16 separation of power and you think very hard before you
17 undermine it.

18 CHAIRMAN MACCHIAROLA: Thank you very much.
19 What I would like to do, Alan, I don't think you have to
20 respond at this point, but the issues that were raised
21 by the peaker and Mr. Lane are important ones. We have
22 a meeting scheduled before the hearing, we also have a
23 meeting on the 25th, so we will have an opportunity to
24 discuss the position that you've put forward. You'll
25 have an opportunity, I know you'll have dialogue between

1 now and then so that we can, to the extent possible
2 satisfy --

3 SPEAKER MILLER: I would hope so. I would
4 like to suggest if this was such an important issue for
5 the Mayor, he should have sent over legislation just
6 asking for it. It would be one thing if the Council had
7 rejected this year and year after year, we had been
8 holding up progress, stopping improvements to the
9 procurement system, we've been a stumbling block and
10 it's time to take it to the people, but that's not been
11 the situation.

12 CHAIRMAN MACCHIAROLA: What I would like to
13 hear is precisely what is it that the Council can do
14 that it will be prevented from doing by the regulations
15 in the Charter provision that are being provided. I
16 think we will get the answer to that when Dr. Gartner
17 has a chance to respond and deal with the question.

18 MR. LANE: So you're going to get that
19 answer from your staff?

20 CHAIRMAN MACCHIAROLA: They're going to look
21 at it and the question I'm going to ask --

22 SPEAKER MILLER: We'll give you a memo on it
23 as well, because I think it's important for you to hear
24 from us what it is we can't do at this point, because I
25 don't think it's been clear up to this point.

1 CHAIRMAN MACCHIAROLA: Thank you. Do you
2 have a question?

3 COMM. NEWMAN: It's a point of personal
4 privilege here, I just need to defend my former boss and
5 refer the Council members to the original Vendex
6 legislation which was promulgated by Counselwoman
7 Maloney, who is now a Congresswoman.

8 SPEAKER MILLER: Yes and my former boss.

9 COMM. NEWMAN: If you look at the bill,
10 you'll see it was introduced at the request of the
11 Comptroller, Comptroller Golden and his staff addressed
12 the legislation.

13 SPEAKER MILLER: That is precisely the
14 process that should remain. Thank you very much.

15 (Applause.)

16 CHAIRMAN MACCHIAROLA: Mr. Garber?

17 I'm going to ask the public and I'm not
18 referring to too many people in the public, because most
19 of the public is behaving, so those that are not, try
20 to, so we can hear the testimony that's being offered to
21 the Commission.

22 MR. GARBER: Good evening, Chairman
23 Macchiarola and members of the Commission. My name is
24 Joseph Garber. I'm the corresponding secretary of the
25 Civil Service Fairness Council. I'll try to speak for

1 the next few minutes on pure Charter issues.

2 I'd like to suggest possibly, after
3 listening to Speaker Miller, that the Commission make a
4 suggestion either to the Council or to the Mayor to put
5 in some narrative language in the Charter about the
6 Housing Authority, Transit Authority and Health and
7 Hospitals Corporation. Even though they're not Mayoral
8 agencies, this morning the Mayor saw fit in press
9 release No. 234 to honor those employees of those
10 respective agencies who assisted during the blackout.
11 So if they can be recognized as City employees I think
12 we need some narrative in the Charter as a description
13 of those agencies.

14 On page 34 of the non-partisan election
15 report, the word "churches" should be amended to read
16 "houses of worship." This would mean that mosques and
17 synagogues would also be included.

18 Relative to the election process, at present
19 the Board of Elections doesn't publicize their Tuesday
20 meeting at 42 Broadway. This would be consistent with
21 the concept of your report on, at page 13 of agency
22 reorganization about the Commission of Public
23 Information and Communication, which is dealt with in
24 Chapter 47 of the Charter.

25 Section 3007 on page 323 relative to DORIS.

1 There's a function that says that DORIS analyzes the
2 needs of other city agencies in regards to libraries. I
3 honestly believe that this function is not occurring.
4 It would be a good function if Commissioner Anderson and
5 his staff could do it. For instance, the Police
6 Department has two libraries. One the Police Academy
7 library, the other a library in the Office of Management
8 Analysis and Planning in 1 Police Plaza. Let me quote
9 an old Talmudic dictum. We first take care of our own,
10 then we do other.

11 If Commissioner Anderson cannot expand the
12 hours and staff and the facility of the City Hall
13 library, which I think is paramount, then why go and
14 look at other libraries? I think, again, I'm going to
15 ask this esteemed Commission tell the Mayor -- the Mayor
16 believes in libraries, maybe relative to cultural
17 libraries, but I think the City Hall library is very,
18 very important and I'd like to see an improvement and
19 again I offer my services to try to assist this
20 Commission.

21 On the procurement --

22 STAFF: One minute.

23 MR. GARBBER: I believe the Procurement
24 Policy Board should interact more with the Conflict of
25 Interest Board. On page 2 of the procurement report I

1 believe the Mayor should replace the Comptroller if the
2 Comptroller doesn't act. I would suggest that you look
3 at the Materials Management Department of the New York
4 City Housing Authority and how they purchase. They
5 constantly ignore DCAS in the purchasing process and
6 they recently consummated a contract with the New York
7 State Department of Correctional Services for garbage
8 bags, which I think they could have possibly got at
9 another easier, better price through DCAS.

10 On page 9 of the procurement report it
11 should be noted that you indicate that Staten Island
12 hearing was probably attended by non-Staten Island
13 residents, so, therefore, I wonder how close was Curtis
14 High School to the Staten Island ferry?

15 Thank you and I'll continue, God willing, at
16 the next time around.

17 (Applause.)

18 DR. GARTNER: Barbara Cohn?

19 MS. COHN: Good evening, and thank you for
20 this opportunity. I'm Barbara Cohn, I'm a vice
21 president at the Fund for the City of New York and
22 director of its Center on Municipal Government
23 Performance. I'm here to speak in favor of the proposal
24 to change the performance reporting provisions of the
25 Charter so that City Government resources can be

1 utilized more effectively to insure continuing agency
2 and citywide productivity improvement, accuracy in
3 performance reporting and enhanced accountability.

4 The Fund for the City of New York, if you
5 don't know us, is a private, independent, non-profit,
6 non-political operating office founded in 1968. We have
7 long-standing experience with government performance
8 measures and reporting. Even before the Charter reform
9 in the 1970's mwhich incorporated the ground breaking
10 Mayor's Management Report requirements, the Fund was
11 creating scorecards, systematic rigorous measurements of
12 some city services. Indeed, Sanitation Scorecard has
13 been touted as the longest lived, continuously operating
14 government measure in the country by some experts in the
15 field. It is now operated by the Mayor's Office of
16 Operations.

17 Our Center on Municipal Government
18 performance has been creating since 1995 new measures of
19 Government performance that reflect the public's point
20 of view and has achieved national recognition for its
21 work. My earlier personal experience with government
22 performance reporting and with the Office of Operations
23 comes from initiating performance measures in my agency
24 when I was Deputy Commissioner responsible for the
25 City's rent control program and later when I was Deputy

1 City Personnel Director appointed to create a citywide
2 bureau personnel development to link human resource
3 development to the City's productivity programs run by
4 the Office of Operations.

5 In the brief time allocated for this
6 testimony, let me highlight three reference for our
7 support of this Charter change before you. First,
8 continuing technological advances and stunning
9 initiatives begun by this administration, most notably
10 in the City's website and the introduction of 311, are
11 getting more information about Government performance
12 out to the public faster than anyone envisioned possible
13 when the requirement for a Preliminary Mayor's
14 Management Report was instituted in the 1970's. The
15 need for two major reports a year dissolved when City
16 officials and the general public can already even find
17 monthly data for some services on the citywide and
18 neighborhood basis on the City's website at any time.

19 Second, we now have the benefit of over two
20 decades of experience with this Charter provision. We
21 also have learned that there is an ongoing need to keep
22 staffing levels from expanding in the Office of
23 Operations and the operating agencies. We know that
24 Operations need to keep abreast of new relevant
25 developments in the private sector and in governments

1 elsewhere and it must fulfill its very important roles
2 as innovator and implementer of initiatives, overseer of
3 agency data collection and performance overseer of
4 agency performance and operations in general and
5 innovator of new performance standards, not to mention
6 involvement in emergencies as they occur and we know it
7 is impractical for operations to fulfill all these roles
8 and to produce two performance reports a year for the
9 largest municipal government in this country. Indeed,
10 those of us who have worked with operations over the
11 years in many different administrations know the
12 production of two management reports, because they are
13 Charter mandated, take precedence over all else.
14 Therefore, staff seems to be primarily occupied in
15 gearing up for working on the content or editing drafts
16 of the report, leaving no time for other functions.

17 Third, this is a recent development, the
18 Governmental Accounting Standards Board, otherwise known
19 as GASB, the nationally accepted independent body that
20 sets standards for State and local Government reporting
21 of financial data published just in July suggested
22 criteria for the reporting now of performance data.
23 These criteria will be tested in 30 locations throughout
24 the nation. We are operating that demonstration
25 project. The suggested criteria call for annual reports

1 to the public. In fact, although there may be some, we
2 know of no State or other City or local government that
3 requires two reports a year.

4 To summarize, then, we are avid supporters
5 of government performance reporting and the public
6 involvement in it. We think that eliminating the
7 requirement for the Preliminary Mayor's Management
8 Report should enhance New York City's efforts to
9 continue to be a leader this field by allowing the staff
10 to concentrate on continuous improvement of its reports,
11 concentrate on enhancing public involvement and on the
12 significant other responsibilities the office of
13 operations is mandated to do.

14 Thank you.

15 CHAIRMAN MACCHIAROLA: Thank you very much.

16 Before I ask for questions, I just want to
17 express on a personal level and I'm sure on behalf of
18 the people of the City of New York the wonderful work
19 that's done by the Fund in filling in in areas where
20 sometimes we don't pay the kind of attention that we
21 should. The Fund for the City of New York in many of
22 its projects manages to be there and is very helpful. I
23 know our citizens are thankful for that.

24 MS. COHN: Thank you, Mr. Chairman.

25 CHAIRMAN MACCHIAROLA: Commissioner Newman.

1 COMM. NEWMAN: A former director of
2 operations said to me that the proposal to move from two
3 to one and its replacement by the technology systems on
4 the Mayor's website was switching from outcome measures
5 to input measures. I was just wondering your reaction
6 to that. His view was that in this switch, we were
7 going to lose the ability to measure the success of
8 agencies and we were just going to get information on
9 the process.

10 COMM. LYNCH: Before you answer, let me add
11 to that question, I was told by a former operations
12 director --

13 COMM. NEWMAN: I suspect it's the same one.

14 COMM. LYNCH: Probably the same one. That
15 if you do it, the report six months earlier, it gives
16 you six months to make adjustments. This way you got to
17 wait a whole year.

18 MS. COHN: On the question of outcome
19 measures, I see nothing in the language at all, and if I
20 did, I would not just stand here in support of it, that
21 would say they're moving away from outcome measures. In
22 fact, outcome measures are the way of the future --

23 COMM. NEWMAN: Maybe I misstated it. The
24 case made to us at our last meeting was you didn't need
25 this report because of two new sets of information; one

1 called "In Your Neighborhood" and the other one called
2 CAPSTAT, if I recall, and his argument was that both of
3 those were very process and input oriented, while his
4 struggles at Operations was always to try to make the
5 management report as output oriented as possible and
6 that that would be a major loss.

7 MS. COHN: If that were the case, I would
8 agree with him or her, but I really don't see that at
9 all. I think that the CAPSTAT measures, certainly I
10 think this administration, not that I speak for them at
11 all, knows that there can still be improvements, but we
12 have more outcome measures now than we ever had and you
13 can find out much more about outcome in terms of crime,
14 incidents of crime and all kinds of other things on the
15 website now. So I see nothing like that.

16 It's my understanding that the annual
17 report, to just respond to your point, that it would
18 include not only past data, but it would also have the
19 plan for the next year, so that people would have annual
20 data not just four months of data in front of them which
21 isn't really predictive of much, because there are
22 seasonal changes and all kinds of other things, so I
23 don't see, we thought about this carefully, because as I
24 said, we're avid supporters of this, and we wouldn't
25 want to see any lessening of this effort.

1 CHAIRMAN MACCHIAROLA: Since neither of us
2 know who this director of operations is, I would
3 question the competence of a person who was directing
4 operations and needed a public management report in
5 order to perform his functions. That's rhetorical, you
6 don't have to answer.

7 COMM. NEWMAN: One more. The IBO director,
8 who also has indicated opposition to this proposal, has
9 suggested the timing of the reports be changed to make
10 them more effective from a city budget standpoint and
11 that they be linked to the budget more. I was just
12 wondering --

13 MS. COHN: The linking of budget data and
14 operating statistics and outcome measures certainly is a
15 valid thing and it's also my understanding that if that
16 first, if the preliminary report which is supposed to be
17 linked to the budget, but the timing makes it very
18 difficult to comprehend is eliminated that the annual
19 report would make it very clear to the public how much
20 we spend for these particular outcomes and was it worth
21 it or not, and what is the City planning to do about it,
22 so that there could be more informed discussion about
23 the city's plans.

24 CHAIRMAN MACCHIAROLA: Okay. Rather than
25 keep it going, I know you've provoked a lot of us and

1 the conversations are spirited, but there are other
2 people that we're going to have to hear from.

