

1 CHARTER REVISION COMMISSION
2 ADOPTION OF FINAL REPORT and
3 BALLOT QUESTIONS
4 PUBLIC MEETING
5 BARUCH COLLEGE
6 55 LEXINGTON AVENUE
7 NEW YORK, NEW YORK
8 AUGUST 23, 2010
9 6:06 P.M.

10 CHAIR: DR. MATTHEW GOLDSTEIN

11 COMMISSION MEMBERS:

12 JOHN H. BANKS, VICE CHAIR

13 ANTHONY PEREZ CASSINO

14 BETTY Y. CHEN

15 DAVID CHEN

16 HOPE COHEN

17 ANTHONY W. CROWELL

18 STEPHEN FIALA

19 ANGELA MARIANA FREYRE, SECRETARY

20 ERNEST HART

21 REV. JOSEPH M. McSHANE, S.J.

22 KENNETH M. MOLTNER

23 KATHERYN PATTERSON

24 CARLO A. SCISSURA

25 BISHOP MITCHELL G. TAYLOR

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CHAIRMAN GOLDSTEIN: Good evening, ladies and gentlemen. Welcome to the third iteration of our public meetings at Baruch College. We thank the administration for their hospitality, and it's good to see all of you tonight.

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We have a busy agenda, and before the Commission gets to the work that we need to complete this evening, and our task is largely about approving the Final Report of the Commission, but before we actually get to that I want to give an opportunity to hear from the communities. So we will reverse our processes this evening by first going to the public, listening to the public's concerns and ideas and recommendations, and then we will quickly revert back to an internal discussion. Certainly everybody is welcome to stay for that.

But before we start let me ask that the members of the Commission that are here with us this evening identify yourselves and then we will call the first person who signed up to testify.

Let me again say that we will restrict testimony to three minutes, because we have, as I've said, a busy agenda item tonight.

1 As all of our forums have been, we are
2 having CUNY TV broadcast these deliberations.
3 It's also available on the Internet, Facebook and
4 Twitter, so we continue to utilize technology in
5 ways to bring these proceedings and to hear from
6 the public that for reasons known only to
7 themselves would not be able to be with us this
8 evening.

9 So with that let me start with my colleague,
10 Commissioner Hope Cohen.

11 COMMISSIONER COHEN: That's me. Good evening,
12 Hope Cohen.

13 COMMISSIONER MOLTNER: Good evening. I'm Ken
14 Moltner.

15 COMMISSIONER CASSINO: Good evening, Tony
16 Perez Cassino.

17 COMMISSIONER McSHANE: Good evening, Joe
18 McShane.

19 COMMISSIONER FREYRE: Angela Mariana Freyre.

20 COMMISSIONER PATTERSON: Katheryn Patterson.

21 COMMISSION FIALA: Good evening, Steve Fiala.

22 COMMISSIONER TAYLOR: Bishop Taylor.

23 COMMISSIONER HART: Ernie Hart.

24 EXECUTIVE DIRECTOR GOODMAN: Lorna Goodman.

25 DEPUTY DIRECTOR MARKOVITZ: Ruth Markovitz.

1 GENERAL COUNSEL SCHAFFER: Rick Schaffer.

2 RESEARCH DIRECTOR VITERITTI: Joe Viteritti.

3 SENIOR ADVISOR HERSHENSON: Jay Hershenson.

4 CHAIRMAN GOLDSTEIN: I'd like to acknowledge
5 my good friend, Father McShane, who is among many
6 other wonderful attributes is president of a
7 great university, and I'm just going to put this
8 hat on just for a second. Go Fordham.

9 COMMISSIONER McSHANE: Thank you very much.

10 CHAIRMAN GOLDSTEIN: Beautiful hat.

11 (Applause.)

12 COMMISSIONER McSHANE: CUNY Television will
13 not show him with that hat on, I'm sure.

14 COMMISSIONER BANKS: Mr. Chairman, as a
15 Fordham graduate, I oppose any blatant
16 hucksterism for my competitors for my competitors
17 from the Bronx. Are you kidding me?

