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Transcript of the Meeting of the
CHARTER REVISION COMMISSION
held on Thursday, August 21, 2003
Public School 69, 77-16 37th Avenue,
Borough of Queens

AR-TI REPORTING COMPANY, INC.	
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1 Meeting convened at 8:12 p.m.

2 P R E S E N T

3 FRANK MACCHIAROLA, Chairman

4 COMMISSIONERS:

5 BILL LYNCH

6 MOHAMMED KHALID

7 FRED SIEGEL

8 STEVEN NEWMAN

9 FATHER O'HARE

10 CECELIA NORAT

11 PATRICIA GATLING

12 KATHERYN PATTERSON

13

Also Present:

14

DR. ALAN GARTNER, Director

15

ANTHONY CROWLEY, General Counsel

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1 CHAIRMAN MACCHIAROLA: Ladies and gentlemen,
2 we're now going to start the hearing phase of the
3 meeting. Dr. Gartner, do we have a list of persons to
4 testify?

5 DR. GARTNER: Yes, we do. Comptroller
6 Thompson had called the office earlier in the day and
7 indicated that he wanted to testify. He was unable to
8 be here --

9 MR. CROWELL: He came and left.

10 DR. GARTNER: I'm sorry. His representative
11 is here, and I'd like to request for him to testify on
12 his behalf.

13 COMMISSIONER KHALID: Mr. Chairman, before
14 we do that, I'd like to have some clarification, to
15 revisit on Monday the Steve Newman issue.

16 MR. CROWELL: What was the issue?

17 COMMISSIONER KHALID: Interest payment.

18 CHAIRMAN MACCHIAROLA: We're coming back to
19 it anyway.

20 MR. MAYA: Good evening, Chairman
21 Macchiarola, members of the Charter Commission. My name
22 is Edgar Maya. I want to thank you for this opportunity
23 to testify on behalf of Comptroller Thompson. This
24 Commission has been deliberating over proposals for
25 major revisions to New York City Charter on two topics:

1 Procurement reform and the elimination of electoral
2 primary. In May the Comptroller testified before this
3 Commission regarding both issues. Last month, he
4 submitted additional testimony on the same topics.

5 As the Commission prepares to present its
6 final proposal, I am pleased that some of the concerns
7 expressed here over the last few months by the
8 Comptroller and others have been addressed and resolved.
9 However, the Office remains deeply concerned about
10 several of the recommendations still under
11 consideration.

12 First, in the area of procurement reform.
13 The Office of the Comptroller is pleased that the City
14 administration has acknowledged the need to retain the
15 important system of checks and balances in the contract
16 registration process. As he testified in May, it is
17 important for all branches of Government to be vigilant
18 in correcting the flaws in the contract review process.
19 However the improvements we pursue do not necessarily
20 need to be addressed at the Charter level.

21 Comptroller Thompson remains committed to
22 improving the procurement process through administrative
23 measures and legislative recommendations and our staff
24 has been working with the Mayor's Office to develop
25 administrative improvements to the contract system.

1 Our office has also joined the City Council
2 leadership in forming a joint advisory committee on
3 procurement reform to address the need for better
4 procurement procedures. We are making progress and
5 working together through existing channels to implement
6 cost-effective improvements and we look forward to
7 continuing this type of effort. For example, prior to
8 the last Procurement Policy Board meeting, our office in
9 conjunction with the City Council, circulated a draft
10 rule that would allow the payment of interest on
11 retroactive contracts. This provision addressed cases
12 in which a contract is registered after the work has
13 already been performed or in some cases even completed,
14 resulting in delayed payment to the contractor. For all
15 vendors this proposal would mitigate the unnecessary
16 hardship that has been created by retroactive payments.
17 Our office looks forward to continuing to work with the
18 Mayor's Office of Contracts and we hope to introduce a
19 resolution at the next PPB meeting.

20 I understand the administration is also
21 discussing with the City Council on the Vendex issue and
22 I trust that they will reach an agreement that will meet
23 the policy considerations of both offices.

24 Now let me turn briefly to the non-partisan
25 elections. As Comptroller Thompson testified in May, he

1 remains opposed to the elimination of primary and the
2 imposition of non-partisan election systems. It is for
3 public policy an idea more likely to weaken a democratic
4 system than to strengthen it.

5 The New York City Charter is an immensely
6 important document. It is the blueprint by which the
7 city governs itself. Any changes to the blueprint must
8 not be taken lightly. Any contemplated change must by
9 its nature possess both an inherent logic and support of
10 the people of the City. Non-partisan elections possess
11 neither. On the latter point, New Yorkers are not for
12 the elimination of the present primary system, not the
13 public, not the press, not our city's diverse civic
14 organizations. Indeed, the silence on this topic has
15 been deafening. But more importantly, on the former
16 point, some of the arguments advanced by proponents of
17 non-partisan elections are based on misleading claims,
18 and are far from possessing an inherent logic.

19 First, advocates argue that party politics
20 control the outcome of elections in New York City. In
21 reality, New Yorkers are the most independent minded
22 voters in the country and they routinely cross party
23 lines to support candidates. In New York City, where
24 registered Democrats outnumber Republicans by five to
25 one, it is striking that a Republican has been chosen to

1 serve as Mayor in each of the last three elections.

2 Second, despite the claims of non-partisan
3 advocates, there is no convincing evidence that
4 eliminating primaries would increase voter turnout in
5 New York City. New York's experience to date with
6 non-partisan election Community School Board elections,
7 which, unfortunately, drew extremely low numbers of
8 voters, this does not suggest that it is the right
9 system for New York City.

10 Finally, abolishing primaries for only some
11 elected offices would create widespread confusion among
12 voters. Voters would have the opportunity to vote in
13 primaries for Federal and State positions, but not for
14 City positions. New Yorkers would follow entirely
15 different voting systems in electing their City Council
16 members as they would in choosing their State Assembly
17 representatives or State Senators. It is hard to
18 imagine that a more confusing voting system will help us
19 towards our goals of increasing voter participation.

20 Certainly, strengthening our democracy is a
21 laudable mission. The goals of increasing voter
22 participation, encouraging diversity and increasing
23 access to Government are of vital importance. In recent
24 years a series of reforms have helped our city make
25 significant progress towards these goals. Term limits

1 helped transform the landscape of the City Council,
2 where 25 out of 51 members are people of color and
3 campaign finance laws made it possible for candidates in
4 less moneyed positions to launch and sustain serious
5 campaigns.

6 I have no doubt that the Commission seeks to
7 continue this progress towards increased voter
8 participation. Yet the idea of non-partisan elections
9 is the only topic under review. There has been little
10 or no discussion of alternative means of achieving this
11 goal. What about the idea of same day voter
12 registration? What about examining the schedule of
13 voting hours and seeing how they affect turnout? If we
14 as a city are serious about election reform and seeking
15 new ways to increase voter turnout, we should widen the
16 discussion to include a wide variety of methods.

17 In closing, I continue to call on this
18 Commission to use common sense and to remain committed
19 to ensuring that the review of any proposed change to
20 our city Charter is thoughtful, thorough and conducted
21 in the best interests of our city. Thank you very much.

22 COMM. NEWMAN: One question. When did --
23 you talked about New Yorkers being independent. When
24 was the last time somebody other than a Democrat was
25 elected Comptroller?

1 MR. MAYA: Well, actually, that's a good
2 question. But the actual focus of this is to increase
3 minority turnout, yes? I think this is the reason why.

4 COMM. NEWMAN: No, the purpose is to
5 increase voter participation.

6 MR. MAYA: Voter turnout and minority
7 participation.

8 COMM. NEWMAN: All voters.

9 MR. MAYA: I can't answer the question --

10 COMM. NEWMAN: The answer is never.

11 CHAIRMAN MACCHIAROLA: Steve, why don't you
12 answer the question. The last Republican elected
13 Comptroller.

14 COMM. NEWMAN: The last non-Democrat.

15 COMM. SIEGEL: Never happened. Given how
16 independent minded we are, it's never happened.

17 CHAIRMAN MACCHIAROLA: It's something bad
18 when a Comptroller can't be a Republican. That's saying
19 something.

20 Okay. Any other questions? Please give our
21 regards to the Comptroller. Tell him we thank him for
22 appearing. We know he was here and we understand his
23 schedule wouldn't let him stay. We appreciate the help
24 of the office, too, in the negotiations that went on.

25 DR. GARTNER: Nicole Gordon.

1 MS. GORDON: Thank you for the courtesy of
2 putting me up front in the order here, and thank you
3 again for all the courtesies that have been extended to
4 us by your staff.

5 I'm Nicole Gordon, the Executive Director of
6 the New York City Campaign Finance Board and I want to
7 repeat at the outset that the Board, Campaign Finance
8 Board, does not have and will not take a position on the
9 wisdom of non-partisan elections per se. Nonetheless,
10 the Board is concerned about the manner in which the
11 possible institution of a non-partisan system of
12 election would affect the operation of New York City's
13 pioneer campaign finance program. As I said last month,
14 the Board's concern about a change to non-partisan
15 elections is this could open the door to unregulated
16 soft spending by political parties that would no longer
17 be constrained by the State Law or rules. The Board has
18 reviewed the draft Charter language your staff proposed
19 to address this problem. Despite the Commission's
20 staff's efforts, the Board does not believe the
21 proposals before you now solves the problems that the
22 Board raised. The Board is particularly concerned that
23 perhaps at the present time the Commission staff has not
24 provided the Commission with an analysis of
25 Constitutional law to support an assertion that

1 political party spending can be controlled in the
2 context of non-partisan elections.

3 Current Constitutional doctrine says that
4 independent spending cannot be regulated by Government.
5 The existing combination of State law and Board rules
6 against this important backdrop of Constitutional law
7 nonetheless effectively controls soft money party
8 spending on behalf of New York City candidates.

9 In the primary election period, the parties
10 are prohibited by State law from spending to support
11 specific candidates. In contrast, the Supreme Court has
12 ruled that parties have a Constitutional right to
13 endorse and presumably spend for candidates in
14 non-partisan elections. Non-partisan primary elections
15 could, therefore, open the door to unlimited party
16 spending during the primary period, which is now
17 prohibited.

18 With respect to the general election period,
19 the Board has regulations, attached to my testimony,
20 that effectively restrict party spending during the
21 general election period and if you have a moment to look
22 at the regulations, I think you'll see they're a very
23 complete treatment of the subject of independent
24 spending and in particular party spending.