3 Meanwhile, thank you, very, very much.

4 DR. GARTNER: Mark Davies.

5 MR. DAVIES: Mr. Chairman and members of the
6 Commission. My name is Mark Davies. I'm the Executive
7 Director of the New York City Conflicts of Interest
8 Board, which is the ethics board for the City of New
9 York. I have with me Louise Victor, our associate
10 counsel for enforcement. I have no written testimony, I
11 have distributed, however, a handout to you. I do have
12 oral testimony, but it looks to me like you have a very,
13 very long night ahead of you, and so what I have
14 proposed is that I submit written testimony later this
15 week and simply answer your questions at this time,
16 either on the City's Ethics Law generally or
17 specifically on the proposals of the Commission or the
18 staff proposals of the Commission to increase the fine
19 for violation of the Ethics Law from 10,000 to \$25,000
20 and to initiate a disgorgement provision for ill gotten
21 gains.

22 So with that, I will leave it up to the
23 Commission Chair what you wish me to say.

24 CHAIRMAN MACCHIAROLA: I thank you for the
25 support of that proposal which comes from your agency.

1 I wish we had the ability to delve into other issues
2 that you have presented to us, but we were prevented by
3 questions of time and just getting things prepared for
4 the ballot and therefore just adopted the one proposal.

5 MR. DAVIES: I appreciate that. We do have
6 specific comments on the Commission's proposal. There
7 are some items we think could make it significantly
8 better, but I assume if it's satisfactory to the
9 Commission we'll simply submit those to the counsel.

10 CHAIRMAN MACCHIAROLA: That would be
11 terrific. Again, thank you for the work that you've
12 done. I know you people have a very, very difficult
13 responsibility and discharge it with great effect and
14 the City owes you a debt of gratitude for the work that
15 you've done.

16 MR. DAVIES: We hope you will be here next
17 year to consider other proposals?

18 CHAIRMAN MACCHIAROLA: Well, you'll be
19 talking to somebody else.

20 MR. DAVIES: Thank you.

21 DR. GARTNER: Alan Bortnick.

22 MR. BORTNICK: First I apologize to
23 everybody for nailing Mr. Miller. Secondly, I was here
24 for the early part of the meeting and something was said
25 about intent. I went to dinner recently, a friend of

1 mine and I were sitting there and the gentleman next to
2 us ordered dessert, peaches and cream. The waitress
3 brought him a lovely dish of peaches with cream. He
4 looked at her and said, "That's not what I ordered."

5 She said, "You ordered peaches and cream."

6 He said, "Is a woman and child the same as a
7 woman with child?"

8 I suggest to you that you be very careful
9 with your wording because intent doesn't make it. The
10 road to hell is paved with good intentions.

11 Like a bolt of lightning, the blackout of
12 '03 provided me with an insight which I must pass on to
13 you and your group. The public hearings which you held
14 gave the existing politicians another opportunity to
15 provide their worthiness of the political hacks they
16 are. Almost to a man they spoke eloquently to protect
17 their day jobs. Nearly every elected official in the
18 City either appeared before you or submitted a statement
19 in defense of the existing systems for elections. Less
20 than 100th of 1 percent of the public were able to
21 respond and they to a man and woman spoke out for
22 non-partisan elections.

23 Here comes the bolt of lightning. When the
24 blackout hit New York at 4 p.m. on Thursday, this City
25 reacted with amazing calm, but there were a few people

1 who were reacting with amazing responsibility and common
2 sense. I got all choked up and was on the verge of
3 tears when I saw what they did. Ordinary citizens
4 without uniforms walked into the middle of intersections
5 to direct traffic when the signal lights went out. With
6 traffic lights everybody is in a big fat hurry to get to
7 the next corner. Without the lights, it would have been
8 a lot worse, but thanks to these few hardy souls who
9 without uniforms and without any pay chose to put their
10 lives at risk to help others there would undoubtedly
11 have been a lot of accidents and injuries to further
12 shame our city.

13 There's a wealth of innate goodness in our
14 fair metropolis. They are the very people that do not
15 have to be asked or told when and how to do the right
16 thing. They are the people you should be thinking of
17 when you make your decisions regarding a proposition for
18 the ballot on non-partisan elections.

19 STAFF: One minute.

20 MR. BORTNICK: The system we have today has
21 turned them off or precluded any possibility for them to
22 run for office for this city. You have in your hands
23 the potential to correct a grievous error created by the
24 existing politicians in their lust for power and
25 control. They are created a Rube Goldberg system which

1 constantly seems to work to our disadvantage and their
2 eternal benefit.

3 Common sense tells us if you want the lights
4 on, you don't have to build a contraption to do it.
5 Turning on a water faucet to fill a jug, which then tips
6 over and pours down a a sluice into another jug on a
7 balance scale which then lifts a a door that opens to
8 release a large metal ball, which rolls down a large
9 circular helix, to trip a lever, which moves another arm
10 that pushes a rod that moves a seesaw upwards to finally
11 trip the switch that turns on the light should not be
12 our aim in life for how things must run.

13 Fingers do a better and faster job, but not
14 if you're a politician. Give us a chance to put
15 humanity and common sense back in office. Given the
16 opportunity there are plenty of citizens who would not
17 only stand in the middle of intersections, but will be
18 willing to sit in office and function for the good of
19 the community with less verbiage and more practicality.
20 It's time for a change. Thank you.

21 (Applause.)

22 CHAIRMAN MACCHIAROLA: Thank you very much.

23 DR. GARTNER: Ron Hayduk?

24 MR. HAYDUK: Good evening, my name is Ron
25 Hayduk. I teach political science at the City

1 University of New York. I'm here to urge the Commission
2 to adopt proposals that taken together could do the
3 most, in my opinion, to increase voter participation of
4 all New Yorkers and invigorate the democratic process.
5 First, is to allow non-citizens, non-Federal citizens to
6 vote in New York City elections, and the second is to
7 adopt election day registration.

8 I have some support in the room. I hope
9 that it meets with your approval as well.

10 I have some testimony that I hope was handed
11 around, a piece that I wrote for the Drum Major
12 Institute and the New York City Planning Commission
13 reports that New York City has over 1.5 million
14 non-Federal citizen residents, which is almost 20
15 percent of the population of New York City. That means
16 about 1 in 5 New Yorkers are excluded from being able to
17 select representatives who make public policy that
18 affects them each and every day. Yet these newest New
19 Yorkers are subject to all the laws and then some; work
20 and own businesses of all kinds, pay taxes, send their
21 children to school where they can vote in community
22 school board elections, worship in churches, synagogues
23 and mosques and who can be drafted, serve in the
24 military and even die defending this country, but cannot
25 vote. In fact, one of the first casualties in the war

1 in Iraq was a Guatemalan immigrant, Jose Guitterez, a
2 U.S. Marine who was killed on March 21,2003.

3 STAFF: One minute.

4 MR. HAYDUK: He was an legal immigrant who
5 earned his residency, but was not a citizen. These one
6 in five hard-working members of our communities who
7 participate in every aspect of economic and social life
8 here in the city are excluded from political
9 participation. This is not fair and it need not be this
10 way.

11 There's three reasons. It's legal, the
12 Constitution doesn't preclude it and the courts have
13 upheld voting by non-Federal citizens. In fact,
14 non-citizens enjoyed voting rights for most of our
15 country's history from its founding until the 1920's.
16 There's good reasons to enfranchise non-citizens,
17 including the hallowed notions of equal rights and equal
18 treatment and it's feasible. Voting for non-citizens
19 has been reestablished in several municipalities in the
20 United States. New York and Chicago permit them to vote
21 in School Board elections, several districts in Maryland
22 and Massachusetts have extended the right to vote for
23 local offices to non-citizens and other jurisdictions,
24 almost half a dozen in the country, are considering it,
25 including Washington, D.C., San Francisco and others and

1 European countries have done this for decades. We
2 should follow suit and allow them to participate.

3 Election day registration is a no-brainer.
4 It's the best way to get people to participate in the
5 process and it levels the playing field, making it
6 easier for all groups, especially young people, recent
7 movers and historically disenfranchised groups.

8 Thank you.

9 CHAIRMAN MACCHIAROLA: Thank you very much,
10 sir. I think I should tell you that both those items
11 that you have suggested fall outside of the scope of
12 Charter provisions that could go on the ballot, as we've
13 been told by Corp Counsel, but those provisions that
14 you're talking about will be addressed by the
15 Commission. Our plan is for us to take up these items
16 so that they may be presented to appropriate authorities
17 that have the ability to enact laws in these regard.
18 Some of these will come with suggestions, some of them
19 will come with proposals for study, but they are under
20 active consideration by the Commission.

21 MR. HAYDUK: That's good to hear. My
22 understanding is that non-citizen voting provision could
23 be done through City Charter revision.

24 CHAIRMAN MACCHIAROLA: Well, you know what?
25 We will try to get an answer. The answer that we have

1 gotten so far is it cannot be, but I'll have it checked.

2 Thank you, sir.

3 Mr. Lynch, do you have a question?

4 COMM. LYNCH: I was going to ask, do you
5 believe, Mr. Hayduk, that we could do it in New York
6 like now or do we have to have State Election Law?

7 MR. HAYDUK: Well, I'm not an election
8 lawyer, but my understanding is that the City could
9 enact legislation. In fact, there was a proposal, I
10 believe, that the City Council introduced in the early
11 1990's to do just this, that the City on its own could
12 enact a provision to allow non-citizens to vote just
13 like it does for the community School Board elections.
14 If there is enabling legislation that's necessary at the
15 State level, let them do it, but my understanding is we
16 could do it on our own.

17 DR. GARTNER: Mr. Hayduk, if there's any
18 legal basis that you have, we're informed by Corporation
19 Counsel quite explicitly it is not within the City's
20 authority. The reference to Community School Board,
21 that's a function of the State Education Law and not by
22 an act of the New York City legislature, and not by any
23 other body in New York City, but if there's any
24 legislation you can get us, that would be appreciated.

25 MR. HAYDUK: There's a reading of the New

1 York Constitution that views citizens of the state as
2 inhabitants as residents that goes back to the days we
3 had non-citizen voting. New York's Election Law which
4 constructs it to U.S. citizens, narrows it, but perhaps
5 the Election Law could be made less restrictive.

6 CHAIRMAN MACCHIAROLA: We'll take a look at
7 it.

8 MR. HAYDUK: I'll send you what I have.

9 DR. GARTNER: Doug Muzzio.

10 MR. MUZZIO: Good evening. It's a pleasure
11 to be before you again. My comments will be around
12 non-partisan elections and I will have written testimony
13 as well.

14 In one week this Commission will decide
15 whether to place what the Commission is terming
16 non-partisan elections on the ballot, and it will do so,
17 it is said in my judgment to say, based on reports which
18 are deficient as description and faulty as analysis. I
19 would argue that the staff reports of June 26th and
20 August 13th and parenthetically, if I might, the Chair's
21 Gotham Gazette piece of May 5th are replete with
22 omission, errors, questionable assumptions and
23 sophistry. The reports are naive and biased as history
24 and political science.

25 CHAIRMAN MACCHIAROLA: Is that mine you're

1 referring to or everything?

2 MR. MUZZIO: No, all three of them. I'll go
3 back to yours later.

4 CHAIRMAN MACCHIAROLA: I'm not a sophist,
5 I'm Italian, you should know.

6 MR. MUZZIO: You're taking my time. We'll
7 get to the hard part in a moment.

8 CHAIRMAN MACCHIAROLA: We'll give you time.

9 MR. MUZZIO: Thank you. I think also these
10 two studies are classic examples of tailoring policy
11 analysis to the needs of the client. The inclusion of
12 party affiliations on the so-called non-partisan ballot
13 clearly is an egregious capitulation to the Mayor. What
14 you have here is it seems to be an epiphany and like
15 Paul's epiphany on the rode to Damascus, it seems to be
16 an epiphany from a higher power and that higher power is
17 a letter from the Mayor of the City of New York.

18 I take the comments by director Gartner,
19 Anthony Crowell and Frank Barry on page 4, quote: "In
20 light of the public testimony presented to the
21 Commission regarding the value of party labels, however,
22 and in recognition of its merits, the Commission is
23 considering additionally allowing candidates to identify
24 their party membership on the ballot." I presume that
25 this was written with tongue firmly in cheek, because if

1 you look at the meeting minutes, there is absolutely no
2 discussion prior to the Mayor's letter of putting these
3 party labels on the ballot.

4 STAFF: One minute.

5 MR. MUZZIO: In fact, I would quote from the
6 staff report June 26th, first sentence: "The City
7 elects its political leaders in a partisan fashion.
8 Candidates compete in party nominating primaries and
9 their party affiliation appears with their name on the
10 ballot." Second sentence: "In non-partisan election
11 systems, candidates do not run in party nominating
12 primaries and ballots do not list the candidate's party
13 affiliation." So, based on the appropriate definition
14 of the staff report, what the Commission will be voting
15 next week is not non-partisan election. It is the
16 Jacksonville system, and what is this Jacksonville
17 system? We don't know, because in the attempt to remove
18 the objection, valid, made by myself and others that
19 party cues are important, now they're on the ballot.
20 It's simply a capitulation to the Mayor.

21 CHAIRMAN MACCHIAROLA: Did you accuse me of
22 being a sophist?

23 MR. MUZZIO: No, I was accusing the staff
24 report of exercising sophistry.

25 CHAIRMAN MACCHIAROLA: I'm just quite at a

1 loss to understand how you can conclude that the Mayor
2 gave orders and that those orders were the basis on
3 which the Commission took action. You were here for the
4 vote that this Commission took. That resolution listing
5 the names on the ballot passed with six affirmative
6 votes. I hardly think that if the Mayor had wished to
7 give an instruction, that he would have given it if it
8 were to be an instruction in such an inefficient way
9 that the independent members of this Commission would
10 have reached the conclusions as they did in the
11 discussion that you heard.

12 The fact of the matter is, the issue of how
13 this should be presented was begun in the question that
14 the Mayor presented and it was considered and people
15 gave their opinion and members of this Commission made
16 their judgment. I don't understand why you were
17 troubled by the fact that the Commission exercised
18 independent judgment, since what you wanted the
19 Commission to do was to exercise an independent
20 judgment, which you said it was incapable of doing,
21 since it was under orders of the Mayor.