18 CHAIRMAN GOLDSTEIN: Magna cum laude, I'm
19 sure no less.

20 Matt Gorton, I need a list. If you could
21 help me with that so I know who has signed up.

22 Carl Person. Do I have that right?

23 MR. PERSON: That's correct.

24 CHAIRMAN GOLDSTEIN: Welcome, Mr. Person.

25 MR. PERSON: Thank you very much. My name

1 is Carl Person, and I'm the Libertarian Party
2 candidate for Attorney General.

3 Today I brought an action against the City
4 Council because of things that I think are very
5 bad. And the action that I brought was with
6 respect to the slush fund that really has
7 crippled the members of the City Council, giving
8 in effect a dictator of New York City, because we
9 don't have a Council to put the Mayor in check.
10 So I have brought a lawsuit to try to enjoin
11 that.

12 The things that I've seen that I don't like
13 are, for example, the failure to have an
14 Environmental Impact Statement prepared and
15 published and reviewed with respect to all the
16 changes that are going on with the street
17 traffic, putting parking lots in the middle of
18 the road. Has anyone really approved that in the
19 Council? I mean, don't we have higher costs of
20 cardiac arrests of people that can't get to the
21 hospital in time?

22 We have a mayor that's deliberately creating
23 congestion in New York City for the purpose for a
24 (inaudible) purpose of charging perhaps \$25 to
25 enter New York City during rush hours.

1 We ought to have the City Council truly vote
2 on something like that, but they've been disabled
3 from doing that, so I brought the action to try
4 to stop that.

5 I also think that you should consider
6 putting in a person similar to someone with my
7 skills as a City Attorney General. I tried to
8 have a petition to include that with the 9/11
9 petition that I would have been named as the City
10 Attorney General. You need somebody to go into
11 Court and try to oppose things that are illegal.
12 You need checks and balances, and I think the
13 (inaudible) coming up here doesn't have
14 sufficient checks and balances. So I think you
15 out consider how you can have a viable City
16 Council, eliminate slush funds, make it illegal,
17 don't allow the City Council to overrule the vote
18 of the people; put in a provision of at least ten
19 years before they have the right to reverse what
20 the public has done. Thank you.

21 CHAIRMAN GOLDSTEIN: Thank you, Mr. Person.
22 Julian Danachyd.

23 MR. DANACHYD: I Pass.

24 CHAIRMAN GOLDSTEIN: You're going to pass?

25 MR. DANACHYD: Yes.

1 CHAIRMAN GOLDSTEIN: Howard Schoor? Is that
2 an S?

3 MR. SCHOOR: S-C-H-O-O-R.

4 Just one question first. Do the witnesses
5 get a baseball hat, too?

6 CHAIRMAN GOLDSTEIN: You'll have to speak to
7 a higher authority than me.

8 MR. SCHOOR: I didn't think there was
9 someone in a higher authority.

10 COMMISSIONER McSHANE: Only if you swear a
11 allegiance to whatever public school you went to.

12 MR. SCHOOR: My name is Howard Schoor. I am
13 the Brooklyn Borough Representative of the UFT,
14 and for the past four years I have been the point
15 person in the UFT's efforts to organize and
16 negotiate a first contract for approximately 300
17 per session Hearing Officers employed as
18 Administrative Law Judges at the City's
19 Environmental Control Board, the Department of
20 Health, the Taxi and Limousine Commission.

21 I'm here to speak on the Charter Revision's
22 proposal for consolidation of the City's
23 Administrative Tribunals, which would
24 significantly impact the functioning of these
25 agencies ways that are deeply troubling and

1 problematic for the following reasons:

2 1. There is no evidence that consolidation
3 will result in a more efficient operation or
4 reduce costs. The Commission proposes to give the
5 Mayor a free hand to reorganize his supposedly
6 streamlined operations at the existing Tribunals.
7 The current proposal would authorize the Mayor to
8 merge the City's various Administrative Tribunals
9 under the Office of Administrative Trials and
10 Hearings by means of executive order. But since
11 last year, the ECB, which is the largest of the
12 City's tribunals, has been functioning under the
13 jurisdiction of OATH. Despite promises from the
14 person responsible that such transfer of
15 authority would enable ALJ's to be better
16 trained, treated more professionally and have
17 access to the latest technology, there has been
18 no demonstrable improvement in these areas.
19 Rather, we have seen the growth of more
20 high-paying managerial positions at ECB, while
21 the wait time at ECB offices has increased and
22 the support staff and roster of Hearing Officers
23 working each day has been cut.