25 The regulations essentially presume that

1 political party spending on behalf of a party nominee is
2 the equivalent of spending by the nominee and therefore
3 counts against the nominee's spending limit. Without
4 the link between a party and its nominee created by a
5 political party primary and a ballot in a general
6 election, non-partisan general elections could make it
7 extremely difficult, if not impossible, for the Board to
8 continue to make the presumption contained in its
9 current rules.

10 I hope that by giving you some concrete
11 examples, it would illustrate the difference between
12 independent spending under the current regime and
13 possibly under non-partisan election regime.

14 For example, if the Sierra Club produces a
15 poster for Bull Moose party candidate, Teddy Roosevelt,
16 who is also a member of the Sierra Club and features a
17 photograph with the candidate's name and the line "Vote
18 for Teddy Roosevelt on November 4," taking that as one
19 example, A, and example B, the Bull Moose party produces
20 a poster for its nominee with the same facts, currently
21 the Board would automatically consider that the poster
22 produced by the Bull Moose party must be paid for by
23 Roosevelt's campaign, because the Board has the legal
24 authority to presume that Roosevelt and the Bull Moose
25 party are the same for purposes of calculating

1 Roosevelt's campaign spending.

2 The Board can make this presumption because
3 a party primary resulting in a place on the general
4 election ballot creates a connection that allows the
5 Board to move forward.

6 With the Sierra Club, there's no such
7 automatic presumption, despite's Roosevelt's membership
8 in the club. The Board must uncover evidence that there
9 has been actual coordination between the campaign and
10 the club before the Board can conclude that the campaign
11 and the Sierra Club may be treated as the same.
12 Otherwise, the Sierra Club can freely make independent
13 expenditures on behalf of Roosevelt without consequence
14 to his spending limit.

15 There are several ways outlined in the
16 Board's rules that the Board can come to the conclusion
17 that there has been coordination, but this poses an
18 often insurmountable burden to prove coordination that
19 is likely to be effectively hidden. Evidence is often
20 unavailable, even when there has been coordination, and
21 even if evidence can be found, the spending may not be
22 corrected in time to maintain the level playing field
23 that the program is intended to create.

24 With non-partisan elections, the candidate
25 is no longer the party's nominee. He or she may merely

1 be a member of that party, just as Roosevelt is a member
2 of the Sierra Club. Political parties presumably could
3 become more like other interest groups and, therefore,
4 their spending would be much more difficult and perhaps
5 impossible to capture and regulate under Board rules.

6 The Board has not identified viable
7 mechanisms consistent with the First Amendment to
8 control party spending in a non-partisan context and so
9 we look forward to any solutions that might be offered
10 by the Commission. The Commission's proposals -- two
11 proposals that we're aware of are, one, requiring the
12 Board to promulgate new rules that allow it to attribute
13 party spending to a candidate in the absence of party
14 primaries. This new language, one, does not add
15 substantively to the Board's existing regulatory scheme
16 for partisan elections. Two, is possibly
17 unconstitutional if it is understood to charge the Board
18 with creating a link between a party and a candidate in
19 a non-partisan primary or general election by virtue
20 alone of the candidate's party membership and, three, is
21 not very helpful if party membership is no more than a
22 factor to help establish coordination.

23 Without the benefit of a convincing
24 Constitutional argument otherwise, the Board believes it
25 has already gone about as far as it can go

1 Constitutionally with its current rules.

2 The Commission's staff's report fails to
3 make any Constitutional case to support its claim that
4 the current regulatory regime could simply remain in
5 effect as a viable control on party spending in the
6 context non-partisan elections. Similarly, the
7 Commission staff reports cites no data and the Campaign
8 Finance Board is aware of none that supports the notion
9 that other large cities that have both large campaign
10 finance programs and non-partisan elections have been
11 able to computer candidate spending by parties in
12 non-partisan elections.

13 Indeed, on July 21 there were contrary
14 testimony and data presented to this Commission by me
15 and by another expert witness invited to appear by the
16 Commission. In particular, as I testified then, in Los
17 Angeles uncontrolled party spending has emerged in the
18 context of non-partisan elections to the detriment of
19 the Los Angeles program.

20 The Commission may direct the Board to
21 promulgate rules, but those rules have to stand up to
22 legal scrutiny. Without the connection between party
23 and candidate that is created by partisan primaries, the
24 board is skeptical it can continue to enforce its rules
25 or rules phrased in terms of the Commission's proposal

1 that will control party spending in non-partisan
2 elections. Unfortunately, I believe we are still in the
3 same position as we were when I last appeared.

4 With respect to the organizational
5 contribution ban, a complete ban on organizational
6 contributions is an idea the Board has long supported
7 and originally recommended in 1997. The Commission
8 staff had apparently put this idea forward as a partial
9 solution to the problems raised by the Board. That
10 proposal I understand has changed earlier this week and
11 if I understand correctly the ban now applies only to
12 contributions from political parties and political party
13 PACs. This does not include any of the purposes of the
14 Board's original recommendation to ban organizational
15 contributions, nor does it in any way address the
16 problem of soft party spending that the Board has raised
17 regarding non-partisan elections.

18 First, the intent of an organizational
19 contribution ban in the first place is to enhance
20 individual citizen participation and to provide equality
21 in the influence of City elections. The 1998 Charter
22 Revision Commission relied on this rationale when it
23 voted to put corporate contribution ban on the ballot.
24 That passed and subsequently greatly enhanced individual
25 contributors' role in financing local elections. The

1 ban proposed by the Board had nothing in particular to
2 do with party contributions. The organizational
3 contribution ban was also intended to simplify
4 compliance by candidates by allowing only contributions
5 from individuals and not program participants.

6 The current statutory scheme, which
7 distinguishes an arbitrary relation between corporate
8 PACs, corporations and other organizational contributors
9 is already burdensome for the candidates. The
10 Commission to distinguish further among PACs would make
11 record keeping even more difficult, by creating yet
12 another category to be treated entirely differently. In
13 any event, the Board's concerns are about soft party
14 money, that is, unregulated party spending that in fact
15 assists the candidates, but is not given directly to the
16 candidates. The current proposal addresses only hard
17 money, that is direct contributions to candidates which
18 are already regulated by the program.

19 There is no controversy I know of in New
20 York City now about political party or political
21 committee giving in the form of direct hard money
22 contributions to candidates. These contributions are
23 limited by contribution limits and are disclosed to the
24 public. Our records show few direct hard money
25 contributions by political parties or their committees.

1 The Board is gratified that this Commission
2 is concerned to, quote, take care to insure that the
3 non-partisan system of elections, should it be adopted,
4 fully supports the City's campaign finance program. As
5 I said last time I testified, it is noteworthy that
6 every one of the Charter Revision Commissions convened
7 since 1998 have considered how non-partisan elections
8 would impact the New York City campaign finance program.
9 Not one of those Commissions have adopted for possible
10 public approval any change that could potentially weaken
11 or undermine the program.

12 Indeed, the very question before you was
13 raised by two previous Charter Revision Commissions in
14 1998 and 2002, and the Campaign Finance Board submitted
15 the same concerns to them that the Board has raised with
16 you this year.

17 The Board trusts you will recognize the need
18 to continue to look for solutions to the admittedly
19 challenging question how party spending can be contained
20 in the context of non-partisan elections.

21 With your leave, I would like to address one
22 other item. Some staff of our office who were here
23 earlier than I was, reported to me that the Board, the
24 Commission, excuse me, voted to adopt for public
25 discussion at least, or consideration, the idea of a

1 mandate to produce video Voter Guides in conjunction
2 with DoITT and also to prepare streaming video on the
3 Internet as part of that mandate. I'm not prepared to
4 respond in any detail on these because I was not aware
5 this was on your agenda until I heard about it from my
6 staff, but I would like to just as an initial matter
7 raise with you some of the challenges that this might
8 present and urge that the Commission think about these.

9 Getting the printed Voter Guide together is
10 an extremely difficult task. I think that any agency
11 charged with finding the hundreds of candidates who run
12 for City office in a full citywide election and getting
13 them to a place where the tape will be done and so on is
14 a very challenging undertaking. Even for the purpose of
15 getting public funds we're not always able to find
16 candidates who might be entitled to receive them. I
17 think it's important to weigh the actual burden of
18 attempting this, whether you'll really get what you are
19 hoping for in terms of candidate participation and what
20 will be delivered to the voters.

21 Broadcast on NYCTV, while all in favor of
22 them, I don't know how big an audience they get. I
23 don't know whether you have considered the implications
24 under the Voting Rights Act whether these will have to
25 be done in four languages, and by the way, if they're

1 done including spoken presentation in Chinese, that
2 probably means more than four languages, because in
3 Chinese, although the written language is pretty much
4 identical, it is identical for the different dialects,
5 the spoken is not and that might mean multiple
6 additional languages.

7 I understand from your staff that you did
8 speak to DoITT about this. We were not, this was not
9 discussed with us. For us to work in conjunction with
10 DoITT raises other considerations, since DoITT is a
11 Mayoral agency, Campaign Finance Board is not.

12 I would alert you on streaming video. I am
13 not by any means a computer expert. Our office, which
14 has state of the art computers, our computer network is
15 stressed when streaming video is used, and I don't
16 imagine that most people in New York City have computers
17 in their homes that can offer them streaming video, and
18 I will hazard a guess, that's all it is, that among the
19 people you do, you might find that the minority
20 community is less well served than others.

21 I don't have any idea what the costs of this
22 would be, but I would say that our staff is always
23 available if your staff would like to float ideas to
24 give us a chance to explore and discuss with them what
25 the practical implications and some of the legal

1 you to my earlier testimony that goes into detail on Los
2 Angeles. I also spoke to people in Los Angeles, the
3 executive director of their program and examined data
4 there. The truth about the Los Angeles program, the
5 campaign finance program, is that because of the way
6 that independent expenditures trigger a lifting of the
7 expenditure limit, they, the people in the civic
8 community consider their program at very high risk
9 because the trigger has occurred so often that they're
10 effectively not having expenditure limits at all.

11 Now, the issue of political party spending
12 is a subissue of the general problem with independent
13 spending in Los Angeles. In Los Angeles they see a lot
14 of independent expenditures, and party spending is only
15 one part of that, but if you look at the numbers in
16 terms of the hundreds of thousands of dollars that the
17 parties have spent in Los Angeles, by our standards
18 those are very big numbers.

19 COMM. SIEGEL: I would suggest to you this
20 is a problem known to you and maybe a few people you
21 talked to in L.A. If you do a search of the literature,
22 which I did today, you will find no references to this
23 as a problem in Los Angeles. The general assumption in
24 Los Angeles, by the people who are part of the campaign
25 and civic leaders is this was by and large a success, so

1 we differ on this considerably.