22 MR. MUZZIO: No, I didn't suggest that it
23 was under orders of the Mayor. I'm suggesting that it
24 responded to and exclusively responded to --

25 CHAIRMAN MACCHIAROLA: No, it wasn't

1 exclusively that the Mayor made that judgment. But the
2 other question is why is the Mayor the one person that
3 isn't allowed to have something to say about this?
4 Everybody else has been testifying, everybody else has
5 written. You've written several articles, and when they
6 were unpersuasive or contested, you wrote it again. Why
7 can't the Mayor say what the Mayor believes?

8 MR. MUZZIO: That's correct, but what the
9 issue rather is, is the independence and I believe the
10 integrity of the Commission. For example, if I may
11 quote you from your Gotham Gazette piece, when you were
12 talking about an opponent's contradiction, the assertion
13 is made that in the absence of party labels voters will
14 not have a cue as to candidate's views.

15 Skipping two sentences --

16 CHAIRMAN MACCHIAROLA: Whoa, whoa --

17 MR. MUZZIO: Excuse me. May I finish?

18 "Using the information gleaned from the
19 Voters Guide, community newspapers and the abundance of
20 campaign literature that the Campaign Finance program
21 funds in New York City this argument lacks salience and
22 is demeaning to voters."

23 CHAIRMAN MACCHIAROLA: Which argument?

24 MR. MUZZIO: The argument that voters will
25 not have a cue to a candidate 's views.

1 going to agree with me?

2 MR. MUZZIO: The problem is that you don't
3 have any studies. If you look at your August 13th
4 study, it repeatedly says -- page 4: "It is important
5 to emphasize this point, should the Commission opt to
6 allow party labels to appear on the ballot, findings on
7 previous studies on non-partisan elections cited by
8 critics and supporters become moot."

9 It is said on page 7: "No evidence suggests
10 this argument applies to non-partisan elections with
11 party labels allowed on the ballot."

12 Again on page 15: "No relevance whatsoever
13 if party labels are allowed to appear on the ballot."

14 The point that is made brilliantly in this
15 thing is that there isn't enough study. If Jacksonville
16 is the model, is the paradigm, where's the Jacksonville
17 analysis here?

18 CHAIRMAN MACCHIAROLA: All I can tell you
19 is, if the voters don't think they understand it, this
20 will be the first opportunity that I have seen in modern
21 times where the voters in this town get the opportunity
22 to say whether they like something or not. If we listen
23 to you, we would never get to the voters. So rather --
24 look, Doug, this thing is going to the voters. Like it
25 or not. And you'll have the opportunity to discuss it

1 and dialogue about it, so that by the time the election
2 rolls around, people will be informed. And I hope you
3 do contest what we're doing, because if you do, I have
4 no doubt we'll win.

5 MR. MUZZIO: If I may, Mr. Chairman, I would
6 argue that the Commission has not adequately studied
7 this new form of government election system that they're
8 proposing. What they had proposed the last four
9 Commissions and this Commission as of June 26th was
10 proposing non-partisan elections. As of July 16th, it
11 is proposing something else that Jacksonville --

12 CHAIRMAN MACCHIAROLA: Would you support --

13 MR. MUZZIO: Excuse me.

14 CHAIRMAN MACCHIAROLA: Would you support
15 non-partisan elections, Doug?

16 MR. MUZZIO: Would I? Given what you
17 communicated? No.

18 CHAIRMAN MACCHIAROLA: No. You're not going
19 to support it. I could stand on my head and spit with
20 nickles. You wouldn't support it. You're here to
21 engage in a dialogue.

22 MR. MUZZIO: Right.

23 CHAIRMAN MACCHIAROLA: If I change my
24 position, you change your position.

25 MR. MUZZIO: No, no.

1 CHAIRMAN MACCHIAROLA: If I say up, you say
2 down.

3 MR. MUZZIO: No, no. I'll stop in thirty
4 seconds. The point is that you are making decisions
5 without study. We don't know how this system might
6 work; whether it's Jacksonville or Minneapolis.

7 The last sentence of this critique of the
8 Goldberg-Muzzio studies reads: "Over the next few weeks
9 the Commission staff will continue its analysis of the
10 impact of non-partisan system on local elections and
11 with nearly three months before any potential referendum
12 there is still time for others to do the same."

13 What you're saying is, "We don't know. Its
14 confusing. Let's move forward. We don't have enough
15 information now to send it to the voters, but voters
16 might have enough information after we do it."

17 CHAIRMAN MACCHIAROLA: Did I say that? Did
18 I say that?

19 MR. MUZZIO: Yes, I think it's implicit
20 here.

21 CHAIRMAN MACCHIAROLA: You don't listen.
22 That's not what we said.

23 MR. MUZZIO: It says you're not done
24 studying, you won't be done until November.

25 CHAIRMAN MACCHIAROLA: We're not done

1 presenting the issue. The issue has been done through
2 five Charter Commissions. Doug, you said you would be
3 done in thirty seconds.

4 MR. MUZZIO: You said you would study
5 non-partisan elections. Not the Jacksonville system.

6 DR. GARTNER: Ed Brady.

7 COMM. NEWMAN: Frank, before he testifies,
8 Alan, could you have the staff, somebody look at the
9 transcripts prior to the Mayor's letter? I clearly
10 remember the issue of putting party names next to the
11 candidates coming up in the Commission prior to the
12 Mayor's letter.

13 CHAIRMAN MACCHIAROLA: You suggested it to
14 me before we even got to it.

15 COMM. NEWMAN: That's part of the reason I
16 know it's in the transcript, because I brought it up,
17 and others commented on it.

18 COMM. GATLING: Doug commented. He said he
19 might change his mind.

20 CHAIRMAN MACCHIAROLA: We're just
21 hyperventilating.

22 MR. BRADY: Chairman Macchiarola, fellow
23 Commissioners, good evening. My name is Ed Brady. I
24 reside at 30 East 95th Street here in Manhattan.

25 Chairman, I've had the privilege of

1 attending a number of these forums and hearings
2 throughout the City and as a private citizen I would
3 just like to extend my gratitude. I think you've run
4 these forums, these gatherings in a very professional
5 and dignified manner and you have our appreciation.

6 CHAIRMAN MACCHIAROLA: Thank you.

7 MR. BRADY: You're welcome. You've been
8 given a plethora of information regarding non-partisan
9 elections and a mountain of statistics. I'm not going
10 to add to that. What I'd like to do is tell you a very
11 short story and I hope you find it beneficial.

12 I grew up up in the Bronx, not far from the
13 Stadium. As was our wont as kids, we played stickball.
14 When we did that on 160th between Walton and Melrose
15 Avenue; black and Jewish and Puerto Rican and Italian
16 and German and Irish kids, we would do that and set the
17 guidelines as to how go about playing the games.
18 Manhole is first base, manhole is second, third, this
19 stoop is going to be the foul line, and we allowed
20 everybody to participate. We choose up sides and
21 finally we would just say okay, it's jake. In other
22 words, we tried to make it fair. As fair as possible.

23 You know, I've listened to so much testimony
24 and all the professional politicians and a lot of the
25 politicians and I've come to the conclusion that you

1 allow the people to decide how they are going to elect
2 their representatives. You try to make the process
3 fair. Non-partisan elections will be a start in
4 allowing the people to say, okay, democracy and this
5 process is starting to be jake.

6 Again, I just want to say thank you very
7 much for your time and your energies and let's get
8 non-partisan municipal elections on the ballot. Let's
9 get started tomorrow. Allow everybody to take part in
10 democracy. Thank you very much.

11 DR. GARTNER: Bill Batson?

12 MR. BATSON: Thank you, Commissioners,
13 Chairman, colleagues, citizens and non-citizens. If one
14 is to take the mandate of this Commission at face value,
15 the goal is to increase electoral participation in New
16 York. In light of the cynicism amongst the citizenry
17 caused by the election irregularities in Florida,
18 democratic legislators fleeing power grabbing colleagues
19 in Texas and the farcical recall election in California,
20 this Commission is well timed and a Godsend. But why
21 rush? If the Commission is leaning towards changes that
22 are not going into effect until the 2009 cycle, why act
23 now? If some commission members are in dissent, why not
24 pause to reach consensus? If these provisions are meant
25 to aid marginalized voters, why hold hearings in the

1 vacuum of summer?

2 If increased participation is the goal, why
3 not explore physical and logistical obstacles to the
4 ballot as well as questions of partisanship in an
5 adversarial two-party political system? Why not explore
6 week long polling or weekend polling, a practice used in
7 European countries to increase voter participation?
8 Ultimately presenting only one serious option for
9 consideration is almost like having an uncontested
10 election.

11 If non-partisanship is an important outcome,
12 then why not make elections exciting by making them
13 truly competitive and calling for non-partisan
14 redistricting? Why not guarantee voters in Brooklyn,
15 where I live, that their machines will work on election
16 day?

17 COMM. SIEGEL: Never happen.

18 MR. BATSON: It is unfortunately difficult
19 to view these proceedings and this Commission as
20 genuinely interested in democratic reform. Why do the
21 plans put forward by this Commission constantly change
22 with the Mayor's fancy? Did those who testified at
23 earlier meetings have a chance to comment on more recent
24 proposals concerning political action committees and
25 union contributions? In a fair game, the rules should

1 not constantly change.

2 The best and wisest conclusion is that a
3 question so central to our democracy should be afforded
4 more time for consideration and a more accessible
5 process to vet with interested parties. Starting from
6 scratch would also avoid the appearance that the Mayor
7 is using this Commission further the goals of one party
8 or one class of voter. In recent times, rushed Charter
9 Commissions have been the function of more, not less
10 partisanship.

11 STAFF: One minute.

12 MR. BATSON: This process is undermining the
13 Mayor's stated goal. If at this moment in the history
14 of the City the Mayor finds the question of non-partisan
15 elections sufficiently urgent to put to a referendum in
16 front of all eligible voters, why not hold some
17 televised Town Hall meetings on the matter? If the
18 issue at hand is increased participation, how does a
19 stealthy summer sprint of public hearings serve this
20 cause?

21 If the argument for non-partisal elections
22 is so compelling, shouldn't we avoid a low turnout
23 election on this subject, with voters getting
24 conflicting and inevitably misleading messages from the
25 competing groups wealthy enough to buy media time in New

1 York? Should this election to change the process of
2 elections be the most carefully conceived transparent
3 and participatory election the City can possibly
4 organize?

5 If we were in Texas, I can imagine
6 dissenting Commission members fleeing across the border
7 to New Jersey. No, this is not Texas, this is New York,
8 the cradle of organized American democracy that started
9 down the street at the Federal Hall. We have an
10 obligation to take great care when amending any voting
11 rights.

12 The issues facing a future generation are
13 too great to succumb to the twin headed monster of
14 wealth and celebrity that is currently running amok in
15 our system. There is no substitute for objective debate
16 and discussion.

17 I know I'm urging you not to rush in very
18 rushed terms, but I just did want to say in conclusion
19 that the 40th anniversary of the March on Washington is
20 later this month and that was all about voting rights
21 and to rush such an important decision is probably
22 antithetical to the spirit of the civil rights movement
23 and Dr. King.

24 Thank you.

25 (Applause.)

1 DR. GARTNER: Mark Levine.

2 VOICE: Mark submitted his testimony in
3 writing.

4 DR. GARTNER: Bertha Lewis.

5 MS. LEWIS: Thank you. How are you? I also
6 submitted in writing our statement, and so because of
7 time restrictions, I'll emphasize certain portions of
8 it.

9 I'm co-chair of the Working Families Party
10 as well as Executive Director of New York ACORN and the
11 written testimony that I've put before you is saying
12 that non-partisan elections is a non-solution to a
13 non-problem. One of the most important things about
14 this is that this proposal for non-partisan elections
15 actually eliminates the positive roles that parties
16 play. I know people want to talk a lot about rich, fat
17 cat party bosses. Maybe you're looking at one, but I
18 say that the major effect of your proposal will reduce
19 what we do every day, not only to recruit more people to
20 run, to educate voters and to hold our public officials
21 accountable. This is especially true here in New York
22 where we have joint nominations or fusion and we allow
23 minor parties to play a larger role than anywhere else.

24 The role of parties in fostering civic
25 engagement should not be ignored. Engaging in electoral

1 politics, even to the extent of voting, it brings no
2 personal benefit. Citizens may make the effort to
3 educate themselves on candidates. They may make the
4 effort to vote or to volunteer out of a sense, as the
5 gentleman pointed out earlier, of civic duty. But a
6 sense of emotional engagement is also equally important.

7 Parties allow voters to feel, yes, that they
8 are part of a team. Yes, that they know what that party
9 stands for, and how that party is going to put forth
10 their values and, yes, people want to hold their parties
11 accountable.

12 STAFF: One minute.

13 MS. LEWIS: The Commission has sidelined
14 real reform here. As others have said, the proposal
15 that you could be putting forth is changing election day
16 registration. Reforming our antiquated ballot access,
17 improving the quality of the Voter Guide and yes,
18 allowing non-citizens to vote in local elections,
19 proportional representation.

20 You can't cop out by saying this is part of
21 the State's purview. You could, in fact, put some
22 really serious reform by putting a measure on the ballot
23 that takes it to the State and says to the State this is
24 what New York City wants to change.

25 In conclusion, the time for non-partisan

1 elections has not come yet. Maybe the Mayor's proposing
2 this, that this takes effect in 2009 after his
3 reelection campaign, I don't know. He's a smart man,
4 but this is a dumb proposal. There are good reasons and
5 good sound ways to improve the electoral system, third
6 parties is one of them. If this Commission goes
7 forward, it's only going to lead to more division, but I
8 guarantee you that on election day, if this Commission
9 decides to put forth non-partisan elections, you will be
10 defeated at the ballot box.