24 2. There is no reason to believe that
25 consolidation would foster independence or

1 impartiality within the tribunals.

2 The Commission offers the need to increase
3 the appearance of impartiality and independence
4 as the basis of consolidation of tribunals. We
5 agree that this need exists, but consolidation is
6 not the means to that end.

7 One of the reasons these per-session Hearing
8 Officers voted to unionize was to obtain the due
9 process rights of job protection. Currently, they
10 have no right to a hearing prior to being
11 disciplined or terminated, and they can be
12 disciplined or terminated without cause. As a
13 result, these ALJ's, who are treated as at will
14 employees, have no assurance that they will not
15 be penalized for making a decision that is
16 adverse to the City.

17 The public needs hearing officers who have
18 the freedom to decide cases in an atmosphere free
19 from pressure or possibility of retaliation. It
20 makes no difference whether the tribunals are
21 located within the same city agency that issues
22 the ticket or whether the tribunals are
23 transferred to supposedly independent agency like
24 OATH. As long as the Hearing Officers remain
25 without wage protection, the public does not have

1 the guarantee of impartiality it deserves.

2 Consolidation of tribunals would create the
3 appearance -- can I continue?

4 CHAIRMAN GOLDSTEIN: Finish.

5 MR. SCHOOR: Okay. Thank you.

6 CHAIRMAN GOLDSTEIN: Last phrase or two.

7 MR. SCHOOR: Okay. Thank you. The
8 appearance of efficiency while sacrificing talent
9 and expertise. Currently, the separate tribunals
10 are staffed largely by Hearing Officers who have
11 worked for years at the same tribunal and who
12 have a thorough working knowledge of the legal
13 issues presented at each hearing. Consolidation
14 of the tribunals will open the door for hearing
15 officers to be dispatched based upon the
16 convenience or whim of a central bureaucracy
17 without consideration for the level of expertise
18 each judge possesses. For example, the Hearing
19 Officers who have adjudicated cases at TLC would
20 be sent to hear Building Code cases, regardless
21 of that Hearing Officer's training, simply
22 because staffing levels dictate such an
23 assignment.

24 4. There is no basis for granting the Chief
25 ALJ authority to prescribe alternative

1 qualifications for Hearing Officers. If the goal
2 as stated by the Commission is to increase the
3 appearance of impartiality, then surely this is
4 not the way to achieve it.

5 The Commission's proposal raises the specter
6 of Hearing Officers being hired for political
7 patronage rather than based upon their skills or
8 experience as attorneys. The public should be able
9 to have confidence that when they are required to
10 appear at hearings the ALJ conducting that
11 hearing will have been hired because of their
12 talents, and not based upon whom he or she knows.

13 CHAIRMAN GOLDSTEIN: Thank you, Mr. Schoor.

14 MR. SCHOOR: I will submit the rest of my
15 statement. Thank you.

16 CHAIRMAN GOLDSTEIN: Thank you for your
17 testimony.

18 Allen Bortnick. Is it B-O-R?

19 MR. BORTNICK: Yes, sir. I was told to bring
20 15 copies here for distribution.

21 CHAIRMAN GOLDSTEIN: Thanks.

22 MR. BORTNICK: I'll leave them here. They
23 can pass them down to each of the members.

24 CHAIRMAN GOLDSTEIN: If we need more.

25 MR. BORTNICK: I guess you can make it.

1 With no disrespect, if I may, out of
2 curiosity, how many of you here on the
3 Commission, after you hear the testimony, are
4 willing to make changes in what you have written
5 so far?

6 UNIDENTIFIED VOICE: None. Wow.

7 CHAIRMAN GOLDSTEIN: The point of these
8 proceedings is to influence and to moderate some
9 of our thinking. So it's certainly not a
10 specious exercise, Mr. Bortnick, so why don't you
11 continue.

12 MR. BORTNICK: Well, if that's the case then
13 I have to say the Commission, instead of being a
14 Charter Revision, may best be called Charter
15 Recission.

16 My next few words here come courtesy of
17 Henry Stern from StarQuest, part of New York
18 City. If you're interested you can always receive
19 his E-mails. All you have to do is call 212-564-
20 4441. He'll sign you up.