2 Let me ask you a second question. I suggest
3 you do a search of the literature and find something
4 that contradicts what I've said.

5 MS. GORDON: We can agree to disagree.

6 COMM. SIEGEL: Based on your New York One
7 testimony which is rather extraordinary, because you
8 seem to suggest that based on your own assumptions, that
9 the very rationale for the Campaign Finance Board is in
10 doubt. You have the power, as you acknowledge here in
11 the attachment, to require a participant to demonstrate
12 in any proceeding before the Board that the expenditures
13 made by a party committee, et cetera, et cetera, are
14 connected to the candidate, they have to demonstrate the
15 negative, that they're not connected.

16 Now, if you can do this -- can't do this in
17 a primary, in a non-partisan primary, why should I
18 assume you're able to do this in a general election when
19 far greater sums of money are involved? If your logic
20 holds that this is about the difficulty of establishing
21 this connection, it's not clear why we have a Campaign
22 Finance Board at all.

23 MS. GORDON: I'm not sure I understand your
24 example. Let me see if I can phrase it correctly. Let
25 me speak to what we can or can't do. The Campaign

1 Finance Board, in a partisan context, can regulate
2 general election spending by the party. In a
3 non-partisan election, I don't see that the Board can as
4 readily regulate party spending in either the primary or
5 the general election, because there's no connection
6 between, no primary or ballot position or anything that
7 connects the party to its, a nominee. Did I
8 misunderstand?

9 COMM. SIEGEL: Explain to me. You're
10 telling me if a party advertised on the basis of a
11 candidate, you can't make that, see that as an
12 attribution to the candidate?

13 MS. GORDON: In a non-partisan set of
14 elections, I believe what the Courts would say is that a
15 political party looks a lot more like the Sierra Club
16 and that's the comparison I was trying to illustrate
17 with A and B. Under current law, if the Sierra Club
18 endorses a candidate and spends money on that candidate,
19 the mere fact that somebody might be a member of the
20 Sierra Club does not allow a Government to regulate the
21 spending. Now, we can establish, we can try to
22 establish it. In the case of a political party when
23 there's no primary, no ballot position, nothing more
24 than party membership, what I'm saying is I'm
25 anticipating this, because I'm not saying it's ever been

1 posed, but I don't see what the Constitutional argument
2 is that differentiates between the Democratic Republican
3 Party in that context and the Sierra Club.

4 COMM. SIEGEL: So you're saying this can't
5 work because as you see it you anticipate that the
6 Courts would not find this allowable?

7 MS. GORDON: I don't see what Constitutional
8 authority would allow the Board to make that assumption.

9 COMM. SIEGEL: So if a political party in
10 New York endorses a candidate, functionally endorses
11 them, whether they make a formal statement or not, they
12 get their operation behind them, that would not
13 constitute attribution as you understand it?

14 MS. GORDON: Not by itself, no.

15 COMM. SIEGEL: In that case, why would it
16 not make sense for a political party in a general
17 election to make no endorsements, since you can't
18 endorse in a primary, if a party decided they want to
19 evade your spending limits, it could cease to make a
20 formal endorsement and simply spend. Obviously, it
21 doesn't think they can do that.

22 MS. GORDON: In the partisan context they
23 can't run away from their nominee, and their apparatus
24 that gets them a place in the ballot, so I'm not sure I
25 understand.

1 COMM. SIEGEL: If you have a primary
2 election, the party is an organization --

3 MS. GORDON: Are you talking about
4 non-partisan elections or partisan?

5 COMM. SIEGEL: I'm talking about our current
6 system. What I don't get from you is why you think the
7 current system can work if it can't work under a
8 non-partisan framework. Since all a party would have to
9 do under a party framework under the current framework
10 is to fail to formally endorse. Would it then become
11 the Sierra Club? Your very rules seem designed to avoid
12 these kinds of evasions. What I don't understand why
13 now you assume these evasions are unavoidable under a
14 non-partisan framework.

15 MS. GORDON: Okay, I think maybe I do
16 understand your question, but I don't think that your
17 hypothetical can exist, because under the current system
18 there are seven or eight parties that have a ballot
19 position and those parties have a process, whether it's
20 with an actual primary or some convention what have you,
21 to get their candidate on the ballot for the subsequent
22 election. That is a process by which a connection is
23 made between the party and the candidate that allows the
24 Board to say, you know what, you guys are so close
25 together, we get to treat you as one. I'm speaking in

1 very gross terms.

2 COMM. SIEGEL: Of course. Why doesn't a
3 party who splits off --

4 MS. GORDON: There's no such thing I'm aware
5 of as a party with a ballot position, they don't have to
6 say or not, they've nominated their candidate, the
7 candidate is on the ballot.

8 COMM. SIEGEL: So then if a party nominates
9 an independent entity to spend money, what do you do
10 with that independent entity? You say look, the party
11 is spending money to an independent entity. You
12 attribute it, nonetheless, you have to make judgments.
13 Why do you cease to have to make judgments in a
14 non-partisan situations?

15 MS. GORDON: There's no questions about
16 having to make judgments. The differences is that the
17 Board has to go out and try to find evidence of
18 coordination between an entity and a candidate, unless
19 there is something else that allows the Board to put the
20 burden on the candidate to say to the Board this is why
21 you can't connect me with that entity. That extra thing
22 exists when you have a primary, because the candidate
23 has connections to the party that's very concrete,
24 there's a whole process a candidate has to go through
25 and the candidate gets a ballot line afterward that has

1 the candidate's name exclusively and that candidate's
2 name attached to it. So that's the connection that
3 allows the board legally to make certain presumptions
4 that it's not permitted legally to make without a
5 connection, a very concrete connection.

6 So what happens is the Board can always try
7 to prove coordinated activity with any entity that's out
8 there. It's very, very difficult to do. The difference
9 with a party that has a nominee is that the Board can
10 ask a candidate to take the burden and prove that
11 there's no connection. That's the difference.

12 COMM. SIEGEL: So, in sum, what you're
13 telling me is this is difficult but doable, and the
14 problem you have is it's difficult.

15 MS. GORDON: No. What I'm saying is that it
16 is virtually impossible because of the problems of legal
17 proof, if you don't start out with a presumption, it is
18 as a practical matter not possible to regulate so-called
19 independent spending. If you have a presumption, then
20 you have the extra leg to work on, but without it, it's
21 not a practical solution.

22 COMM. SIEGEL: Let me ask you two other
23 things in this regard. If someone runs and decides to
24 affix the party label to their name, their choice, that
25 constitutes an initial presumption. The second option

1 they have is they can voluntarily or not join your
2 program, join the campaign finance program. Let's
3 suppose now that they decide they want that party label
4 next to their name.

5 MS. GORDON: This is a partisan context?

6 COMM. SIEGEL: They've identified with a
7 party, right, and the party in turn reciprocates by
8 supporting them. Why do we have a difficulty making an
9 attribution here?

10 MS. GORDON: Because the Constitution has
11 been interpreted as vigorously protecting so-called
12 independent spending and the Courts require cooperation
13 between an entity and a candidate in order for
14 Government to intervene and regulate that activity. An
15 endorsement without more --

16 CHAIRMAN MACCHIAROLA: Do those same rules
17 apply when a party voluntarily agrees to contribute, to
18 participate in the Campaign Finance Board?

19 MS. GORDON: The parties don't participate.
20 Only the individual candidates do.

21 CHAIRMAN MACCHIAROLA: When an individual
22 determines he or she is going to participate in campaign
23 finance, does the same Constitutional right occur as if
24 that acceptance of all that public money had occurred?
25 Don't you waive your right?

1 MS. GORDON: You waive a lot of rights, but
2 you cannot be asked to account for what a truly
3 independent entity is doing.

4 CHAIRMAN MACCHIAROLA: Can you be asked to
5 show that the independent entity is truly an independent
6 entity? For example, if your rules you say the Board
7 may require a participant to demonstrate in any
8 proceeding before the Board that any of the following
9 expenditures that are made by the party committee or
10 constituted committee of the party --

11 MS. GORDON: I'm sorry, could you tell me
12 exactly --

13 CHAIRMAN MACCHIAROLA: It's Rule 4, sub 2,
14 II. "The Board may require a participant to demonstrate
15 at any proceeding before the Board that any of the
16 following expenditures that are made by party committee
17 or constituted committee of the party" -- now let's
18 strike those next three words, "nominating that
19 participant" -- now, resume -- "after the nomination of
20 any candidate for the same office at a primary election
21 that's otherwise provided in New York law."

22 So what you're saying is that a candidate
23 must show that the expenditures of any political party
24 are not part of that candidate's expenditure limit.

25 The present rule says "for that political

1 party." So you strike "that political party" and
2 include "any political party."

3 MS. GORDON: The reason you can't do that --
4 let me just explain how these rules work. The heading
5 is "independent expenditures." Part one is about
6 independent expenditures generally, and it is about, not
7 to do with political parties, it's about everybody else
8 out there, Sierra Club, everybody else. The second part
9 when you start down at item 4, is a different set of
10 rules that have to do with parties.

11 CHAIRMAN MACCHIAROLA: Right.

12 MS. GORDON: And the reason the Board is
13 able to have a different set of rules about the parties,
14 is because it addresses nominees of the parties. That's
15 the difference.

16 CHAIRMAN MACCHIAROLA: Well, if the party's
17 nominee isn't nominated, and the party decides that it
18 wants to support someone else, the Committee on
19 Vacancies didn't put the right person forward, so you
20 have a candidate in the Democratic Party that is not in
21 synch with the Democratic Party, so the Democratic Party
22 decides it's going to support the Liberal Party
23 candidate, would the spending by the Liberal Party, if
24 it's in concert or if it, can that be attributed?

25 MS. GORDON: I think in your example, your

1 example illustrates why this is not phrased in terms of
2 what we call an irrebuttable presumption. The Board
3 anticipated that a situation could occur where the
4 candidate was the titular nominee, but not the truly
5 supported nominee of the party. And that is the reason
6 why the Board doesn't say, once you're a nominee, you
7 don't get a chance to even talk to us, you're done,
8 anything the party does is the same as what you're
9 doing.

10 Instead the Board says, you get a chance --
11 very hard to do this, but you get a chance to argue to
12 the Board, you know what, I may be a titular nominee,
13 but they're not helping me out here. But it's still the
14 nomination that creates the link that allows the Board
15 to place that burden on the candidate.

16 CHAIRMAN MACCHIAROLA: In a non-partisan
17 election you can't have the link, so therefore you have
18 to have a rule that deals with the situation when it
19 arises.