11 Thank you.

12 (Applause.)

13 COMM. LYNCH: Ms. Lewis, one of the things
14 you hear for instituting non-partisan elections that if
15 we don't, we'll disenfranchise 800,000 people. Those
16 are the people who are not registered in a party who are
17 registered as independents or have no registrant.

18 MS. LEWIS: Well, this is the argument to
19 eliminate primaries, right? This is the argument that
20 eliminates people from participating in primaries for
21 their party, because we say only those in the Democratic
22 or Republican parties get to have that. I don't believe
23 that that's true. I know that our folks in Working
24 Families Party registered, whether they're
25 Democratically registered, actually do pay attention to

1 who those folks are. So this notion that 800,000 people
2 are going to be disenfranchised, I think it's a false
3 notion.

4 I know there's over a million people who
5 work and live in this City that are being
6 disenfranchised right now from voting in local
7 elections. All of those folks are not considered. Why?
8 Because they're immigrants and they're non-citizen and
9 there's more than 800,000 people that could be
10 enfranchised to vote if we actually put forward and
11 pushed the State to have same day registration.

12 So playing the numbers games with who
13 participates in primaries and not, is not the question
14 here, it's really reform and I think it's just rhetoric
15 to say that these people are disenfranchised.

16 DR. GARTNER: Thank you.

17 COMM. NEWMAN: Just one thing on the record,
18 your testimony talked about 2009. The Commission voted
19 earlier this evening that it would go into effect in
20 2006, so that it would cover any special elections.

21 COMM. LYNCH: It voted to go any time after
22 2005.

23 MS. LEWIS: Well, you got it on the ballot
24 in 2003, so I don't see why if you really believe in
25 this why you wouldn't go sooner, but that's up to the

1 Commission because it will be voted down anyway.

2 DR. GARTNER: Thank you. Marilyn Charles.

3 MS. CHARLES: Good evening. My name is
4 Marilyn Charles. I'm here about primaries and civil
5 rights. I'm here to state my opposition to non-partisan
6 elections. Party primaries is civil rights. They are
7 essential to give minority voters a real voice in City
8 politics. Non-partisan elections will dilute the votes
9 of blacks and Latino voters and poor and working class
10 whites, too. To keep minority voters fully
11 enfranchised, we need to keep party labels on the ballot
12 and party primaries.

13 Historically, blacks and immigrants have
14 been disenfranchised in this country. For generations,
15 African Americans in the south were barred from voting,
16 by violence if necessary. It took the civil rights
17 movement to win African Americans the most basic
18 political right, the right to vote.

19 People with certain convictions are legally
20 barred from voting, overwhelmingly minority. For
21 instances, 63,000 black men, 6 percent of black men in
22 the state, have lost the right to vote in the State of
23 New York due to felony conviction. That is ten times the
24 rate of felony disenfranchisement of other groups of
25 voters.

1 Because the U.S. is almost alone in holding
2 elections on a workday, people with two jobs, single
3 mothers and many other working people face huge
4 obstacles in voting. Employers are supposed to allow
5 time off, but not all do. For all these reasons, voter
6 turnout is lower among blacks, immigrants and the poor
7 than among upper income whites. Nationwide 70 percent
8 of voting age whites are registered and 48 percent vote.
9 Only 63 percent of blacks and 55 percent of Hispanics
10 are registered and only 42 percent of blacks and 33
11 percent of Hispanics vote. In other words, when it
12 comes to voting, Latino or Latina counts for only
13 two-thirds as much as white Americans.

14 STAFF: One minute.

15 MS. LEWIS: This has nothing to do with who
16 is smarter, better educated or more capable. This is
17 all about barriers our system creates for working
18 people. Primaries help make up these obstacles. The
19 only advantage minority voters have is that they are
20 more likely to be Democrats.

21 After decades of organizing, fighting,
22 playing by the rules, they have won a place at the table
23 in the Democratic table. In a city like New York
24 Democratic politicians can't ignore African Americans or
25 take them for granted. The primaries give black and

1 immigrant voters a voice they will not have otherwise.
2 Since African Americans and working people are more
3 likely to be Democrats, Democratic primaries are one
4 place where the votes are closer to their proportion of
5 the population. In other words, Democratic primaries
6 compensate for all the other obstacles and barriers
7 faced by minority voters.

8 There's a mathematical certainty that
9 eliminating primaries will reduce the weight of black
10 and Latino voters. If you think black voters have too
11 much of a vote -- sorry, if you think black voters have
12 too much of a voice in New York politics, if you think
13 that, then non-partisan elections are the solution. But
14 if you don't want to reduce the weight of black and
15 Latino voters, non-partisan elections are a bad idea.

16 Thank you.

17 DR. GARTNER: Bill Henning.

18 CHAIRMAN MACCHIAROLA: Before you come up,
19 Mr. Henning, I just wanted to say that when I was
20 outside I had the opportunity to see Doug Muzzio again
21 and we both offered each other an apology for our
22 over-the-edge, over-the-line comments. We are great
23 friends and none of it was ever intended in any way
24 other than out of that friendship. Thank you.

25 Sorry, sir.

1 MR. HENNING: Oh, rats, I thought there was
2 going to be another event afterwards.

3 Mr. Chairman, members of the Commission, I
4 thank you for this opportunity. My name is Bill
5 Henning, president of Local 11 of the Communication
6 Workers. I have just a simple statement. I oppose
7 non-partisan elections. But I want to talk about
8 something that hasn't been a big part of these
9 discussions, at least until tonight and that's fusion
10 voting.

11 In New York you have the right to run for
12 office as the candidate of more than one party. I think
13 that's a great system. It means there's more
14 information on the ballot. Instead of just seeing
15 Republicans and Democrats, I can see if they are also
16 endorsed by the Conservative, Independence or Working
17 Families Parties, which helps a lot in figuring out what
18 candidates stand for and it means when I decide to hold
19 my nose and vote for a candidate I don't one hundred
20 percent support, I can at least make a statement about
21 what my real values are.

22 Now voting for the lesser of two evils can
23 still send a message. Fusion allows third parties to be
24 successful in New York. It's ironic that supporters of
25 non-partisan elections talk about New York as a one

1 party city. Of course, our last two mayors have been
2 from a supposedly moribund or nonexistent party, the
3 Republicans, but in addition, we have a thriving, we
4 have thriving third parties like the Conservatives and
5 the WFP. It would be a tragedy if in the name of
6 opening up the process we wiped out all of this
7 political diversity.

8 Fusion has a great history in New York.
9 John F. Kennedy wouldn't have become president without
10 it. The Liberal Party was his margin of victory in New
11 York and New York was his margin of victory in the
12 country. More recently Mayor Guiliani and Governor
13 Pataki both owe their elections to third parties. This
14 is a system that has worked well for decades in this
15 state and we shouldn't change it carelessly.

16 But fusion isn't just a good idea, it's the
17 law. The State Constitution guarantees the right of
18 candidates to run on more than one ballot line. We need
19 to be sure that whatever comes out of this Commission it
20 obeys that law.

21 STAFF: One minute.

22 MR. HENNING: I'm not sure how it would
23 work, but there needs to be a process for someone to be
24 listed as both Democrat, WFP, Republican, Conservative
25 or any other combination. In my observation the best

1 system is to keep partisan elections. If it ain't
2 broke, don't fix it, but if we're going to change our
3 system, we need to keep fusion voting alive.

4 One other thing. With all the possible ways
5 of tinkering with elections to make them more
6 meaningful, why not this one: Why not proportional
7 representation, so we can fix this
8 winner-take-all-system that can disfranchise up to 40
9 percent of the electorate. Why not instant runoff
10 balloting, so the voters can vote their consciences,
11 without fear of wasting their vote on someone who,
12 quote, "can't win"? Why not same day registration?

13 There are a number of things that could help
14 make our election process more democratic and encourage
15 more participation. This proposal is not one of them.

16 Thank you.

17 DR. GARTNER: Shirley Litman.

18 MS. LITMAN: My name is Shirley Litman, and
19 I want to speak against non-partisan elections and I
20 want to speak in support of political parties, but I
21 want to say something first. I didn't come here to talk
22 about it, but someone talked about prompt payments
23 before and I worked in a City agency for years and I
24 worked for the Agency Chief Contracting Officer. I
25 worked in the payments department. Now I work in the

1 revenue department and I think when it comes to prompt
2 payment you should look at it very carefully and
3 interest, because you're missing out on something very
4 important in that. First of all, it costs the City
5 millions of dollars. It's not 80,000 or 20,000 or
6 anything like that, it's a lot of money. That's number
7 one.

8 Number two, the vendors aren't getting paid.
9 I don't know why they're not getting paid on time, this
10 city has the money. But you know what's the worst thing
11 of all and nobody mentions it. When you don't pay the
12 bills, you can't get the revenue back into the City
13 Treasury and if you've ever worked in a City agency you
14 know that the revenue is driven by the payments. So you
15 don't, if you're paying late, the money is not going
16 back in the Treasury for months rather. So I ask you to
17 consider that when you think about how you can effect
18 prompt payments or interest charges. That's what I
19 wanted to say that I didn't expect to say.

20 Okay, now, the theory behind the
21 non-partisan elections is that politics is all about
22 individuals, right? Now we're going to have this great
23 individualism, the heck with the parties. A bunch of
24 candidates are going to be able to run as individuals.
25 They're not the candidates of parties or of anyone else.

1 And the corporations can't give them money, either.
2 They're supposed to be completely independent, which I
3 guess they can be if they can fund their own campaigns.
4 Then we as the voters go into the booth as individuals.
5 We've all done our homework, we've studied this thing,
6 we talked to each other. I know that nobody out of the
7 70 people that I work closely with knew about any
8 Charter Revision Committee. What? What is he doing?
9 What? Really, nobody knows about this stuff.

10 STAFF: One minute.

11 MS. LITMAN: Let's say I look into the
12 candidate's background. No machines are telling us how
13 to vote, there's no parties or anything. It sounds very
14 good, but it's not how the real world works. The only
15 time working people, and I'm a working person and I'm a
16 member of the Working Families Party, the only time we
17 get anything is when we organize. We have to argue. I
18 can't go in, just go out and have enough money to run
19 for anything.

20 I have to be with a party and learn a lot
21 about who's running in the other parties, too. That's
22 very important. It's so important and I spent plenty of
23 time knocking on doors for candidates and working the
24 polls on election day. I know what motivates people to
25 vote and why they get involved and political parties are

1 a big part of it. Believe me, our whole society is
2 about individuals, but it's not surprising that people
3 like Mayor Bloomberg can get in because he's got a lot
4 of money. No one else has got it. We need the support
5 of our political parties.

6 Please do not push non-partisan elections.

7 Thank you.

8 DR. GARTNER: I'm sorry, I can't read the
9 last name. The first name is Mercedes.

10 MS. CESPEDES: (Speaking in Spanish.)

11 INTERPRETER: Good evening, ladies and
12 gentlemen. Her name is Mercedes Cespedes, and she's
13 from ACORN. At the last meeting at the Presbyterian
14 Hospital, this meeting was held and there was no
15 translation and that's one of the things that is
16 disenfranchising.

17 COMM. NORAT: Excuse me, would you like me
18 to do the translation, because we have offered from the
19 beginning, we have offered people that if they needed
20 translators, they could tell us before, but if they do
21 appear and they speak Spanish and they cannot have a
22 translator because they didn't ask before, I have
23 offered my services from day one, so if you would like
24 me to do it, please continue.

25 THE INTERPRETER: Do you want to translate

1 for her?

2 COMM. NORAT: Fine, because I'm used to
3 doing it.

4 CHAIRMAN MACCHIAROLA: Do you want any help
5 from me, Cecilia?

6 COMM. NORAT: Yes, please.

7 (Laughter.)

8 MS. CESPEDES: (Speaking in Spanish.)

9 COMM. NORAT: Mercedes mentioned the fact
10 that there was a meeting at Presbyterian Hospital, I
11 believe, you mentioned Presbyterian Hospital and what
12 was discussed was the issue of these meetings and lack
13 of translators. Continue.

14 MS. CESPEDES: (Speaking Spanish.)

15 COMM. NORAT: Okay, now I know what you're
16 talking about. That was the meeting we held, okay, yes.

17 Not only did we lack translation services,
18 but we also had no facilities for disabled to access,
19 handicapped access.

20 MS. CESPEDES: (Speaking Spanish.)

21 COMM. NORAT: (Translating) So my question
22 is, how could possibly, how could we possibly hold a
23 forum discussing such an important issue for the City of
24 New York and where the minorities are really the
25 majority.

1 MS. CESPEDES: (Speaking Spanish.)

2 COMM. NORAT: We don't have a system of
3 translating.

4 Let her continue, then we'll give her the
5 answer.

6 MS. CESPEDES: (Speaking Spanish.)

7 COMM. NORAT: (Translating) It's very
8 important in a meeting of that type that translation
9 services be provided, because the community needs to
10 understand and the community needs to participate,
11 particularly on an issue that is of such importance to
12 its well-being.

13 MS. CESPEDES: (Speaking Spanish.)

14 COMM. NORAT: (Translating) Particularly if
15 we're discussing the issue of non-primaries that would
16 have a direct effect on our community, which is the
17 community of Washington Heights, which is where I come
18 from, and would have a direct impact on our politicians.

19 MS. CESPEDES: (Speaking Spanish.)

20 COMM. NORAT: (Translating) Particularly for
21 our politicians that do not have money and therefore
22 need the support of a party, it's very important for our
23 community to understand and to have the ability to
24 participate on an issue of this nature.