21 In September of 2008, when it was too late
22 for anyone to place a Charter amendment on the
23 ballot, Mayor Bloomberg proposed that the Council
24 through the Charter amendment overriding the two
25 voter public referenda in the '90s and providing

1 third-term eligibility for themselves.

2 Logically, the effective date should be the
3 next election for Council Members, scheduled for
4 2013. However, an effort has been made to
5 grandfather only those Council Members elected in
6 2005 so they'll be able to maintain the office
7 until 2017. Even if the public votes in 2010 for
8 a two-term limit that would be an enormous
9 injustice. They're seeking to create yet another
10 loophole grandfathering themselves into third-
11 term eligibility, and this would again frustrate
12 the will of the voters if they support a limit of
13 two terms with which polls indicate 71 percent of
14 the voters agree.

15 If the Commission and its members seek to
16 retain their good reputations for integrity and
17 independence, they cannot allow this scheme to
18 succeed. Now is the time to close the door on
19 this unfortunate chapter in New York political
20 history. Close the barn door.

21 Conclude this matter in 2011 rather than
22 stooping to reward a handful of self-serving
23 Council Members who desire to linger generating
24 the problem.

25 That's what Mr. Stern had to say. And I

1 have a question. I wonder how they could give
2 themselves a nearly \$30,000 raise when that's
3 considered illegal by all of the laws.

4 With regard to what you've done, Part 1,
5 Term Limits, it is a very confusing written
6 statement. I suggest you reword it before you put
7 it out to the public. Part 2, Increasing Voter
8 Participation. It should have in there Voter
9 Interest in Participation, because it's not a
10 question of whether they vote; they have no
11 interest left anymore.

12 Part 2(b) Decreasing the Number of Petition
13 Signatures Necessary to Appear on the Ballot. I
14 run a petitioning operation. I wish you would
15 put me out of business. 28 states allow
16 candidates to run by paying a set fee, and they
17 don't have to waste all that time between
18 petitioning and hoping they're not thrown off the
19 ballot because of challengers.

20 The only other words I have are regarding
21 ballot disclosure. It should be done annually.
22 Every single penny that a Council Member gets
23 should be itemized and listed to show what he
24 got, where it was spent. This should be put out
25 annually, because there's a hell of a lot of

1 cheating going on, and the only way to find it is
2 on paper with number.

3 I have other submissions here, which you
4 have, which I'm not going to read. Thank you for
5 being able to speak.

6 CHAIRMAN GOLDSTEIN: Thank you, Mr. Bortnick.

7 Our next speaker is Dan Jacoby. Dan Jacoby?

8 MR. JACOBY: Yeah. Hi. My name is Dan
9 Jacoby. I'm the Executive Director of
10 GrassrootsNYC. GrassrootsNYC has reviewed all 11
11 proposals this Commission intends to put on the
12 ballot, and we have three recommendations for
13 tonight's hearing.

14 First, do not lump any proposals together.
15 Voters should have the right to pick and choose
16 which specific things they like and which ones
17 they don't. Often in politics, when an
18 influential special interest group want to get
19 something done that is rightfully unpopular, they
20 attach it to something that is too popular to
21 reject. Don't make the same mistake. Give us
22 the opportunity to vote separately on each
23 proposal.

24 Second, one proposal must be withdrawn
25 because you don't have the power to make this

1 change. I speak of the proposal to cut the
2 number of ballot petition signatures in half. The
3 number of petition signatures is set under State
4 Election Law, Article 6, Section 136, subdivision
5 2, paragraphs a, b, c and c-1.

6 Now, in your preliminary Staff Report you
7 claim that you can override state law because of
8 a 1927 court decision that allows cities
9 sometimes to override state law when dealing with
10 their own municipal elections. But a court
11 didn't say a city could override a law aimed
12 expressly in that particular city, which is what
13 these paragraphs do.

14 Then, in your draft Proposed Amendments
15 Report you rely on section 1-101 of State
16 Election Law, which says that when another law
17 states conflicts with state Election Law the
18 other law takes precedence unless the particular
19 state Election Law says that it shall apply
20 "notwithstanding any other provision of law."