20 MS. GORDON: And what the Board is concerned
21 about, with non-partisan elections you can't have the
22 link, you, therefore, can't have a presumption.

23 CHAIRMAN MACCHIAROLA: Has the Board ever
24 lost a case in which it established a link between the
25 candidate and the expenditure, when it truly believed

1 that the expenditure had been made by the party to
2 support a candidate, even though the candidate said it
3 didn't occur? Has that ever happened?

4 MS. GORDON: It has never been tested in the
5 way that you are stating. What has happened is that
6 candidates faced by the presumption have paid for the
7 expenditures.

8 CHAIRMAN MACCHIAROLA: Right, and don't you
9 believe, given the authority that the Campaign Finance
10 Board has demonstrated, that it can stand in favor of
11 moving forward to limit expenditures rather than
12 responding bureaucratically to an inhibition that it
13 feels may be there, but is not convincing all the
14 members of this Commission it truly exists?

15 MS. GORDON: Well, all I would say is that
16 we're always very hopeful that moral suasion will move
17 people. The truth is having to enforce a law, having
18 the authority to do it is better than moral suasion. We
19 did have a case, and Mr. Lynch is well aware of it, the
20 Dinkins campaign and the State Democratic Party did
21 initially argue that they were acting independently.
22 The campaign decided not to pursue its position, and
23 moved the case by paying for the expenditures, but I
24 don't think one can assume that parties and candidates
25 would not want to take full advantage of their legal

1 rights and I think the Board has to acknowledge that at
2 all times.

3 Candidates and the parties have the right,
4 and they exercise it, to go to the very furthest ends in
5 order to win elections and the Board's job is to do its
6 very best to try to make those elections happen within
7 certain constraints and the Board is not convinced that
8 a presumption could surely withstand legal challenge if
9 it were not in the context of a primary or some other
10 connections that could be made, but not what you are
11 endorsing.

12 CHAIRMAN MACCHIAROLA: We think you guys can
13 do it.

14 COMM. PATTERSON: Could I ask just one
15 question? Do you have the cites from the Supreme Court
16 decision? I'd like to read it.

17 MS. GORDON: It's in my previous testimony,
18 it's called Eu. I don't remember the numbers, but it's
19 in the previous testimony.

20 CHAIRMAN MACCHIAROLA: Commissioner Siegel?

21 COMM. SIEGEL: One followup. Seems to me
22 what you described is exactly what happened in Los
23 Angeles. James Hahn, one of the candidates, received
24 \$100,000 in Indian casino money, essentially. Claimed
25 it wasn't really his, he doesn't know who the people

1 were who were doing this, and legally there wasn't any
2 way to force him to move. What happened was, however,
3 when this was made public he was forced to disavow that
4 funding and it ceased forthwith. It wasn't legal action
5 that forced Hahn to stop taking the casino money, it was
6 the publicity that ensued in a non-partisan situation,
7 which is exactly what you're saying is not likely to
8 happen, but it's exactly what happened in Los Angeles.

9 MS. GORDON: It's also true in Los Angeles
10 there's a lot of political party spending, and it's
11 fully disclosed. Maybe not fully disclosed, it's
12 interesting what's happened in Los Angeles. They have
13 asserted they have a right to require parties file their
14 social statements with them and it appears as though the
15 parties have not contested that, but there's a genuine
16 issue over whether they have the right to require.

17 But you will see if you look at the record,
18 and you can see it on their website, thousands of
19 dollars that have been disclosed have been spent on
20 behalf of candidates by the Democratic Party that is not
21 regulated, not attributed to the candidates and the
22 candidates have not been embarrassed to pay for --

23 COMM. SIEGEL: Who was the Democratic
24 candidate in a nonpartisan election?

25 MS. GORDON: The Democrat? I don't remember

1 the name of any of the candidates.

2 COMM. SIEGEL: Let me describe to you what
3 happened, because I think you misunderstood what
4 happened in Los Angeles. You had two Democrats, one
5 nominal Republican as the three leading contenders. The
6 Democratic Party as a party didn't endorse, the Los
7 Angeles Ethics Board, which has a comparable role to
8 you, publicized the expenditures and it became an
9 ongoing question in the newspapers so that both Hahn and
10 Veragosa, the two Democrats, were constantly forced to
11 explain to the press where they were getting money, what
12 they were doing with it, why it was justified.

13 That seems to me your primary power here in
14 New York.

15 MS. GORDON: No, our primary power is with
16 respect to parties to actually control it. Not to hope
17 the candidates will be embarrassed. I'm curious to
18 know, by the way --

19 COMM. SIEGEL: You've never taken them to
20 court.

21 MS. GORDON: We never had to.

22 COMM. SIEGEL: Isn't that the point?

23 MS. GORDON: That isn't the point. I think
24 the candidates are convinced they're not on strong legal
25 ground challenging the Board.

1 CHAIRMAN MACCHIAROLA: Who doesn't go to
2 Court in this society? The reason they don't go to
3 Court is that they can't win the battle. The battle
4 isn't in the Court. The battle is in the public arena.

5 MS. GORDON: All I can say --

6 CHAIRMAN MACCHIAROLA: Who, when these
7 things are brought out, respond. Unfortunately we don't
8 have elections in the areas that we should in the City,
9 because we wouldn't have judges who have been chosen the
10 way they've been chosen, we wouldn't have a whole series
11 of abuses.

12 This is one of the few opportunities that a
13 Commission of the Government has an opportunity to put
14 before the voters genuine issue of reform. A reform
15 issue that will enlarge the rights of people to vote,
16 participate, and the agency that has done such an
17 outstanding job in regulating wrongful behavior can be
18 and should be an instrument for the reform that we're
19 talking about. And it can be, because it's already done
20 in situations which are far less favorable for reform.
21 I mean, I as a former member of the Board am proud of
22 the service I had with the Board and I know how hard you
23 worked to move forward in areas like this, and this is
24 the opportunity to do it. And that's I think what we're
25 trying to do here, not to stop a well functioning and

1 well staffed and well led --

2 MS. GORDON: I am not here and am not
3 authorized to argue the merits of non-partisan
4 elections. I am here to alert you to what the Board
5 believes are extremely difficult Constitutional issues
6 that will prevent the Board in the context of
7 non-partisan elections from controlling party spending.
8 The Board does not believe that you have before you
9 Constitutional doctrine or history or authority that
10 supports a conclusion that the Board would be able to
11 control party spending, and I would just add, I'm not
12 aware and maybe other people are, of the circumstances,
13 for example, in California, where nominees or endorsees,
14 excuse me, of the parties were forced by law or by moral
15 authority to repay the parties for party spending on
16 their behalf, and there's been hundreds of thousands of
17 dollars of disclosed party spending in non-partisan
18 elections in California.

19 CHAIRMAN MACCHIAROLA: Are there any further
20 questions?

21 COMM. NEWMAN: The other topic you were
22 talking about, which was the video. The presumption, at
23 least for me on the Commission in supporting that, that
24 obviously that's going to cost money and that you will
25 have to question the budget authority to prepare to do

1 that. So under those circumstances why are you troubled
2 by it?

3 MS. GORDON: I really was not addressing a
4 cross issue primarily, although obviously that was a
5 consideration.

6 COMM. NEWMAN: You talked about the trouble
7 you had doing it, and resources and not modern computers
8 and a whole host of other things, obviously which to me
9 are resource issues which have to be addressed to carry
10 it out.

11 MS. GORDON: I just want to make it clear
12 that this Commission has we believe wisely and
13 generously stated that it is concerned to protect the
14 campaign finance program and I am not in any way
15 committing any other motive to this group. I was simply
16 trying to alert you to what I think are challenges that
17 are not easily met or met at all. In the case of the
18 videos I have not had any opportunity to study this. I
19 just learned about this secondhand as I walked in the
20 room here tonight, but I am trying to alert you to the
21 fact that this may be an extraordinarily challenging
22 project. Things like translating talking videos into
23 four languages, maybe more, things like even locating
24 all the candidates in time and getting proper production
25 done in a fair way that presents the candidates equally,

1 that goes to the targeted audiences, that is only on one
2 station that is not watched a lot that requires in the
3 streaming or whatever that thing is called, that
4 requires individuals in New York City to have
5 extraordinarily great computer resources that most of us
6 don't have. I am trying to alert you to those things
7 and urge you to ask your staff to educate you on all the
8 details on what the practicalities and costs and whether
9 the benefits are going to be achieved that truly relate
10 something to the voters. That's my suggestion to you.

11 CHAIRMAN MACCHIAROLA: Thank you. Yes.

12 DR. GARTNER: In the current scheme of
13 attribution, turn back to that, it is the party
14 selection in the party primary that gives the primary
15 basis for attribution, correct?

16 MS. GORDON: Yes.

17 DR. GARTNER: What if a party were to select
18 its favorite, to use that word, by a process other than
19 a State-sponsored primary?

20 MS. GORDON: Like?

21 DR. GARTNER: Like a convention, like a
22 mailing to all its members, like a flipping of a coin,
23 to be flip about it, but any other scheme than a State-
24 sponsored primary election, which many parties do use.

25 MS. GORDON: Right. My guess is, without

1 pretending that I studied the question, that some kind
2 of formal process -- you see, here's the problem that I
3 see, as I think of it, about that. The fact that as a
4 result of the primary process you are identifying the
5 general election ballot as the party nominee is also
6 crucial, because endorsement has never been enough, at
7 least in the context of things like independent groups
8 out there to make that connection, so I don't know that
9 the formal endorsement, I don't know if you call a party
10 primary endorsement, but the form of endorsement, I
11 don't know if that by itself, whether it was a
12 convention or a flipping of a coin, I don't know whether
13 that would be enough. I don't know the answer to that.
14 I think having a ballot place is crucial.

15 DR. GARTNER: Commissioner Siegel mentioned
16 a number of options. I just wanted to quote several of
17 them and in a sense ask after each of them, but without
18 asking "would that be enough."

19 In a non-partisan election as the Commission
20 has considered it, the candidate per Eu, the Court case,
21 Eu, can identify his or her own party membership.

22 MS. GORDON: A candidate can identify --
23 well, per Eu, the party can --

24 DR. GARTNER: The second part of Eu is the
25 party can indicate a preference or the antonym of a

1 preference about a candidate.

2 Third, a candidate can choose in the Voter
3 Guide description about him or herself indicate a party
4 description or not.