25 MS. CESPEDES: (Speaking Spanish.)

1 COMM. NORAT: (Translating) That would make
2 the community feel marginalized, so I'm suggesting to
3 the Commission that in the future they have translation
4 services.

5 MS. CESPEDES: Thank you.

6 CHAIRMAN MACCHIAROLA: Thank you very much.

7 DR. GARTNER: Flora Huang.

8 MS. HUANG: My name is Flora Huang and I'm
9 also representing Working Families Party, and I'm here
10 also to discuss my views against non-partisan
11 elections.

12 Let me just give you a little analogy. I'm
13 a high school teacher by trade and one thing all my
14 students learn after taking my biology class is to, when
15 you have a cold, never take antibiotics. For those of
16 who you don't know, antibiotics only destroy bacteria
17 not viruses, common cold is caused by a virus. So when
18 you use antibiotics, not only do you not treat the
19 source of the problem, but you actually wind up creating
20 more problems.

21 Well, that's exactly what I think
22 non-partisan elections are. It's not a solution for
23 problems, in fact it may even create more. To begin
24 with, non-partisan elections, the whole idea of voter
25 turnout being low. Well, in cities where they have

1 adopted non-partisan elections, the turnout is actually
2 even lower, particularly in communities of color, and I
3 mean why not. If you don't have the information, how do
4 you know who you're voting for. I don't understand why
5 you would want to adopt a system that has less
6 information as opposed to more.

7 Secondly, they say, well, in the city it's
8 because New York is a one-party system. Well, we had
9 two mayors that are Republican, and there is a reason
10 why the City is majority registered as Democrats.
11 Democrats for the most part represent people of color,
12 immigrants, working class people, people like me and
13 that's why they are registered as Democrats, because of
14 the fact the Democratic Party represents them. And in
15 many ways this whole idea of the primaries being not
16 fair just because you're not a registered Democrat,
17 well, the reality is that's what Democratic primaries,
18 that's what's representing, once again the Democratic
19 Party represents those interests and hence it makes
20 sense many of them are registered as Democrats.

21 STAFF: One minute.

22 MS. HUANG: If anything, the democratic
23 primary gives more voice than let's say the general
24 election. So what we're basically trying to say is that
25 this is not helping the solution. What we need is real

1 solutions, solutions mentioned before, change in our
2 judicial selection process, change in the ballot
3 procedures. There's no reason people should be thrown
4 off the ballot for trivial reasons and that's what needs
5 to, that's what we need to reform. Simply not
6 non-partisan elections. And also you've made it clear
7 during this time, you've made it clear it's going to be
8 on the ballot. I really wish that you would reconsider
9 it. After all, I think that's what these hearings are
10 for. And however, if it is on the ballot, we will fight
11 hard to make sure that it will not be voted on during
12 the fall.

13 DR. GARTNER: Carrie Sackett?

14 MS. SACKETT: Good evening, Commissioners,
15 my name is Carrie Sackett. I'm the chair of Downtown
16 Independents. On behalf of our club, many of us are
17 here with you tonight, I would like to commend you for
18 conducting an engaging and educative set of hearings
19 this summer. They've been wonderful and we're pleased
20 you're in our backyard, one of the last of your
21 hearings.

22 Lower Manhattan, specifically Council
23 District 1, has the highest percentage of nonaffiliated
24 voters, independents, in the County of New York. That's
25 22.5 percent of registered voters down here have said no

1 to joining a party. So I'm testifying today yes, in
2 favor of non-partisan elections. I believe that New
3 Yorkers have the right to vote on how we want to conduct
4 our elections, and I'm testifying for more. I'm
5 testifying, I understand that this afternoon you all
6 took a vote on the structure of the proposals that you
7 would put on the ballot. I would urge you to reconsider
8 and to disallow any reference to political parties on
9 the non-partisan ballot.

10 Partisanship has gotten out of hand in
11 American politics. There was a speaker earlier this
12 evening who mentioned that and also somehow ended up
13 against non-partisan elections, but the thing that I'm,
14 I think, the thing to be concerned about is that the
15 major parties have taken to manipulating the very
16 mechanisms of democracy for their own gain and then to
17 refer back to the examples of these gentlemen before me
18 referenced, the Texas Democratic Party State Senators
19 have twice fled their state rather than vote on a
20 redistricting plan which would tilt the super majority
21 of Congressional seat towards Republicans.

22 The Republicans broke tradition by
23 reintroducing redistricting after they've done it.
24 Redistricting, as we all know should last for a decade.

25 STAFF: One minute.

1 MS. SACKETT: California politicians
2 manipulated the citizen's right to recall elected
3 officials by instigating the recall of a Governor who,
4 while not well liked, has not been accused of
5 corruption.

6 To quote this week's Economist, all this
7 partisanship is dismal news for American democracy. The
8 American people don't want to participate in a sibling
9 mud wrestling match. We want to have a voice in
10 addressing the issues we care about. New York City has
11 behind the rest of the country when it comes to
12 political reform. You heard a lot about that this
13 summer. Now you, the Charter Revision Commissioners,
14 have the opportunity to provide leadership. Creating a
15 truly non-partisan election process would indeed cause a
16 change throughout the political process, as The Times
17 mentioned last week. It would be a positive change, one
18 that sets a new, more engaged and proactive tone in New
19 York City politics and it would end up as a hopeful
20 direction against this trend of partisan manipulation of
21 the electoral process.

22 We of Downtown Independents ask that you
23 leave non-partisan ballots non-partisan, without a party
24 label and not indulge in encouraging the very interests
25 which are undermining the democratic spirit that this

1 country was founded upon. Thank you.

2 DR. GARTNER: Again, I'm having difficulty
3 with the last name. The first name is George from the
4 Green Party.

5 MR. TATEVOSYAN: My name is George
6 Tatevosyan. I'm a member of the Green Party. I'm the
7 electoral reform task force. I'm going to read from a
8 prepared statement to save time.

9 Most of what can be said about non-partisan
10 elections has been said during these hearings, so I'll
11 try to be brief. First, I urge the Commission to
12 revisit the issue of party labels and to change your
13 vote, essentially. There's still time to revisit this
14 issue. This debate in itself is an illustration of how
15 political labels have lost all meaning. Some people who
16 call themselves Democrats have actually sat here and
17 asked this body to deny the people the right to vote on
18 the this issue. They have asked you to keep it off the
19 ballot, never mind what the voters want to do. They
20 would have you take away the voters' right to decide
21 this question.

22 The so-called reform Democrats have sat here
23 and argued against what could turn out to be the most
24 significant political reform in decades for New Yorkers,
25 including the rank and file members of their own party.

1 Let's look beyond what people choose to label themselves
2 and look at what they actually do. These people are not
3 Democrats no matter what they choose to call themselves.
4 They don't support democracy if they don't support the
5 people's right to vote on this issue. It's our legal
6 right to have this decided in a referendum. They don't
7 support democracy if they want to deny the voters more
8 choices in the voting both and a less controlled
9 nominating process. This is exactly why we need to keep
10 party labels out of the voting booth. They have no
11 meaning.

12 So let's let the voters vote based on what
13 the candidates stand for and what they will do for New
14 Yorkers and not their party labels. With all due
15 respect, the Commission would be doing a disservice for
16 New Yorkers by reintroducing party labels on the ballot
17 as part of this initiative.

18 I'd like to address a complaint I heard from
19 Democrats during these hearings that non-partisan
20 elections will give candidates with money greater
21 advantage. Initially it made me laugh.

22 STAFF: One minute.

23 MS. SACKETT: Since I know that New York
24 City elections, including the elections for State
25 offices, it's the Democrats who outspend their opponents

1 overwhelmingly, sometimes with a ratio of ten to one.
2 It's annoying to watch the Democratic Party portray
3 themselves as the party of the underdog when everybody
4 knows they're the big, wealthiest political bullies of
5 New York State. We have to deal with bullying from
6 members of the so-called Democratic Party. They tried
7 to intimidate us and blame us for the results of the
8 2000 Presidential elections. They used to say if Ralph
9 Nader didn't run, George Bush wouldn't be in the White
10 House. Now they say if Mayor Bloomberg didn't spend all
11 that money, our guy would be the Mayor right now.

12 Well, in fact, the reason they lost the
13 Mayoral race is because of the bitter and divisive
14 primary they had. The party bosses and their new
15 captains among the so-called reformers never seem to
16 tire of passing off responsibility for the failure of
17 their mediocre candidates and their campaigns. In fact,
18 by playing the blame game they try to cover the
19 Democratic Party's serious problems, and they're losing
20 elections because of the low caliber of candidates
21 they're running, candidates who have nothing to offer
22 voters, no clear message and because, frankly, they
23 can't reconcile the deep divisions in their own party.

24 If you can't come up with better leaders who
25 inspire voters to come out and vote and the only way you

1 can win is by fixing the elections, then you deserve to
2 lose and that goes to all political parties. So let's
3 bring on the political elections. Let's make Democrats
4 and all other parties put their best leadership forward
5 and let the voters decide in a truly fair election.

6 I don't buy the argument that the voters are
7 going to get confused if there aren't going to be any
8 party labels. I believe the voters are intelligent. I
9 think it's condescending and sanctimonious of some
10 Democratic Party leaders to suggest that people are
11 confused, they can't figure out who runs from which
12 party.

13 Finally I want to thank you for the service
14 to New York City. I know you've sacrificed a lot of
15 personal time and I know I feel the political pressure
16 myself and I can only imagine. So thank you for your
17 service to New York.

18 DR. GARTNER: Jay Golub.

19 MR. GOLUB: Hello, Commissioners. I
20 appreciate the opportunity to testify today. My name is
21 Jay Golub. I'm a City Council candidate in Manhattan on
22 the Lower East Side and a vice president of New York
23 County's Republican Party. I'm here representing myself
24 today and my position on non-partisan elections.

25 What I'd like to do is just recite some of

1 the arguments made by Democrats at some of the hearings
2 to cite how basically we need to support non-partisan
3 elections in this city. Most of the arguments made are
4 solely based on the power that Democrats are going to
5 lose and the party bosses are going to lose if
6 non-partisan elections are put into place.

7 Assemblyman Farrell, the State Democratic
8 Party Chairman, and long-time elected official, says
9 that ballot access, which would be addressed positively
10 with non-partisan elections has already improved. As
11 Republican City Council candidate on the Lower East
12 Side, out of 9200 registered Republicans, I need 450
13 signatures. My opponent who has 62,000 people to get
14 her signatures from only needed 950. If that seems like
15 a fair system, I would like to see somebody try it.

16 I have tried it twice now and the main
17 reason why Democrats want to keep it this way is
18 basically they get to control the ballot and party
19 leaders get to control the ballot. This would be a
20 great way of allowing any voter to sign a petition to
21 get somebody on the ballot.

22 The State Chairman also said that the
23 campaign finance system would be affected by
24 non-partisan elections and I apologize to the former
25 Chairman O'Hare, but out of the \$42-1/2 million that was

1 given out in 2001, \$40 million went to the Democratic
2 Party and again, this is in a situation where most of
3 them were out -- you know, Republicans at least
4 outnumbered five to one of course mine is nine to one
5 and I was outspent five to one in a race where I was
6 outnumbered nine to one. So I don't see how that can be
7 affected negatively by non-partisan elections.

8 Many Democrats say that non-partisan
9 elections will take the parties out of the election
10 process. Nothing could be further from the truth. I'm
11 a proud Republican. I'm going to run as Republican, put
12 it on my literature, have people campaigning as
13 Republican. The only place this is taken out is in the
14 ballot box.

15 STAFF: One minute.

16 MR. GOLUB: Now if people in the Democratic
17 party think the only information a voter gets about who
18 a candidate is, is that they're underneath a certain
19 party line then you're really either rightly or wrongly
20 recognizing that voters no nothing about a candidate on
21 the ballot.

22 I think a candidate should win based upon
23 the information they provide to a voter, the ability to
24 get that out for a voter. That's who a voter should
25 decide who to vote for, not just say Democrat and pull

1 the line. The non-partisan elections will open up this
2 process.

3 The Democratic establishment is not happy
4 with this. I don't blame them, they might lose some
5 power this way. I think for the rest of the candidates
6 and the voters, more important than anything, is an
7 opportunity to improve the system and may the best
8 candidate win.

9 Thank you.

10 DR. GARTNER: Peter Hogness.

11 MR. HOGNESS: Members of the Commission,
12 thanks for the chance for voters to tell you what's on
13 their mind. Today our elections I think are too often
14 ruled by money and too rarely offer voters little
15 choices, but like some other speakers I think that
16 non-partisan elections would make both these problems
17 worse.

18 There's two key sources of power in an
19 election: Money and people power. One time our
20 political parties were mainly about people power; door
21 knocking, phone banking, voters talking to other voters.
22 This is how regular voters can make their voices heard.
23 Now today money and TV play too large a role in our
24 parties' lives. The local block-by-block organizing is
25 still an important part of how they operate and it is

1 showing some signs of a comeback. As the mass media and
2 tv reaches the saturation point, the voters are starting
3 to tune out and major parties are putting at least a
4 little more emphasis on get out the vote organizing.

5 If you're wondering if non-partisan
6 elections will be any better or what it would look like,
7 I have two words for you. Around Schwarzenegger. I
8 think with every candidate essentially running as an
9 individual, it is clear that individuals who are rich,
10 famous or both would have an even larger advantage than
11 they do in a party based system. The culture of cash
12 and celebrity would rule.

13 In non-party primaries, which force
14 candidates to define where they stand on a range of
15 issues, sound bite candidates would have a new
16 advantage. Elections will be even less about ideas and
17 more than ever about image, less about politics and more
18 about personalities. Further on down the ballot,
19 confusion will reign. I bet almost everybody in this
20 room at least once voted in a small local contest where
21 they knew virtually nothing about the candidates except
22 their party affiliation and those affiliation do tell
23 you something, especially in New York.

24 Here, as people have referred to, we have
25 small idealistic parties that exist because they're

1 devoted to certain principles. These minor parties use
2 particularly helpful brand names for telling a voter
3 what a candidate believes in. For those who are against
4 the right to abortion, and endorsement by the Right to
5 Life Party is a plus. For a union, a Working Family
6 Party endorsement tells you this person is on your side.
7 And the process supports those parties. For instance, I
8 will never vote for somebody running on the Conservative
9 Party line, and a non-partisan election would deprive me
10 of this information as a voter.

11 I think the recent consideration of allowing
12 party affiliation to be listed is an empty promise. To
13 allow anyone to put a party affiliation on that ballot
14 when the members of that party have not chosen them,
15 means nothing. If I wanted to make mischief I could
16 register as a Conservative and present myself as a good
17 Conservative, which is a total lie, as the next person.

18 I guess, in conclusion, I'd say, I'd urge
19 you don't take parties out of our elections. We need
20 ideas and people power to play more of a role, not less
21 and if you're serious about wanting to open up the
22 process there's a range of ideas that were brought up
23 here today; same day voter registration, longer voting
24 periods. Mr. Golub referred to the burdens of petition
25 requirements. These numbers could easily be lowered

1 without kicking people out of the process. Proportional
2 representation, instant runoff voting. All of these
3 would address the problem, not create new ones.

4 Thank you.

5 DR. GARTNER: Ed Wlody.

6 MR. WLODY: Good evening, Mr. Chair, members
7 of the Commission. My name is Ed Wlody. I'm a long
8 time resident of the borough of Staten Island. I am
9 State Committee Member from the Working Families Party
10 and I am an elected official of the Public Employees
11 Federation, 53,000 member union.

12 I come here today to speak out against this
13 attempt to destroy partisan politics in the City of New
14 York. Let me just say, give you an example of how
15 important partisan politics is. Take sports. When
16 somebody goes and wears an emblem of a team, you can
17 pretty well be sure that they support that team. If a
18 person goes to Yankee Stadium when they're playing the
19 Red Socks and he wears a Boston Red Socks cap, you know
20 darned well that person is a supporter of the Boston Red
21 Socks and I hope he's sitting in the box seats and not
22 in the bleacher crowd there.

23 People talk about partisan politics and what
24 it means. Let's, some of these examples in the surveys
25 have dealt with elections in other states and other

1 cities. Let's use an example of this great City of New
2 York and the greatest Mayor who was ever elected in the
3 City of New York, Fiorello LaGuardia. He was elected on
4 a reformist ticket, reformed Republican Party and the
5 American Labor Party, a fusion effort against the
6 corrupt Democratic Tammany machine. He won and he
7 stayed in office for twelve years.

8 On a local level, you have partisan politics
9 is very important because when you belong to a member of
10 a party and when you see somebody running under a party
11 label, you pretty well know what they stand for. The
12 Working Families Party have certain issues; minimum
13 wage, they have health care, education, these are the
14 backbone of our party issues.

15 STAFF: One minute.

16 MR. WLODY: When somebody gets the label of
17 the Working Families Party you know they pretty well
18 endorse most of our issues. The same thing goes with
19 the Conservative Party. They have certain issues which
20 are key to getting their endorsement. When you vote for
21 somebody, even if they're not going to run on
22 Conservative Party, if they get the endorsement in a
23 fusion effort, you know where that person stands. You
24 have the Right to Life Party, and I think it's a shame
25 that they're run off the ballot. The Right to Life

1 Party had a lot to say. Somebody knows when they got
2 the endorsement of the Right to Life Party on that issue
3 that's important to them, you know that's where they
4 stood.

5 That's the importance of having party
6 politics. We can identify all the amount of money that
7 you spend and all the double talk that some people,
8 politicians try to do cannot make up for the fact that
9 you have a party label which is attached to you when you
10 run for elections and which automatically pigeonholes
11 you in certain issues. That's where you stand, you
12 can't run away from that. Thank you.

13 DR. GARTNER: Eric Stowers? Morhad Alam?

14 VOICE: He submitted written testimony.

15 DR. GARTNER: Alan Charny? Suzie Sandor?

16 MS. SANDOR: Hi, my name is Susan Sandor and
17 I'm a Green Party member on the electoral task force
18 reform and I'm here to testify in favor of non-partisan
19 elections. Before that, I'd like to say that I agree
20 with the Speaker Miller that in the representative
21 democracy law changes should go through the Legislature.
22 However, we're still waiting.

23 So we're very happy that the Mayor and this
24 Commission addresses our democracy and redresses it in
25 however an imperfect way, we are very glad for it and

1 thank you.

2 I feel I have to repeat certain things that
3 have been said, just to emphasize what's wrong with the
4 system, because some people have said that it's been
5 working for 2000 years and we don't need to change it.

6 CHAIRMAN MACCHIAROLA: You do know that we
7 are convinced. We do have a majority of this Commission
8 firmly on your side. And the longer you talk, the worse
9 you put your case.

10 MS. SANDOR: You mean you're going to
11 reverse it?

12 CHAIRMAN MACCHIAROLA: Right now you're
13 safe.

14 MS. SANDOR: Okay, so I won't tell you about
15 one million of voters cannot vote and 90 percent of the
16 incumbents are reelected with a landslide?

17 CHAIRMAN MACCHIAROLA: I've memorized it.

18 MS. SANDOR: Okay. Okay. All right. So
19 I'll get straight through to the point, which is as an
20 electoral reform activist I would have much preferred
21 instant runoff voting and proportional representation.
22 These are straightforward system that anyone can
23 understand, they nurture the relationship between party
24 and candidates and it fosters democracy in a more mature
25 way. Meanwhile, the City Council has offered same day

1 registration, longer hours to vote, et cetera, et
2 cetera. This is pretty weak, thank you very much.

3 So in the meantime we thank you for this
4 however imperfect and even outdated electoral reform
5 called non-partisan. In fact, it's about a hundred
6 years old, and it's coming to New York City.

7 CHAIRMAN MACCHIAROLA: Well, we have to
8 field test it, you know.

9 MS. SANDOR: Right, right. Doug Muzzio, he
10 likes the mouse trap.

11 CHAIRMAN MACCHIAROLA: No picking on Doug
12 anymore.

13 MS. SANDOR: He's a great guy.

14 CHAIRMAN MACCHIAROLA: He is.

15 MS. SANDOR: He hasn't seen any mice around.
16 We'll show him.

17 So finally, we're happy for something that
18 puts democracy forward rather than backwards.

19 CHAIRMAN MACCHIAROLA: Thank you.

20 MS. SANDOR: You're welcome.

21 DR. GARTNER: Susan Stetzor?

22 MS. STETZOR: My name is Susan Stetzor and
23 I'm hear to testify for CODA, a Lower East Side
24 political organization. We joined the Working Families
25 Party tonight to testify against the process of this

1 Charter Commission and against non-partisan elections.
2 I am again testifying against this process of a last
3 minute summer Charter Revision Commission.

4 The last real Charter Commission took two
5 and a half years and held 29 public meetings and
6 hundreds of meetings with public interest groups. But
7 Mayor Bloomberg, in the tradition of Mayor Guiliani, is
8 calling this Commission at the last minute. This is the
9 fifth Commission in six years. Again, the public
10 hearings are held in the middle of the summer when
11 people are on vacation. Again, we have only three
12 minutes of input for this important issue, an impossible
13 task.

14 Elections are in need of reform. New York
15 State elections are too close so that the public has no
16 real choice. Voter turnout is low, especially among low
17 income and minority voters. Too many elections are
18 uncontested, are effectively uncontested. Many
19 qualified candidates never make it on the ballot and
20 many New Yorkers feel their votes don't count. These
21 are real problems and the Charter Commission has done a
22 good job describing some of them, but non-partisan
23 elections are the wrong answer.

24 First, many people don't vote because
25 they're not registered. Non-partisan elections don't do

1 anything about that. Polls show that many people don't
2 start paying attention to elections until a month or so
3 before the election. By then in New York it's too late
4 to register. You can blame the voters and say they
5 should be paying attention earlier, but the fact in New
6 York is that New York State purposely creates obstacles
7 for voting, such as the need to register far in advance
8 of elections. Other states allow people to register
9 right up to election day.

10 Why doesn't New York State reform its
11 registration process? Second, we need to do something
12 about the date of election day. When you think about
13 it, it's crazy that elections happen on a workday.
14 People often don't even know there's an election. You
15 will see that this September 9th.

16 STAFF: One minute.

17 MS. STETZOR: It is difficult for many
18 people to vote, particularly those who may work two
19 jobs, a second shift or a long commute. Many things
20 could make it impossible to get to the polls. This is a
21 major obstacle for people voting, but it's not hard to
22 fix. We could hold elections over two days, as some
23 have proposed. We could make election day a State
24 holiday. People would be able to vote and be very aware
25 of the election.

1 There are many solutions, but again,
2 non-partisan elections don't help. We need to reform
3 our obsolete ballot laws. New York State has as many
4 ballot access challenges as the rest of the country put
5 together. A few years ago we took some steps towards
6 simplifying the laws. We need to go further.
7 Obviously, we don't want fraudulent signatures being
8 accepted but in New York we still go too far the other
9 way. Everywhere qualified candidates with valid
10 signatures are kicked off the ballot because of some
11 technical issue. Fix this and you'll have more
12 contested elections and that in turn will get voters
13 involved.

14 A real problem, but one non-partisan
15 elections does nothing to solve, the Charter Commission
16 has not made any recommendations to cure the burdensome
17 process of getting on the ballot. These are real
18 reforms that would make a difference. Many of these
19 changes would bring tens or hundreds of thousands of New
20 Yorkers to the polls every year, but instead of pursuing
21 them the Commission is following the dead end path of
22 non-partisan elections.

23 It's true many of these reforms would
24 require State approval, but that's no reason to ignore
25 them. When I hear members of the Commission say that

1 non-partisan elections are the only way to go because
2 they're the only thing the City can do on its own, I'm
3 reminded about the old joke about the drunk and the
4 streetlight. He lost his keys across the street, but
5 he's looking for them under the streetlight because the
6 light is so much better here.

7 Real reform takes time. We shouldn't
8 abandon a good idea because a bad idea is quicker and
9 easier. I hope the Commission will forget about
10 non-partisan elections and impose some real reforms.
11 This reform is Mayor Bloomberg's payback to the
12 Independence Party. At one of their events in June 2001
13 he endorsed non-partisan elections in exchange for their
14 endorsement and New York City is now paying for this
15 election deal.

16 A vote for non-partisan elections instead of
17 real election reform will do nothing to solve the real
18 problems of New York City voters.

19 DR. GARTNER: Rocky Chin.

20 MR. CHIN: Good evening. My name is Rocky
21 Chin. I'm a civil rights attorney, no longer practicing
22 at the City agency that I served at for seventeen
23 wonderful years. But I'm also a resident of the Lower
24 East Side, and in 2001, I was a candidate, one of seven
25 candidates for City Council in the Democratic primary.

1 The reason I mention that, I'm going to dispense with
2 any formal presentation. I testified in previous
3 Commission hearings before you assumed the Chair,
4 Chairman Macchiarola. Because in your staff report,
5 there's some references to the election in District 1
6 and some of the figures in terms the of the Asian
7 American, more specifically the Chinese American
8 community and I'd like to address them because I think
9 it's kind of a twist and the wrong twist on some of
10 those facts and I think that's unfortunate.

11 I just returned from Los Angeles and just in
12 the middle of my visit there, the recall finally became
13 clear and I said, oh, this is la-la land, so what do you
14 expect from California. Ladies and gentlemen of this
15 Commission, this is no joke. We've got to do this the
16 right I way. Even if you're for non-partisan elections,
17 which I am not, we've got to do this the right way.

18 Now, you're holding this last, I believe
19 this is your last hearing --

20 CHAIRMAN MACCHIAROLA: No.

21 MR. CHIN: Or one of your last hearings
22 anyway, in Wall Street. I ran for City Council in a
23 District that includes Wall Street, but it also includes
24 the largest Chinese population, largely immigrant,
25 largely non-English speaking population in Chinatown,

1 also District 1. But you have not had any hearings in
2 these districts, you have not made any attempt to
3 introduce and educate people about this. The reason I'm
4 mentioning this is we've gone through major changes in
5 New York City, some of them mandated by law when we had
6 the challenge in the Supreme Court, which got rid of the
7 Board of Estimate, and we had the change and Professor
8 Gartner was responsible in large part in the Districting
9 Commission for the District that I had to run in.

10 STAFF: One minute.

11 MR. CHIN: The problem is, is you can't keep
12 changing these kinds of things and expecting the
13 electorate to really understand what's going on. And if
14 we really want a democratic process to work, we've got
15 to really look at what's going on in California. They
16 have two months now to basically have, what people are
17 saying it's really like a non-partisan election. What's
18 going on here with all these 120, 30-odd candidates, you
19 know what's going to happen there. It's going to become
20 a joke, but it's no laughing matter.

21 It's not only anti-Democratic Party in my
22 experience, what's more serious, it's antidemocratic
23 process. The democratic process in New York City, in
24 California and New York State, the United States has
25 been sorely under pressure and sorely tested since

1 George Bush got pretty much appointed by the United
2 States Supreme Court and we've gone in New York City
3 through a traumatic process or crisis in 2001 when our
4 primary election was interrupted by a terrorist attack
5 and now we want to have this on the ballot in November,
6 which gives us only two months to really try to educate
7 the public. I don't think so.

8 I think if you're really serious about this,
9 then do have the due deliberation in the communities,
10 have it translated, not the way these hearings are being
11 held, and have debate.