5 Fourth, in the Commission's deliberation the
6 candidate can choose whether or not to have his or her
7 party identified on the ballot itself and then finally,
8 the party can adopt in some other fashion, indicate its
9 preference among the candidates whether they're
10 candidates of this or that party. It could be their own
11 member or some other. Is any of that or all of that
12 sufficient to provide a basis to explore attribution?

13 MS. GORDON: I don't know. If you're asking
14 what I think you are, what is the minimum contact that
15 would still support a Constitutional presumption. I
16 don't know the answer to that. What I'm raising in Eu
17 is that I don't think that there's been any case made
18 that Constitutional law would support a mere endorsement
19 by a party as the linchpin. I think that if you look at
20 what independent entities have done, endorsement is
21 definitely not enough. I don't know what more you could
22 possibly add within the context of the scheme that you
23 want to study here, but I really am not equipped to
24 answer that. I don't know if there is any guidance that
25 one would find.

1 DR. GARTNER: I want to be clear. I'm not
2 suggesting mere endorsement, to use your phrase, but
3 rather a package of activities that indicates an
4 intimate association.

5 MS. GORDON: I don't think that a candidate
6 identification of him or herself so far has ever been
7 thought to be adequate.

8 DR. GARTNER: To you it's not sufficient. I
9 would agree. It's a question of whether four or five or
10 six factors in combination would be sufficient.

11 MS. GORDON: In that case, I don't remember
12 all your examples, but I think there were some
13 overlapping. The fact a candidate identifies him or
14 herself as a member of a party and also goes in the
15 Voter Guide, I don't think the fact they're in the Voter
16 Guide adds anything. I think you have to find some real
17 relationship, activity, benefit, something very concrete
18 that would allow a presumption to survive.

19 DR. GARTNER: Okay, thank you.

20 COMM. NEWMAN: Just to follow up on Alan.
21 The parties will end up ultimately having to face a
22 choice. They will have to truly let a non-partisan
23 election take place or they will have to in some very
24 strong way have their county organizations support the
25 candidate, contribute money, et cetera. So if they do

1 that, and that becomes a very public process, they can't
2 do that in secret, why isn't that sufficient?

3 MS. GORDON: Because you could be an
4 independent entity and be incredibly vigorous and
5 supportive and out front with everybody about your
6 enthusiasm for a candidate and do many, many things on
7 behalf of the candidate. In fact, you can do everything
8 you want to on behalf of a candidate that supports an
9 election; sound trucks, TV commercials, all kinds of
10 things, but unless there is either a workable
11 presumption like the one that the Board has because of
12 the primary process and the ballot place, or, concrete
13 evidence of coordination between the outside entity and
14 the candidate, unless you have one of those two things,
15 you can't just go ahead and attribute.

16 COMM. SIEGEL: If what you're saying is true
17 then the Campaign Finance Board doesn't make a great
18 deal of sense. Because any operation can say, you know
19 what, we're not going to give formal attribution. We're
20 going to say we're independent. This ultimately depends
21 on your judgment. If you're not willing to make
22 judgments, you're absolutely right, you cannot make
23 attribution.

24 I would suggest the problem lies as much in
25 your inability to make judgments as it does in the rules

1 per se.

2 MS. GORDON: I think this Board has
3 demonstrated over the past fourteen or fifteen years
4 it's willing to make judgments, some of them very
5 difficult, very public, that has very serious affect on
6 campaigns. I don't think the Board is afraid to make
7 judgments. What the Board is reluctant to do is go
8 beyond where it thinks it has Constitutional authority
9 to act and the Board has authority -- candidates have
10 joined the program, are regulated by the Board. The
11 Board has no authority to regulate parties, to regulate
12 independent actors in the scenes, regulate
13 nonparticipants. So the Board is very aware.

14 I'm just telling you what the Board has
15 concluded about its legal authority and what legal
16 authority the Charter Commission might be able to give
17 it and that's the Board's assessment.

18 COMM. NEWMAN: If I could just --

19 CHAIRMAN MACCHIAROLA: No more. No more.
20 Look, she's done a great job here. Thank you.

21 MS. GORDON: Thank you very much.

22 DR. GARTNER: Manny Fernandez? Is he here?
23 Manuel Polanski.

24 Wardel Howe?

25 Gerald Everett?

1 MR. EVERETT: Good evening, ladies and
2 gentlemen of the Commission. My name is Gerald Estes,
3 I'm the County Chairman of the Queens Independence
4 Party. I'm here tonight to ask you to reconsider your
5 vote to have candidates include their party label next
6 to their names on ballot. Many Democratic party
7 spokesmen have appeared before this panel and testified
8 that voters, particularly lower income voters and
9 minority voters need such labels to know where their
10 best interests lie.

11 I think Democrats are twice mistaken; first,
12 in thinking that voters are too dumb to choose
13 candidates without party labels and, second, in thinking
14 that the Democratic Party automatically represents the
15 best interests of such voters. I was a Democrat. Two
16 of my ancestors attended the first Democratic Party
17 convention in Baltimore in 1932, as representatives from
18 the State, of Missouri though Missouri was the only
19 state then existing which did not have an official
20 delegation.

21 It was hard for me to change my
22 registration. The Democratic Party was part of my
23 identity as an Everett, as a Missourian, as an American.
24 But in the end, I decided that I owed my grandchildren
25 more than my grandparents and if my grandparents were

1 alive today, they would have agreed.

2 The Democratic Party has become
3 intellectually and morally bankrupt. Like the
4 Republican Party, the Democratic Party puts its own
5 partisan interests ahead of the interests of the
6 country.

7 What does the Democratic Party represent?
8 It has been remarked by a member of this Commission that
9 the Democrats, like Tony Seminario, have little in
10 common with Democrats like Mark Weprin, but the futility
11 of party identification is even more profound than that,
12 because the comparison presupposes the Democrat Assembly
13 members, whether conservative or liberal, have anything
14 to say about how the Assembly votes. Everyone in this
15 room knows that the only Assemblyman whose vote counts
16 is Sheldon Silver. The rest of the New York State
17 Assembly might as well stay home and collect their
18 check. It would at least have the useful effect of
19 decreasing the traffic between the City and Albany.

20 It hardly matters that the voters know
21 whether the candidates for public office are Democrat or
22 Republican or independent because under the current
23 system real power in our legislatures is held by a few
24 chosen men, all men.

25 It is this corrupt system of party machines

1 that the listing of party labels on the ballot hopes to
2 maintain. The Democratic Party system wants perpetuate
3 the party identity of the voters, even though it's my
4 understanding that, ironically, the Democrats would
5 rather have you vote on the proposal that lists no party
6 name, thinking that it would be easier to beat this in
7 November. This is one case in which you should
8 definitely give the Democrats what they want.

9 Do the right thing. We politicians will
10 have to win the proposition on its merits. It is not
11 the job of the Commission to carry the issue in
12 November, but to look after the best interests of the
13 people in revising the Charter.

14 STAFF: One minute.

15 MR. EVERETT: You do have a right to want
16 a heads-up on this. Well, give it to them. Members of
17 the Commission, it is time we made the political
18 community and the voter do a little work for the
19 privilege of living in a democracy. The Mayor promised
20 the voters of this city a proposal for non-partisan
21 municipal elections be placed on the ballot. He made
22 the promise to the leadership of the Independence Party
23 when we gave him our line and subsequent winning margin.
24 At the time he confessed that he was confused as to why
25 we would support a measure that would decrease our own

1 political clout --

2 STAFF: Your time is up.

3 MR. EVERETT: -- For this Commission,
4 even at the direction of the Mayor not to post a truly
5 non-partisan election proposal with a hybrid grown
6 proposition that has never been used in any major city.
7 The proposal to allow candidates to list their party
8 affiliation denatures the whole concept of non-partisan
9 elections and robs us of the benefits we had hoped to
10 obtain and its important reform.

11 I have one more paragraph.

12 Democracy is not a thing won in one
13 generation. It's secured for all successive
14 generations. It's a thing constantly in jeopardy from
15 the greed of the few and the indolence of the many. We
16 in the Independence Party have tried throughout this
17 process to make a point that the voters need
18 encouragement to take up their burdens as citizens; not
19 by tinkering with some detail but by fundamental
20 restructuring that levels the playing field and removes
21 significant obstacles to participate. For renewal, our
22 democracy requires a Charter revision that recognizes
23 that you can't change anything unless you confront and
24 remove the obstacle of entrenched party control of the
25 process.

1 I urge this Commission to reject the Mayor's
2 suggestion that voluntary party labels be permitted on
3 the ballot for municipal offices.

4 Thank you and I want to express my heartfelt
5 gratitude for the fairness and the hard work of the
6 Commission throughout this process and I just wanted to
7 mention one other little thing. You can't really equate
8 the Sierra Club with a political party. A political
9 party is established to elect people. The Sierra Club
10 is not. Thank you.

11 (Applause.)

12 DR. GARTNER: I'm having a little bit of
13 trouble with the name. I believe it's Dennehy, Thomas.

14 MR. DENNEHY: I'm not one that writes
15 notes. Except that's for Michelle Gordon. I say two to
16 one match, not four to one, two to one. Let's get that
17 straight. Also, 500 petitions for all city elections, I
18 don't care what the race is. 500 petitions. Alan
19 Jennings is in Court now, day eleven. Who makes all the
20 money? The attorney who represents Mr. Jennings. Okay.

21 Also, I also do not believe in cross
22 endorsements. I don't like them. They're bogus,
23 they're phony. They're an insult to the voter. Either
24 you're a Republican and be proud of it or you're a
25 Democrat and be proud of it, but don't go around trying

1 to get a cross endorsement. Now we won't even have a
2 primary on September 9th in Queens county. I don't
3 think so. Maybe we might have one. Saves the taxpayer
4 a lot of money, so there's always two sides to every
5 coin. Less election, less printing, less consulting,
6 less machines being delivered by a trucking company,
7 less ballot counting and recounting, so it's called pro
8 and con. But this is very educational, this Commission.
9 I learned a great deal and if it was on TV, which it is,
10 I won't watch it, because I'd rather come in person and
11 watch and listen. I have a lot of respect for
12 Crosswalks, but this is so important, that you have to
13 actually sit in the audience and watch all the
14 participants.

15 Where do I stand on non-partisan elections?
16 I'm still not sure.

17 CHAIRMAN MACCHIAROLA: We're not having any
18 more hearings, I'll tell you that.

19 MR. DENNEHY: However --

20 STAFF: One minute.

21 MR. DENNEHY: I don't think it would be a
22 bad idea to put it up on the machine, we call it the
23 interface, and let the people decide. Up or down, and
24 that's it. And, you know, you can study this through
25 minutiae, but there are other things you could like. I

1 like to go swimming. Thank you very much.