12 I am against it because I don't think that
13 is the way minority candidates and working people are
14 going to get more representation and I'd be happy to
15 answer some of the questions, but the spin that you
16 take, you put in this report is that you're assuming
17 that if there's non-partisan, that an Asian American
18 candidate would get elected. I don't think that is
19 really the case, because in fact, the reason why most of
20 the people in the Chinese community are registered, not
21 most, but a good percentage are registered independents,
22 not Independence Party, by the way, because they are
23 coming from countries where they are very unfamiliar
24 with the whole party system and we have -- I'm
25 concluding -- we have and I worked in the community for

1 many years is to get people the to understand the whole
2 idea and rationale and value of parties because, my
3 friends, we're not just talking about local politics,
4 we're talking about people having to understand State
5 and Federal politics and that's all partisan.

6 Thank you.

7 CHAIRMAN MACCHIAROLA: Thank you, sir.

8 COMM. LYNCH: Do you think that the Asian
9 community, the Chinese community would be supportive of
10 immigrant voting, non-citizen voting?

11 MR. CHIN: I think so. Non-citizen voting.

12 COMM. LYNCH: Yes.

13 MR. CHIN: Well, we certainly had that when
14 we had the School Board elections, but those of course
15 are being eliminated because of elimination of the
16 School Board. So we had an example of that because you
17 can vote if you were a parent.

18 COMM. LYNCH: What was the level of
19 participation in the School Board elections?

20 MR. CHIN: Well, the School Board elections
21 is a little hard. I worked on an election, it was not
22 bad. I mean the problem is, it's held in an off year,
23 it's not in synch with the regular election cycle, but
24 it is one of the few ways that people actually get
25 involved in the electoral process, if you're not a

1 registered voter, citizen, and the fact that we're
2 eliminating that now actually means that a whole slew of
3 immigrants, non-citizens in this city are not going to
4 be participating in any electoral process.

5 CHAIRMAN MACCHIAROLA: To say nothing of
6 parents who are citizens that were voting in an election
7 that was taken away from them, in the name of progress.

8 DR. GARTNER: The turnout in the last School
9 Board election in District 1 was 4 percent.

10 Tom Jay.

11 Al Jordan.

12 MR. JORDAN: Distinguished chair,
13 Commissioners. Food for thought. Rebuilding political
14 parties and labor unions. A theme running through this
15 book has been a concern for the hardening of privileged
16 Americans --

17 DR. GARTNER: Mr. Jordan, could you speak
18 directly into the microphone?

19 MR. JORDAN: Whether it is the privileged
20 position of businesses or the privileges that generally
21 follow from wealth, the economic advantages that some
22 have has created different classes of citizenship. The
23 advantages of some for gaining access to government on
24 behalf of the interests contrast with the growing
25 powerlessness of ordinary citizens. In part, this

1 situation derives from the class structure of a
2 capitalist society that always placed those with access
3 to wealth and capital in a privileged positions, but
4 even with the constraints of a capitalist economy,
5 ordinary workers and citizens could retain these
6 privileges with the help of organizations that represent
7 their interests.

8 The experience of most capitalist
9 democracies show that the crucial institutions needed to
10 advance the interests of most ordinary citizens are a
11 strong political party responsive to their interests and
12 using the label of social and democratic parties and
13 strong labor unions. The hardening of categories of
14 privilege and contemporary Americans is a reflection of
15 the weakness of these organizations. Rebuilding them
16 has to be a part of an agenda to revitalize democracy.

17 Neither political parties or labor unions
18 are politically popular in the United States today. The
19 history of party bosses combined with the election
20 reforms that undermine political parties have obscured
21 in the minds much most Americans the connection between
22 strong political parties and effective democracy. Labor
23 unions, which represented 40 percent of the work force
24 in the mid-1950's represent only about 16 percent today
25 and they will represent only 5 percent by the next

1 century. Nevertheless, political parties and labor
2 unions are crucial to the representation of the
3 interests of ordinary people.

4 Political parties reduce the bias of
5 electoral representation, because they need and organize
6 the one political resource every ordinary citizen
7 possesses, the vote. Labor unions not only represent
8 the interest of workers in the workplace, but also have
9 been in the forefront of lobbying for public policies
10 that held workers, such as minimum wage laws, worker
11 health and safety regulations, unemployment compensation
12 and national health insurance.

13 The growing weakness of labor is part of the
14 explanation for the reduction of social protections in
15 the Reagan-Bush eras and the difficulties Clinton faced
16 in trying to restore some of them.

17 STAFF: One minute.

18 MR. JORDAN: What labor unions and political
19 parties have in common is that their strength depends on
20 their ability to organize masses of people, not only
21 access to capital and wealth, even political parties,
22 which often seek financial wealth from the wealthy
23 depend ultimately not on the ability to attract
24 contributions, but the ability to organize votes. The
25 wealthy do not need to contribute to parties to gain

1 influence they can contribute to individual candidates.

2 In the long run, catering to the wishes of
3 the wealthy will be fatal to parties as they become
4 increasingly irrelevant in candidate-centered elections.

5 Political parties need the support of
6 ordinary people to prosper, so in a system with strong
7 parties ordinary citizens are empowered. Despite their
8 current unpopularity, revitalization of political
9 parties or labor unions is needed to counteract the
10 power of privilege.

11 This quotation is from "American Democracy
12 in Peril; Several Challenges to America's Future."
13 William B. Hudson is the author.

14 Thank you for your time.

15 DR. GARTNER: Thank you. Again, I
16 apologize. Gabriel from an organization called CAUSA?
17 Steven Gradman?

18 MR. GRADMAN: Good evening, Chairman
19 Macchiarola and the Commissioners. Hi. My name is
20 Steven Gradman, I'm a professor of political science at
21 Touro College and also a member of the Working Families
22 Party.

23 Non-partisan elections are an oxymoron, I
24 think. Elections are by nature partisan. Political
25 parties in the United States constitute a unique

1 response to our political history and constitutional
2 experience. Leadership positions in our Congress, State
3 Legislature and City Council are all based on party
4 affiliation, such as Speaker, Majority Leader, Minority
5 Leader and so forth. People identify with parties as
6 they do with brand names for clothes and for cars. Most
7 people like these labels because it gives them a kind of
8 information. It informs them about the product or a
9 candidate that they're selecting.

10 New York has a rich tradition of political
11 clubs. These clubs are all partisan by nature, and are
12 located throughout the city. They often serve as
13 community centers while providing young people and
14 senior citizens with hand-on political training.

15 I don't understand why backers of this
16 proposal say that it will raise voter turnout. The
17 turnout in non-partisan special elections is usually
18 abysmal. In Nebraska, where elections for State
19 Legislature are non-partisan, more than one-third of
20 those who vote in national elections don't cast ballots
21 for State positions. And in Champagne, Illinois which
22 has non-partisan elections, less people vote in the
23 municipal elections than in neighboring Urbana.

24 We urge you to reject this proposal. Thank
25 you very much.

1 DR. GARTNER: Harry Kresky.

2 MR. KRESKY: I want the Commission to be
3 well rested on August 25th when it votes to put
4 non-partisan elections on the ballot. Thank you.

5 DR. GARTNER: Peter Hogness?

6 Alan Charny?

7 Virgie Mohammed?

8 MS. MOHAMMED: Good afternoon.

9 Dr. Macchiarola and Dr. Gartner and Honorable
10 Commissioners. My name is Dr. Virgie Mohammed. I'm a
11 retired principal, New York City, and I have no
12 political aspirations.

13 Someone has said an open confession is good
14 for the soul. It is also said that the fault is not in
15 the stars, but in ourselves. Along these lines, I must
16 confess to having ambivalent feelings tonight, and this
17 is why: Many of the black and Latino elected officials
18 actively participated in the completion of my doctoral
19 dissertation on the topic decentralization of New York
20 City schools, from Congressman Rangel, Major Owens,
21 Towns, Arthur Ives, Serrano, et cetera. Without
22 exception, all of the black and Latino elected officials
23 on the City and State level who were players during that
24 period participated in open and untimed personal
25 interviews which were taped. Their only request was not

1 to associate responses to title and position.

2 My advisor, Professor Delman, challenged my
3 ability to get their responses on tape. He was wrong
4 and the rest is history. This type of quality
5 participation enriched the research and demonstrated
6 serious trust in me as a person. I will remain forever
7 grateful and appreciative. In the language of the
8 streets, I owe them big time and pray that my position
9 and feelings on non-partisan elections are understood
10 and respected with compassion. You see, my dislike for
11 ingrates borders on insanity.

12 STAFF: One minute.

13 MS. MOHAMMED: Now, I strongly believe that
14 non-partisan elections will benefit minority residents
15 in the City by means of energizing the voters and will
16 empower the entire community in many aspects.
17 Unfortunately, it has been my experience as stated in an
18 article written by Professor Thompson, that in citywide
19 elections the race of the candidate seems to matter more
20 to voters than the party. Our mandate and obligation,
21 then, is to change the racial pattern exhibited by both
22 black and whites. Non-partisan elections does not
23 prevent parties from telling voters who the party
24 supports. Nor does it prevent parties from getting out
25 the vote for their candidates. However, one has to

1 raise the question is the idea of identifying candidates
2 by party labels fair and impartial. Reasonable people
3 would agree that there's much more public information
4 available in citywide campaigns as compared to local
5 races. Consequently, voters are more informed than
6 opponents of non-partisan elections would suggest or
7 have you believe.

8 Professor Thompson's research findings on
9 the topic suggest that non-partisan elections did not
10 appear to have a significant impact on the selection of
11 minority mayors in cities where non-partisan voting took
12 place. Granted, non-partisan elections might have some
13 effect on City Council races in New York City.
14 Likewise, it might also make it easier for Republicans
15 or third party candidates to challenge Democrats in the
16 City Council elections. Nevertheless, one has to ask
17 the question, is this enough of a reason for
18 progressives to oppose so vehemently non-partisan
19 elections?

20 The problem as I see it, in our present
21 structure, is that there is not enough of sufficient
22 challenges, particularly for local offices. Even more
23 significant is the reality that this leaves little
24 incentive for incumbents to mobilize voters, not to even
25 mention the issue of accountability to constituents.

1 From one election to the next, the result is political
2 stagnation in communities most in need of mobilization
3 and continuous long term support. Forgive me, please,
4 but there's an old adage in politics and no I'm not talk
5 about no permanent enemies, permanent friends and
6 permanent interests. The addage that I'm referring to
7 suggests that incumbents desire to repeat the results of
8 previous elections if they were the winners.

9 It would be disingenius for me to even
10 suggest that I believe, as many others, the thought that
11 most or even many elected officials oppose electoral
12 reforms because of the fear of losing. I simply do not
13 clearly understand the strong opposition for
14 non-partisan voting by some people. In my humble
15 opinion, using the race approach divides and encourages
16 a type of disharmony, confusion and mean spiritedness.
17 The traditional principles established by the founders
18 are centered around freedom of choice. In my little
19 world this means do unto others as you would have them
20 do unto you.

21 All of us, Democrats, Republicans,
22 independents and activists should try to figure out how
23 to encourage more blacks and West Indians, whites,
24 Latinos, Mexicans and other immigrants to become engaged
25 in the political process to build strong coalitions.

1 These are people who make daily significant and valuable
2 contributions to building our economies and communities.
3 They need us and we owe them.

4 In conclusion, I have heard through the
5 grapevine that my friend and brother Commissioner Bill
6 Lynch, whom I admire for many reasons, and who has
7 contributed greatly to this City and State, appears to
8 be deciding against providing our other brothers and
9 sisters, as well as citizens at large, the opportunity
10 to participate in a referendum that will allow them to
11 vote yes or no against non-partisan elections. I say to
12 you Commissioner Lynch, what my great granddaughter Amira
13 often say to me. Think about it.

14 (Applause.)

15 CHAIRMAN MACCHIAROLA: Excuse me, I think
16 Commissioner Lynch has a question.

17 COMM. LYNCH: You can stay there. My wife
18 every morning says to me, "Why did you join that
19 Commission?" And I said, "I thought about it."

20 MS. MOHAMMED: Okay. Thank you.

21 DR. GARTNER: Deborah Goldberg.

22 MS. GOLDBERG: Good evening, Chair
23 Macchiarola and members of the Commission. My name is
24 Deborah Goldberg I'm the Democracy Program Director at
25 the Brennan Center for Justice at NYU School of Law.

1 CHAIRMAN MACCHIAROLA: Excuse me,
2 Ms. Goldberg. Could you speak into the mike?

3 MS. GOLDBERG: With me is Adam Morse,
4 associate counsel in the Democracy Program, who has
5 produced the thorough, dispassionate and critical review
6 of the scholarly literature that forms the basis for the
7 Center's statement on non-partisan elections.

8 As you know, our statement and that of
9 Professor Muzzio forms virtually the sole focus of the
10 staff's most recent report. We have come here tonight
11 to make five brief points on behalf of the Brennan
12 Center. Because our time is limited and because we did
13 not receive the latest report until yesterday, we plan
14 to submit a more comprehensive supplemental statement in
15 writing before the Commission's public hearing later
16 this week.

17 I understand on representation of the Chair
18 that a majority of this Commission has already made up
19 their minds and is firmly in support of non-partisan
20 elections. I therefore direct my remarks to those of
21 you who may still have an open mind or who may be
22 considering questioning the legitimacy of this process
23 and the conclusions that the majority has reached. I
24 hope those of you who do have such questions will voice
25 them in a minority report and allow the public to

1 understand where your doubts still remain.

2 Our first point is the main point of our
3 original statement. It is in our view irresponsible to
4 make so fundamental a change in the City's electoral
5 processes as a move to non-partisan elections would be
6 without first undertaking serious, methodologically
7 defensible empirical analysis of its probable impact.
8 In the absence of new and reliable research, however,
9 those of us and those on the Commission who strive for
10 intellectual rigor and honesty in formulating policy
11 have no alternative but to review the pre-existing
12 studies on non-partisan elections.

13 STAFF: One minute.

14 MS. GOLDBERG: In undertaking that review,
15 the Brennan Center has been acutely aware of the gaps,
16 weaknesses and inconsistencies in those studies.
17 Indeed, we made a point of noting the small samples,
18 failure to control for potentially confounding factors
19 and scientific deficiencies in the data and analysis
20 upon which we were forced to rely. Our tentative
21 conclusions were expressly qualified by reference to
22 those concerns.

23 I would certainly hope that members of this
24 Commission would be as offended as we were by the
25 staff's insinuation that we were unmindful of the

1 limitations of the scholarship in reporting what little
2 consistent information could be gleaned from it. We do
3 not insist based on that research that non-partisan
4 elections are necessarily a bad idea, but major policy
5 proposals should be based on more persuasive evidence
6 than is now before this Commission.

7 The Commission should insist that its staff
8 follow appropriate scientific method. It is easy to
9 pick out individual races in which losing candidates of
10 color might have done better under non-partisan
11 elections, even assuming without evidence that those
12 candidates would have been more competitive. It is
13 quite another matter to demonstrate, and the staff has
14 done nothing to demonstrate, that non-partisan elections
15 systematically improve opportunities for communities of
16 color to elect representatives of their choice. To the
17 contrary, the refusal to produce either Professor
18 Lichtman's prior studies of Mayoral races or
19 documentation of an alleged Department of Justice
20 preclearance decision only heightens concerns about
21 retrogression. Those concerns could not be allayed, as
22 the staff suggests, by imagining what might have
23 happened under non-partisan election in an isolated race
24 or two.

25 Promoting genuine and lasting diversity at

1 all governmental levels requires a transparent and
2 replicable analysis of partisan and non-partisan
3 elections that fully controls for competing explanations
4 of success among minority candidates.

5 Third, it is worth noting that the Center is
6 being asked to direct its commentary on what appears to
7 be a constantly moving target. The policy change that
8 was at least ostensibly up for consideration when we
9 prepared our initial position paper was a move to
10 non-partisan elections. We applauded the Commission's
11 response to concerns about the loss of political parties
12 being developed, but the new proposal to abolish party
13 political primaries for a single election including all
14 candidates for office, while allowing each candidate to
15 list on the ballot the political party in which he or
16 she is enrolled, has been the subject of even less study
17 and there is far less experience with it available for
18 analysis.

19 As far as we know, there are two cities,
20 Jacksonville and Minneapolis and one state, Louisiana,
21 that use such a system. The staff cannot have it both
22 ways. They cannot claim to have eliminated the risks of
23 genuinely non-partisan elections by putting political
24 party affiliations back on the ballot as they do in
25 Louisiana, and at the same time insist that Louisiana's

1 experience with fringe candidacies provides no basis for
2 concerns about politics in New York City.

3 Allowing party membership to be listed on
4 the ballot as recently proposed creates new and
5 different problems for New York City voters. Under
6 current law, New York provides for what is known as
7 fusion ballots on which political parties may cross
8 endorse a candidate. Fusion offers voters additional
9 information about a candidate's political views. Fusion
10 also allow voters to express allegiance to minor party
11 views without forcing that party to run a spoiler
12 candidate. Because major party candidates want votes
13 from minor party supporters, fusion helps to keep
14 Democrats and Republicans true to politically distinct
15 ideologies.

16 Under truly non-partisan elections, the
17 benefits of fusion are of course lost, but parties lose
18 equally. None is identified on the ballot. The current
19 proposal allows minor parties on the ballot only if the
20 candidates are party members and potential spoilers,
21 negating the benefits of fusion and further entrenching
22 major party control over the political agenda.

23 Finally, the staff has done nothing to
24 address concerns about the Charter revision process.
25 Indeed, the ad hominem attacks in a most recent report

1 suggest that fair-minded evaluation on the merits of
2 non-partisan elections or an open primary system is not
3 on the agenda of the staff. We hope that it is on the
4 Commission's agenda and that the Commission members will
5 look past the straw man set up by the staff to the
6 serious issues that we and others have raised. We
7 include among those issues the Commission's legitimate
8 argument that many voters now have no meaningful
9 influence on City Council races, but we reiterate our
10 view that the proposed solution to that problem, whether
11 the original plan or the new one, leaves a trail of
12 unanswered questions. My hope is that by focussing on
13 these questions the Brennan Center can assist the
14 Commission or some of its members at least in serving
15 common interests in public policy that demonstrably
16 respects the voting rights of communities of color,
17 encourages increased participation of voters regardless
18 of their socioeconomic status and improves
19 representation for the residents of New York City.

20 Thank you.

21 CHAIRMAN MACCHIAROLA: Thank you very much.
22 Are there any Commissioners that have a question?

23 COMM. NEWMAN: This issue came up last year.
24 Did you testify last year as well?

25 MS. GOLDBERG: We were not involved in this

1 issue last year.

2 COMM. NEWMAN: Okay, thank you.

3 CHAIRMAN MACCHIAROLA: I'd like to thank you
4 for the report and the contribution you made to the
5 dialogue of the question of non-partisan elections.
6 Thank you very much Ms. Goldberg.

7 DR. GARTNER: Jeannine Ibrisa?

8 Dwight Deare?

9 Gisele Guerre?

10 George Spitz.

11 CHAIRMAN MACCHIAROLA: George, did you
12 deliberately sign up last?

13 MR. SPITZ: No. My title is "Non-partisan
14 Elections Marginally Improve Political Climate, Staff
15 and Commission Disrespectful to Public Input and Ideas
16 Capable of Improving New York City Government."

17 Honorable Commissioners. I support
18 non-partisan elections largely because they will allow
19 the several hundred thousand unenrolled voters to
20 realistically participate in a process of selecting
21 government officials. But based on experience in other
22 cities, non-partisan elections will only marginally
23 improve government.

24 The staff and Commissioners should be aware
25 that non-partisan elections are no panacea. In this

1 regard, I refer to the non-partisan municipal
2 legislatures around the country following World War II,
3 most notably in Los Angeles, which played a major role
4 in creating massive traffic and air pollution problems.
5 In a landmark antitrust case, the Truman administration
6 found and the Courts sustained that non-partisan
7 legislators accepted political contributions, legal and
8 otherwise, from the automobile industry, particularly
9 General Motors, to abandon light rail, including the
10 very serviceable Pacific Electra Transit, which moved
11 millions of people back and forth to work in the then
12 virtually smog-free environment that prevailed in the
13 Los Angeles area.

14 Honorable Commissioners, I must protest the
15 disrespectful manner the staff and Commissioners have
16 employed for those members of the public who have
17 testified at the hearings. Not one proposal, no matter
18 how meritorious, has received any consideration from the
19 staff or during the discussions by the Commissioners.
20 The exception has been to demean proposals made by me
21 this year and others regarding ballot access and also in
22 2002 by the staff on the grounds of the need to prevent
23 nuisance candidates. I feel in this respect no member
24 of the staff knows what it means to try to get on the
25 ballot if you don't have a political club behind you,

1 and I can testify as one who had no political clubs, but
2 managed to qualify and run for Mayor, and what is
3 involved in it. They would not -- and how, the
4 difficulties of getting on the ballot, and also the
5 phoniness of the whole ballot procedure.

6 But they don't even -- but the
7 recommendation, the staff says you have to prevent
8 nuisance candidates.

9 One of the biggest frauds in this whole
10 petition process, if a staff had honestly researched a
11 product, had gone out and checked, gone along and
12 checked people that are circulating petitions, omnibus
13 petitions, they would see that the whole thing is a
14 fraud.

15 Now --

16 STAFF: One minute.

17 MR. SPITZ: Wait. They also, even more
18 serious, was the failure of the Commission to consider
19 recommendations of a Commission on Government Integrity
20 headed by former Dean of Fordham Law School John
21 Feerick. By doing this, you risk placing \$6 million in
22 contracts, nearly 1 billion in leasing costs, and the
23 multi billion pension funds at the mercy of a rapacious
24 political culture, particularly as I pointed out with
25 specific examples, if a Mark Green or Gifford Miller is

1 elected Mayor in 2005.

2 Of course, Fred Siegel in today's Sun used
3 Freddy Ferrer as an example, a horrible example, right,
4 in a letter to the editor.

5 COMM. SIEGEL: I did? Oh.

6 MR. SPITZ: I don't think he's committed any
7 of the things that Green and Miller have done.

8 Now, I'm personally offended by the
9 unwillingness of the staff and apparently the honorable
10 Commissioners to give any consideration to my
11 well-thought-out proposals. They didn't for anybody
12 else, either. As one example I cite my recommendation
13 that the City Human Rights Commission be empowered to
14 hear civil liberty as well as civil rights complaints.
15 There is no logical reason to this, except disrespect
16 for public input. This was a well-thought-out idea,
17 fair, and it should receive discussion and I believe it
18 should be placed on the ballot this November so the
19 people can vote on it.

20 I hope the honorable Commissioners will
21 summon up courage and place some well-considered
22 suggestions before the public, in addition to those
23 excellent demands of Commissioner Lynch to facilitate
24 voting and to allow immigrants to vote as they do in
25 School Board elections.

1 I will conclude. Not one suggestion that I
2 have made or anybody else has made has been even
3 discussed in the transcripts that I've seen. It's just
4 contempt for the public, these hearings, and I think
5 it's wrong to do that. And to ignore the whole Feerick
6 Commission report, and not even consider Dean Feerick's
7 well-thought-out proposals, and how they would benefit
8 New York City. It's hard for me to understand how this
9 can happen.

10 CHAIRMAN MACCHIAROLA: Can I -- George,
11 first of all, I want to separate out, you indicate your
12 displeasure with the staff. And I'd like to indicate
13 that any displeasure that you have towards the staff is
14 probably better directed to the Commission, because we
15 appointed the staff and we set them through the course
16 that they have.

17 MR. SPITZ: They're good people, they've
18 been polite, but disrespectful of ideas.

19 CHAIRMAN MACCHIAROLA: They've been more
20 than the polite. They've even taken you home.

21 MR. SPITZ: I'd rather walk home from the
22 Bronx if one proposal would even get consideration.

23 CHAIRMAN MACCHIAROLA: Well, let's examine.
24 I don't think it's fair to say we haven't examined the
25 proposal. Could you give us any instance in which a

1 proposal and recommendation that you have made, and
2 you've made quite a number of them, quite intelligent
3 suggestions in many cases, was picked up or echoed by
4 anyone else other than yourself, so that it would have
5 come to the Commission with more than just one voice?

6 MR. SPITZ: Well, I tell you, my history is
7 three proposals of mine are included, they've gotten
8 credit in the papers, three editorials in The New York
9 Times which I'm not their favorite now, but they praised
10 me for these three contributions. And four Pulitzer
11 Prize journalists praised my contributions and I
12 introduced them. The five-borough marathon, the Voters
13 Guide, and direct deposit of welfare checks, all of
14 which I've made, more than most public officials have
15 made.

16 CHAIRMAN MACCHIAROLA: Wonderful. Now we're
17 waiting for the next round of good, intelligent
18 discussion and we haven't had it. It's not the
19 Commission's fault. I think if the issues had been
20 presented in a way that the Commission could have dealt
21 with, we would have, and we certainly were not intending
22 to be disrespectful. Many of the suggestions that were
23 advanced by members of the City administration, for
24 example, by people who were not in the City
25 administration, by the people who are in the

1 not-for-profit sector, many of those suggestions are
2 incorporated, so I guess what I'm saying, I don't think
3 you meant to say we're disrespectful. I hope you didn't
4 mean to say that, because I do think we tried our very
5 best and we've enjoyed certainly your participation.

6 MR. SPITZ: Dean Feerick, one of the finest
7 men in the state, Dean of Fordham Law School, not one
8 thing from his report was even discussed and I testified
9 many times how important it is to --

10 CHAIRMAN MACCHIAROLA: I understand. Some
11 of the items on ballot access, some of the issues on
12 campaign spending are reflected in that. We didn't pick
13 up the Feerick report in its entirety. Dean Feerick
14 didn't make a presentation.

15 MR. SPITZ: You didn't pick it up at all.

16 CHAIRMAN MACCHIAROLA: All I'm saying, I
17 apologize for any slight we might have shown. I don't
18 think there was any intent on the part of anybody not to
19 take any suggestions that were offered by the public
20 seriously. That's why we've held these hearings.

21 MR. CROWELL: Mr. Chair, I would like to say
22 that the staff is very concerned that after tens of
23 hours of phone conversation with Mr. Spitz over the past
24 six months --

25 MR. SPITZ: Two years.

1 MR. CROWELL: I'm just referencing six
2 months, I would have to reference a hundred hours in two
3 years. Hasn't yielded any benefits. If you were here
4 earlier, Mr. Spitz, you will know we are going forward
5 with a proposal on a video Voter Guide, something we
6 talked about for hours and hours and hours again. You
7 came to me about Boston, all I heard about was the
8 Boston Voter Guide. The committee will be voting on a
9 proposal about that at its next meeting. I would hardly
10 think that's an insignificant thing in your mind after
11 you approached me so many times. So I want you to know
12 that you were heard --

13 MR. SPITZ: Since 1967, before Boston, I've
14 been pushing the idea of putting candidates on public
15 TV. Then, there was no cable and Boston picked it up
16 and every year I've come to the commission and Randy
17 Mastro would say, "Next year, next year." How long do
18 we have to wait?

19 MR. CROWELL: Next year is this year.

20 CHAIRMAN MACCHIAROLA: Has the bell man
21 fallen asleep? Where's the bell?

22 If there's no other business before this
23 Commission, we will adjourn this meeting, we will
24 reconvene on Thursday at 6:00.

25 (Time noted: 10:10 p.m.)