2 (Applause.)

3 DR. GARTNER: Dorothy Williams Pierera.

4 MS. WILLIAMS-PIERERA: My name is Dorothy
5 Williams Pierera. First, I'd like to mention two other
6 languages that didn't come up today; American Sign
7 Language and Braille, because the disabled need to be
8 represented in this language. Fairness.

9 I'm not going to go into all of what we've
10 gone into today so much. I want to think about more
11 important things. I want to think about the housing
12 crisis, the environmental protection, literacy and all
13 the other things that the regular people in New York are
14 suffering because there is a crisis in. We just had a
15 blackout. There's something wrong with the energy not
16 getting to our houses. It's getting ridiculous.
17 Transportation is a horror. We need to decentralize
18 this Government so that we have community control of
19 what's going on in this city. We need to have senior
20 citizens having an administration, the disabled having
21 an administration. We need to go back and have our
22 health boards again.

23 We've got to stop worrying about great
24 up-in-the-air philosophies. We're not worrying about
25 whether people have a place to live, a place to work,

1 are getting treated fairly, eating, being able to have
2 some recreation and spend time with their children
3 because they're not overworked, because everybody's
4 working themselves to death to pay high rents. We've
5 got to start having better things going on in this City
6 than whether we're going to have non-partisan elections
7 or not. We have to have a service that goes and serves
8 the people of this city and it's getting ridiculous
9 what's going on here.

10 And please, let's have something done about
11 that. Let's have an administration, we once made an
12 Administration for Children's Service, well, senior,
13 disabled, entitlements, housing, these are the real
14 issues of the City.

15 DR. GARTNER: Amy Cooper.

16 MS. COOPER: Good evening, my name is Amy
17 Cooper. I'm a policy analyst at Child Care, Inc. a
18 child care education policy and advocacy organization
19 based here in New York City. I want to thank the
20 Commission for the opportunity to testify today. I want
21 to take a brief, perhaps unwelcome, detour from the area
22 of non-partisan elections and turn back to procurement
23 reform and I want to speak in strong support of a
24 revision to the proposed Charter which would allow the
25 procurement board to promulgate use of a single

1 financial audit for organizations contracting with
2 multiple city agencies, similar to Federal A-133 audits.
3 It's a dryer topic but it's very important to these
4 programs.

5 I'm also here representing a working group
6 cosponsored by Child Care Inc. and United Way of New
7 York City and funded by a grant from the U.S. Department
8 of Health and Human Services. This group brought
9 together key city agency representatives, fiscal experts
10 and provider agencies to address fiscal issues impacting
11 early education programs. After seven months of careful
12 study, which coincided, actually, this past year with
13 the work you all have been doing, the group strongly
14 recommended that City agencies adopt a single audit
15 based on the A-133 audit format, which many early
16 education programs must already complete. And a copy of
17 the working group's full recommendations is attached to
18 written copies of my testimony.

19 Based on this recommendation, United Way has
20 also supported the proposed Charter revision and Lillian
21 Barrios Paoles (ph), the senior vice president and chief
22 executive of agency service at United Way of New York
23 City has submitted written testimony to that effect
24 which you should also have.

25 Over the past decade, Child Care Inc. has

1 provided leadership supporting preschool and school aged
2 child care programs and accessing multiple funding
3 sources that expand program availability and enhanced
4 program quality. City children and their working
5 parents are in critical need of full day, full year care
6 and confidence of early education services. However, no
7 single City, State or Federal funding source currently
8 provides sufficient resources to support such a
9 comprehensive program. As a result, agencies must
10 contract with multiple City, State and Federal agencies
11 to bring these services together into their programs.

12 Many individual agencies, for example,
13 secure funding to offer Head Start services, full day
14 child care services, after school child care and summer
15 care programs, as well as early intervention services
16 and other special education supports. These agencies
17 pull together disparate resources to create an
18 integrated program that meets the real needs of children
19 and families.

20 STAFF: One minute.

21 MS. COOPER: In resources where early
22 education is provided by city agencies, a single
23 provider agency may maintain contracts with multiple
24 agencies for education services, including, but not
25 limited to the Administration for Children's Services

1 Child Care and Head Start Unit, the Department of
2 Education, the Department of Youth and Community
3 Development, the Department of Health and Mental
4 Hygiene, the State Education Department and the U.S.
5 Department of Health and Human Services and it's not
6 unusual to find these literally all in one place.

7 Application for funding is very complex for
8 these programs and this is made more complex by the
9 financial reporting required by each funding agency.
10 Child Care Inc. in our work has documented a labyrinth
11 of such reporting requirements including fiscal reports
12 required by each of the funding agencies. This may
13 entail hiring a separate auditor to conduct an on-site
14 review of financial records relative only to that
15 funding stream.

16 I'm running out of time. I don't want to
17 cut short anybody else's opportunity to speak. I'll
18 summarize by saying that we hope that you will overhaul
19 these burdensome programs that cost unnecessary money
20 and cause the hiring of these additional auditors, which
21 are a real barrier for early education programs to
22 really serve children and families in New York City.

23 So thanks very much for supporting and
24 presenting this opportunity to speak.

25 DR. GARTNER: J. T. Holland.

1 MR. HOLLAND: First of all, good evening to
2 Pat and the Chair. You know, I was one of the first
3 here tonight and I'm a little peeved because you see
4 what time is and I'm now being called. We're always
5 asking why the community of color don't get involved or
6 exercise the voting process. This is a good example
7 right here tonight.

8 I'd also like to talk about the past
9 behavior of the elected officials who supposed to be
10 here, particularly when they're coming before this panel
11 equivocating, fabricating, rather than telling the
12 truth. This is another one of the many reasons why the
13 community of color do not participate in the voting
14 process. Some of them even have come before this
15 meeting with an affectatious behavior, showing no
16 deference whatsoever to anyone, and for example, like in
17 Kew Gardens when an elected official came before this
18 panel and when a question posed to him, he stopped his
19 speech and asked the panel, "Where was you on the day of
20 9/11?" Then another example, and to me, and another
21 example in the Bronx and I was personally offended by
22 this when an elected official, a Democrat, saying we
23 Democrats now allow black Congressmen, black Senator and
24 look at the City Council. Why, they are the majority of
25 the minorities.

1 You know, I have a problem with "minority,"
2 particularly in this multifarious City of ours, but this
3 is another example in Brooklyn when an elected official
4 stepped before this same panel and said, you know, I
5 never heard any one of the constituents or any of the
6 people says we want non-partisan. Well, I don't know
7 where the Democrats been at, but I do know this for a
8 fact, and I don't profess to be a political analyst
9 because I know nothing about politics, but I do know
10 what I don't know and what I don't agree with and what I
11 don't agree with is that statement because, she know
12 that party labels, particularly Democrats, they take
13 their hearing aids off until the next election or
14 primary. So quite naturally she didn't hear people
15 saying they didn't want non-partisan.

16 And for another example, in Washington
17 Heights. I personally was disturbed by this, and I
18 blame the Democrats who are expert at turning
19 communities against communities and for a good example
20 right there in Washington Heights when this servile
21 house boy, I have no respect for him, came before this
22 panel and talking about Giuliani, but then he says, with
23 all due respect, the former Mayor Giuliani, but when
24 Dinkin's name was mentioned he didn't give the same
25 deference. That's a way a Democrat plays a role and if

1 my memory served me correctly back in the '80s this same
2 servile was approached by the then Mayor Koch who went
3 to him and said, listen, being the house boy that you
4 are, I need a favor. Now that Patterson has dropped
5 out, Herman Badillo is in there, I want you to put your
6 name on the ballot, this way you can disrupt the Latino
7 votes, the black votes and make a chaos and not choosing
8 in the community of color so I may have a free run all
9 the way and I'm talking about no other than Denny
10 Farrell. Okay.

11 And I'll tell you something else, too. I
12 must take time out, first of all, before I go any
13 further, these I've spoke of are the Negroes, from the
14 whities and the darkies, who, the whities to the
15 darkies, who has no vision and caught up in a vice of
16 confusion because of their continual manipulation that
17 they digest and what I want to take the time to say now
18 is and I mean this in all sincerity in my 38 years,
19 adult years, I want to clarify, I'm not saying my
20 adolescent years, I don't want anybody to think I'm
21 lying about my years, in my adult years --
22 Mr. Macchiarola, where are you?

23 CHAIRMAN MACCHIAROLA: Here, sir.

24 MR. HOLLAND: I have to sincerely
25 congratulate you and this panel for the integrity and

1 democracy that's been shown throughout these
2 proceedings. And I have to also say this is the second
3 time in my entire adult life that I've had such honesty
4 coming from a political forum and for that I thank you.
5 Of course my first experience with honesty, integrity
6 candidate soundness came from the political genius
7 herself, Dr. Fulani, when I ran away from home, the
8 plantation, I broke away from the Democratic Party, she
9 gave me the opportunity to once again exercise my right
10 as a citizen and be involved in the voting process.

11 I also would like to extend a hand to Kathy
12 Stuart, second Chair of the Independence Party along
13 with Dr. Jessie Fields and in the Independence Party, I
14 must say, I have learned to respect and also believe
15 with all my heart that their allegiance is to the
16 American voters, the American people as it should be.

17 I don't like party labels, but Democrats at
18 large whose allegiance in my opinion is to the rapacious
19 corporate America. I should also like to say it is my
20 hope the Mayor will not play games with this most
21 important issue and must remember because of the
22 fatuitous mentality and diabolic behavior of Mark Green,
23 whose personality was unbecoming to the voters here in
24 New York City is the reason why he is the Mayor along
25 with the helping hand and full support of Dr. Fulani,

1 who reached out to the community of color and gave them
2 a home, a home that will respect them, unlike the home
3 of the Democrats who did not. And this is the reason
4 why he is the Mayor today, and I hope you do not forget
5 that. And last, I would like to say, as I usually say,
6 it is my hope that everyone take heed to what I'm
7 getting ready to say now. Although at the present time
8 it no longer plays a significant role in our society, it
9 is my firm belief that the Democrats are expert at using
10 the race card as nothing more than a manipulation of a
11 distraction away from capitalization dollars and cents
12 powers that be, and last I must once again thank
13 Dr. Fulani for giving me a vision and new hope in the
14 political arena, at one time a political arena that I
15 was once again and I have also come to believe that she
16 shares the same strength, character and caliber as
17 Martin Luther King, Robert Kennedy, Malcolm X and Adam
18 Clayton Powell. Thank you.

19 DR. GARTNER: George Spitz.

20 MR. SPITZ: The other day in the Sun,
21 honorable Commissioners, Commissioner Siegel, noted
22 scholar, had a letter naming Borough President Fernando
23 Ferrer as a bugaboo who, following the current Mayor,
24 and especially it isn't likely to happen if we don't
25 have non-partisan elections. Well, I've been creating a

1 couple of bugaboos myself, I'm going to create one more
2 tonight. The two bugaboos I created, one of them Mark
3 Green, the other Gifford Miller, they might be elected
4 Mayor and what would happen to the City if we don't put
5 into effect the recommendations of the Feerick
6 Commission. But I want to show, the Campaign Finance
7 Board gets out excellent material, and there's a report
8 that they gave on the 1997 elections which really
9 describes to me the difference between Fred's bugaboo
10 and my bugaboo.

11 Mark Green ran for Borough President that
12 year against Roger Green and he on page 9, he accepted
13 \$366,745 in taxpayers money from the Campaign Finance
14 Board, for running against Roger Green, who got nothing.
15 Fernando Ferrer was running for Borough President of the
16 Bronx in that same primary, and he was running against
17 Israel Ruiz. He accepted no money from the Campaign
18 Finance Board and Israel Ruiz received \$23,219, but I
19 think this shows a difference between, Fred, your
20 bugaboo and my bugaboo in terms of respect for the
21 public Treasury. Green taking \$366,000 for running
22 against Roger Green, and Fernando Ferrer accepting
23 nothing.

24 COMM. SIEGEL: Technical question. People
25 are wondering what the word "bugaboo" means. Bugaboo is

1 a demon, something to be afraid of.

2 I'm sorry, George, go ahead.

3 MR. SPITZ: That's all right. I might
4 give you some comfort on this. I complained to Fernando
5 Ferrer when I wasn't appointed to this Commission and
6 you know what he said? "I wouldn't appoint you,
7 either." He added, "I wouldn't appoint a Commission."

8 An excellent report put out -- I'm going to
9 refer to what reasons why we need the Feerick Commission
10 recommendations. I wondered, instead of referring to
11 the Mayoralty, the Borough President.

12 STAFF: One minute.

13 MR. SPITZ: The report put out by Roger
14 Lieber, who works now with Steve Newman and Steve Newman
15 and Roger Lieber are two of the finest public servants
16 I've run across in fifty years of activism and this is a
17 report on the Borough Presidents office, full of some
18 pretty bad things but I want to put one thing. On
19 August 13, 1997, the then Director of the Administration
20 for the Manhattan Borough President's office awarded her
21 own company a \$6,000 contract, her own company a \$6,000
22 contract for cleaning services. Now, that was a
23 violation of the Charter, but she also awarded her
24 sister a contract, which was not a violation of the
25 Charter. Now,.

1 These were done in the administration of
2 Borough President Ruth Messinger. There were many other
3 things in these reports and I know that Steve has seen
4 them, I don't want to read them all tonight, they spent
5 \$3,000 on newspapers, expensive trips, all sorts of
6 atrocities. Ruth Messinger went out of office that
7 December and Virginia Fields, the current incumbent, is
8 being term limited. If you go on the web you'll find
9 that the leading candidate for Manhattan Borough
10 President, the one that's raised the most money, raised
11 all the money is Eva Moskowitz, who is the darling of
12 the Democratic Leadership Council, which believes in
13 privatizing everything. In fact, as Chairman of the
14 Education Committee, she was awarded \$10,000 in public
15 funds to a Charter school which her husband was on the
16 board of directors of.

17 If you liked Ruthy Messinger, you'll love
18 Eva Moskowitz.

19 I believe it's necessary to take provisions
20 to -- you know, that's why I hope you will revisit the
21 Feerick Commission recommendations, because things like
22 Civil Service, sealed bidding, public, municipal
23 ownership, all the good government recommendations of
24 the 1890's and the early parts of this century were done
25 in response to bad government, worse Civil Service.

1 I'm a retired state auditor, sealed bidding,
2 municipal ownership are not perfect, but they're better.
3 As Winston Churchill said, they may be a worse way of
4 Government, but they're certainly better than all the
5 other methods that have been tried.

6 We've seen the weakening of the Civil
7 Service. We've seen contracts go up in the Dinkins
8 administration from 2.8 million to 6 point billion today
9 and the amount of workers have gone up, too, at the same
10 time, and services have constantly been declining since
11 World War II. The streets are paved less, they have
12 less library service, all free tuition is gone; sports
13 programs and music, art programs have been cut, all the
14 same -- we haven't built any subways --

15 STAFF: Time is up.

16 MR. SPITZ: All this same period the
17 stores are gotten better, restaurants have gotten
18 better. My friends, we need clean, honest government,
19 and you are the hope --

20 MR. CROWELL: Mr. Spitz --

21 MR. SPITZ: So go back to the Feerick
22 Commission, put them on the ballot this fall.

23 Thank you.

24 DR. GARTNER: Joseph Garber.

25 COMM. NEWMAN: Just if I can make a comment

1 to the Commission. As much as one can blame Ruth
2 Messinger, she did remove the person.

3 DR. GARTNER: Joseph Garber.

4 MR. GARBER: Good evening Chairman
5 Macchiarola, esteemed members of the Commission. I'm
6 the Corresponding Secretary of the Civil Service Merit
7 Council, and a City employee.

8 I'm going to start speaking quickly. It
9 would be better if we had a podium here tonight.

10 Let me go back to the Charter. I have to
11 agree with Speaker Miller that there's a lot of arcane
12 language in the Charter. I'll try to go on to some.
13 I'm going to speak a couple of minutes on the --

14 CHAIRMAN MACCHIAROLA: Mr. Garber, I'll give
15 you four minutes. The stenographer has to take down
16 what you say, so slow down --

17 MR. GARBER: Okay, thank you, thank you.
18 Because I do have -- not verbiage.

19 On page 11, I agree that there's still a
20 problem with the procurement process. Page 11 of the
21 procurement report.

22 On page 12, item 7 of the same report, the
23 issue of change orders is very serious in the New York
24 City Housing Authority. They, therefore, recently
25 instituted a change order revision program. I would

1 suggest it would be advisable that the esteemed
2 Commission get a copy of the report. You can call
3 Chairman Hernandez at 306-3434.

4 On page 20, the first paragraph, "he" should
5 read "he or she."

6 On page 20, the second paragraph, I disagree
7 with the recommendation that the dollar amount be
8 eliminated.

9 On page 21, "whom thus serve" should have
10 read "whom they serve."

11 On page 21, I agree that the universal
12 vendors must be expanded.

13 On page 22, I ask the rhetorical question,
14 how do we improve the Vendex process?

15 On page 24, what if the rewards to honor
16 contractors who are very good should be an annual
17 ceremony based on the same ceremony that the City
18 agencies use for perfect attendance? You can honor
19 vendors that serve the City well, the product is well,
20 there's very little problems subsequent to their
21 completing.

22 Now let me start with Chapter 18 in the city
23 Charter on the Police Department. I first of all would
24 like to suggest that the staff contact the office of the
25 Police Commissioner at 646-5410 to obtain the following:

1 A copy of the organization chart, the organization chart
2 for the Police Department --

3 CHAIRMAN MACCHIAROLA: She's losing you,
4 she's losing --

5 MR. GARBER: Okay, the organization Charter
6 of the Police Department, the organization guide of the
7 Police Department and the official roster. When you
8 read over the narrative and you review Chapter 18 you
9 will see there's a lot of functions presently mandated
10 by the organization Charter and the organization guide
11 that are not mentioned in any way, shape or form in the
12 narrative of Police Department functions in Chapter 18.

13 I can help you with this in more detail
14 subsequent to tonight.

15 Section 732. There are more than 7 deputy
16 Commissioners, and there's approximately 15 according to
17 the City Green Book.

18 Section 435-B, I question why it should
19 remain in the Charter the way it was written, since
20 August 6, 1996 the Parking Enforcement Division, as it
21 was known then when it was part of the Department of
22 Transportation was functionally merged into the New York
23 City Police Department.

24 Section 437, it states that the
25 "Commissioner shall cause some intelligent and

1 experienced person connected with the Department to
2 attend courts." Number one, why only one intelligent
3 and experienced person? This should be rewritten to
4 reflect, because the Police Department has, number one,
5 a legal bureau and a criminal justice bureau, which is
6 fully staffed by both civilian and uniformed members of
7 the service that constantly monitor courts.

8 Okay, Chapter 18A, page 134. Section 440
9 should be amended, this is dealing with the Civilian
10 Complaint Review Board, should be amended, the third
11 line which has the term "officers." Officers
12 technically means police officers. However, the
13 Civilian Complaint Review Board has the administrative
14 jurisdiction to investigate complaints against all
15 members of the Department. Now, uniformed members of
16 the service include all ranks, Police Officer, Sergeant,
17 Lieutenant, Captain, et cetera. So, therefore, just
18 using the term "officers" could be a misnomer.

19 Now, I'm going to ask a question.
20 Technically, does the Civilian Complaint Review Board
21 investigate complaints against the building service such
22 as police administrative aid, principal administrative
23 associate, school safety agent or traffic enforcement
24 agent or a safety agent?

25 Now on page 135, Section 440, 4(C)(1), it

1 states "against members of the Police Department." Now,
2 here's an interesting, the term "members of the Police
3 Department" would include uniformed and civilian
4 members, so we have two different terms used in
5 different paragraphs of the same chapter.

6 Now, on page 135, paragraph 7, paragraph 7
7 and 2, it states that "officers and employees must
8 appear and respond." The term "officer" must be changed
9 to read "uniformed members of the service."

10 Now, on page 136, paragraph 7, E and F,
11 states, "members of the Department," which means all
12 members of the Department uniformed and civilian.

13 Now, in the next Section 450, it
14 specifically uses the term "uniformed and civilian
15 measures." This is just one example of language issues
16 that have to be addressed.

17 Now I would speak on Chapter 18B, page 1236,
18 Section 451, the independent police investigation and
19 audit board. It says: To prevent corruption amongst
20 uniformed and civilian members of the Police Department
21 and undertake investigation of police corruption. How
22 does this differ from the Mayor's solution on police
23 corruption? Now, I feel there should be some language
24 written in this section of dismissing protection. This
25 is very important.

1 Section 452, it should designate that those
2 employees and "those employees" should be identified.

3 All right, I will end now. I will
4 subsequently bring up -- I have another half page of
5 notes. I want to thank this Commission. It was a real
6 pleasure to testify here and I know I've met some new
7 friends and, God willing, we'll meet together the next
8 Commission. Again, thank you very much.

9 DR. GARTNER: John Orlando.

10 MR. ORLANDO: Good evening, John Orlando
11 from New Era Democrats. I want to try to speak quickly.
12 I've been here a number of times about the proposal and
13 if I have any time to appeal in any way to the common
14 sense of the non-partisan proposal and request that the
15 referendum remove party labels and is effective
16 immediately I wish to do so.

17 We are disheartened only on those issues of
18 the proposal as I understand it by the inclusion of
19 party labels. As our 87 year old founder, Raymond
20 Sansone said today, why would you have party labels in a
21 non-partisan election? It doesn't make any sense.

22 And the start should be January 1, 2004 not
23 2006, because I do believe it will give the political
24 hacks and candidates plenty of time to adjust strategies
25 and plan for the 2005 citywide election cycle and I hope

1 it will not overload the ballot proposal with too many
2 other items, and we feel it's actually such an important
3 issue that it should stand alone, because if you do
4 overload it, as in past referendums it is dead on
5 arrival.

6 I'd also like to just ask a couple of
7 questions, just so I understand how it's currently
8 proposed. If a candidate would like to be affiliated
9 with a party label in the primary election, do they have
10 to be a registered member of that party?

11 MR. CROWELL: Yes.

12 MR. ORLANDO: So a party cannot endorse them
13 in a primary election?

14 DR. GARTNER: The party can endorse them.
15 If a candidate wants his or her name on the ballot and
16 the name of the party, it must be the party in which he
17 or she is registered.

18 MR. ORLANDO: Unlike the Democratic Party in
19 a general election, they can't be endorsed by another
20 party --

21 DR. GARTNER: They can be endorsed, but that
22 cannot be on the ballot.

23 MR. ORLANDO: Only one party on the ballot
24 in the primary. And the candidate from the Democratic
25 Party -- if no candidate from the Democratic Party runs

1 in the general election, can the Independence Party
2 endorse a candidate in the general election?

3 DR. GARTNER: You can't change the
4 designation that's on the ballot. Parties can endorse
5 at either election. The top two candidates in the
6 primary would go on to the general election, regardless
7 of whether they were the members of the same or a
8 different party.

9 MR. ORLANDO: So if you had one party
10 affiliation in the primary, you can only take one party
11 affiliation to the general election.

12 DR. GARTNER: It must be the same party
13 affiliation.

14 MR. ORLANDO: You can't add later on. Okay,
15 that clears up some of the issues for me.

16 But all the other proposals as far as
17 non-partisan elections I think were very well organized,
18 I like except for the two excluding parties, and the
19 start date, you can't give us non-partisan elections,
20 you ask us to wait three years, but that's okay and I'd
21 like to real quickly take this opportunity to commend
22 the Staff. I look at the Internet a lot. The reports
23 were clear and concise and I commend the Commission for
24 your hard work, attendance and participation and I thank
25 you for your service to the City.

1 I'd like to commend Mayor Bloomberg also for
2 tackling this issue and forming the Charter Revision
3 Commission and hopefully we'll have non-partisan
4 elections.

5 CHAIRMAN MACCHIAROLA: Thank you very much.

6 DR. GARTNER: James Condis.

7 MR. CONDIS: I promise to be brief. I'd
8 just like to present an update on an ongoing problem my
9 neighborhood is having with the MTA. I think it's
10 really a shame that the MTA is much too powerful and
11 that elected officials are essentially powerless when it
12 comes to MTA matters. When you mention MTA, they throw
13 up their hands and run for the nearest exit.

14 To me, this is one of the Mayor's worst
15 decisions giving up most of his City power to the State.
16 Now, I'd like to read a letter I wrote to James Harding,
17 Jr. of Governor Pataki's Office of Community Affairs.
18 This is very brief.

19 "Dear Mr. Harding: Enclosed is information
20 pertaining to the conversation we had a couple of months
21 ago on the recommendation of Chairman Macchiarola. As
22 you can see, Assemblywoman Nolan sends the Reuter
23 letters to the effect of more protection against the
24 wind we sorely need at the Woodside station. President
25 Reuter claims it's not being done because of safety

1 reasons. On March 18, 2003 at a scheduled meeting to
2 assess the situation, MTA safety engineer Krishna Murti
3 specifically explained to me that it was not a safety
4 issue but a comfort issue for the customers of MTA City
5 Transit. He also told me he would recommend the
6 installation of wind screens at both ends of both
7 platforms, not to mention behind the four existing ten
8 foot long benches on each platform."

9 "Since then, nothing." I'm talking about on
10 March 18. This letter was sent August 12. "Since then
11 nothing has been done. What else is new? I asked a
12 simple question. Who is better qualified than an MTA
13 safety engineer to ascertain whether something is safe
14 or not?

15 This quest for a deserved basic amenity from
16 the MTA has been ongoing for more than five years."

17 STAFF: One minute.

18 MR. CONDIS: "If the City Transit isn't
19 going to implement Mr. Murti's recommendation, I would
20 suggest another meeting with someone from your office
21 along with Mr. Murti and other interested parties to
22 assess this problem fairly and impartially."

23 I cc'd this to Council Member Goia,
24 Assemblywoman Nolan, Assemblyman Lafayette, Public
25 Advocate Blainy, Community Board 2 and Comptroller

1 Thompson. And let's see if anything happens. Thank
2 you.

3 DR. GARTNER: Lenora Fulani.

4 DR. FULANI: Good evening, Commissioners. I
5 speak on behalf of Dr. Martin Luther King, Robert
6 Kennedy and Malcolm X. Non-partisan elections came
7 alive as a potential reform last year when Mayor
8 Bloomberg put together a Charter Commission to review
9 the issue. This year a second Commission took up the
10 issue. You are now poised to put it on the ballot so
11 that the voters can decide if they want to adopt a
12 non-partisan system.

13 Non-partisans open the process to all
14 voters, regardless of their party, to a fair, more
15 inclusive system that 80 percent of the U.S. cities now
16 use. I'm very proud to be a member of the Independence
17 Party which brought the issue of non-partisan elections
18 to the Mayor to begin with. No doubt this is partly why
19 Mr. Gartner chose to vote for the Mayor on the
20 Independence Party line.

21 I'm very proud to be part of the People's
22 Coalition for Non-partisan Municipal Elections, which
23 has campaigned for this change at every hearing in our
24 communities. In the past two weeks, the Coalition has
25 participated in community debates; three in Brooklyn,

1 one in Queens, one in Bronx and we have a request for
2 twenty more throughout the City.

3 On Monday the Commission will vote on giving
4 the people the chance to decide. You've conducted a
5 vigorous and healthy process and I commend you on your
6 good work.

7 It's also a good moment to look at the role
8 that different forces have played in this process. No
9 one has missed the fact that the Democratic Party
10 leadership and their allies in the so-called good
11 government movement fought against giving voters the
12 right to decide. At every turn they opposed this
13 democratic method of deciding the issue and said no, it
14 should not go on the ballot. They have resisted an open
15 process from the beginning and I'm certain the voters
16 will remember that when they cast their ballots in
17 November.

18 Today's New York Times suggested that your
19 Executive Director, Alan Gartner, was a revolutionary
20 bringing radical change to our political culture. I can
21 relate to that. From one revolutionary to another, let
22 me say you've done a great job setting the stage for the
23 people to act.

24 I look forward to the Commission's vote on
25 Monday when you turn it over to the people of New York

1 City. Finally it's their turn. Thank you.

2 (Applause.)

3 DR. GARTNER: Eugene Jordan.

4 MR. JORDAN: I'll try to remain coherent.

5 This is kind of late for me. With the young lady from
6 the Campaign Control Board, whatever you want to call
7 it, doesn't seem much of anything. It appeared to me if
8 she was a bank teller I'd be extremely frightened. I
9 wouldn't cash a check -- with that kind of attitude, you
10 would think the bank is broke.

11 Everyone here is American. We're here
12 talking about voting. We're American. People solve
13 problems. We don't hide from them, try to say it can't
14 be corrected. I believe in 1863 she was talking about
15 Constitutional -- somebody said the word she was
16 constantly using. If Abraham Lincoln felt that way
17 about Constitutional directives or history, we would
18 never have the Emancipation Proclamation. That's the
19 kind of attitude. "Things must stay the same."

20 Forty years ago next week I went to the
21 March on Washington. I was 16 years old. 16 years old,
22 playing basketball and everything. I went because I
23 wanted everybody to have the right to vote. It wasn't
24 the right to be a rubber stamp or to change a party, not
25 only to have a vote, but to participate in the electoral

1 process as being elected, being legislators, or whatever
2 other position we can acquire.

3 I'm not a politician, never would be, never
4 would care to be. But I like to see people who are
5 interested in participating in politics not having to go
6 with their hat in their hand and kiss some party
7 clubhouse official's ring in order to get the vote.
8 Simply this is like going right down to the City Council
9 and everything.

10 Let me confess I work in the judicial system
11 and I hope that one day you get to see that judges are
12 elected properly and fairly, because sometimes, I don't
13 know, you could be frightened with some of the people
14 sitting on the bench. Party politics have to be dealt
15 with. Give the people the vote. The Constitution and
16 the Declaration of Independence say "We, the people."
17 Give the people the vote. We'll do the right thing, but
18 I just want to thank you.

19 I've spoken here before, before this group
20 and I'm proud, I'll really proud that you've done what
21 you've done and I just hope that we can avoid because
22 this egg is about to hatch and it seems there's a lot of
23 people out there trying to find the most vicious fox
24 they could find to throw in the coop. We have to make
25 sure this doesn't happen. Give it a chance.

1 Okay, thank you very much.

2 DR. GARTNER: Mr. Chairman, there are no
3 further names, but before you ask for the motion to
4 adjourn, I would like to acknowledge the extraordinary
5 work that Linda Fisher, our stenographer, has done.

6 (Applause.)

7 MS. FISHER: Thank you.

8 CHAIRMAN MACCHIAROLA: I'd also like to
9 express my thanks to the public for its participation in
10 these hearings. To my fellow Commissioners, whose
11 display of fortitude has been outstanding, the work that
12 you've done with the public, as well as everyone else.
13 To our staff who have done fine work, to our Executive
14 Director who I think everyone knows was featured in
15 today's Times and I say that not as someone who is glib,
16 but in my thoughtful disposition.

17 So with that, thanks, Frank and Anthony and
18 others. I will adjourn this if I have a motion.

19 Do I have one? Kathryn.

20 COMM. PATTERSON: So moved.

21 CHAIRMAN MACCHIAROLA: We have a meeting on
22 Monday.

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

24

25