21 By your interpretation, however, any city,
22 town or village can override any state Election
23 Law unless that specific part of the law has that
24 little phrase, and that's a ridiculous
25 interpretation.

1 In short, you're attempting to use an
2 irrelevant court decision, or a weak, silly
3 interpretation of state laws to support something
4 you don't have the power to do.

5 Third, you should hold more public hearings
6 after you release your Final Report. That report
7 will be the first chance the public gets to see
8 the specific proposals, actual wording, et
9 cetera. You should hold at least one public
10 hearing, and preferably several, to jump start
11 the debate and to get the news coverage that
12 these proposals need and deserve.

13 GrassrootsNYC supports 5 and opposes 6 of
14 your 11 proposals. Details can be found on our
15 Web site at www.GrassrootsNYC.org.

16 Meanwhile, the three main messages tonight
17 are (1) don't lump proposals together, (2) get
18 the illegal proposal off the ballot, and (3) hold
19 more hearings to jump start debate. Thank you.

20 CHAIRMAN GOLDSTEIN: Thank you very much.

21 Mr. Howard Yournow? Do I have that?

22 MR. YOURROW: Yourow. Thank you, Mr.

23 Chairman. My name is Howard Yourow, Historic
24 Districts Council and Chair of the Friends of the
25 Hall of Fame For Great Americans at Bronx

1 Community College, speaking in my personal
2 capacity.

3 I would like to, with your permission, also
4 read into the record some words of that keen
5 student of municipal government, Henry Stern,
6 from his blog last week on the term limits issue
7 and I quote: "If the people are to regain the
8 right to limit Council Members' terms, their
9 decision should be put into effect at the next
10 Council election, which may be in 2011 or 13,
11 depending on when the census data is reported.
12 The eight-year delay appears to be an attempt to
13 subvert the Commission's own decision, which its
14 members may not have been too happy to make, some
15 of them being creatures of the comfortable
16 establishment, quite content to see members
17 linger in office until they are thoroughly
18 superannuated. This is hard to understand. If a
19 matter is submitted to referendum, as this issue
20 will be in 2010, the decision of the people,
21 whatever it may be, should go into effect as soon
22 as possible. If the matter involves eligibility
23 for election, it should go into effect for the
24 election immediately following referendum. The
25 eight-year delay of eligibility -- of

1 ineligibility," sorry, "not allowing it to go
2 into effect until 2021 makes no sense. First, it
3 is an invitation to change the Charter again
4 within the next ten years to repeal or further
5 extend term limits. Second, it unjustly allows
6 incumbents to seek third terms when the people
7 have again rejected such privilege for a handful
8 of officeholders. Third, at the very least, the
9 public should have the opportunity to vote on
10 whether the Charter change goes into effect at
11 the next election or not until 2021. The right to
12 decide this issue is snatched from the public by
13 the 2008 self-perpetuating dance of the
14 incumbents. The proposed Charter change restores
15 that right to the people. It is a normal
16 expectation for Charter changes to go into effect
17 as soon as practicable. Whether the effective
18 date of this restoration of voting rights should
19 be delayed by ten years is a separate issue which
20 the public has a right to decide. The Charter
21 Commission has generally done good work, and its
22 members have served long hours without pay. We
23 do not suggest that they are corrupt or derelict
24 in their responsibilities. But the ten-year
25 delay in implementing the public's decision on

1 term limits is in inexplicable. Such a time-
2 consuming process is not only unnecessary but
3 insulting to the public. If we are capable of
4 deciding how many terms our elected officials can
5 say serve, we are capable of deciding, if we
6 choose to, that our wishes shall go into effect
7 at the next election for Council Members, not a
8 decade into the future. There's still time for
9 the Commission to correct what appears to be a
10 manifest error. We hope they do so in order for
11 voters to make their decision effective, whatever
12 it maybe. It will require leadership by the Chair
13 and farsighted Commissioners to modify the
14 mandatory ten-year delay. Otherwise, because of
15 the rule of law and returning the decision on
16 term limits to the voters will have been
17 subverted. That would lead to a loss of
18 confidence in the Commission and the important
19 issues it is expected to consider in 2011."
20 Thank you, sir.

21 CHAIRMAN GOLDSTEIN: Thank you. Mr. Yurnow.
22 Emily Lyon. Is it Leon or Lyon?

23 MS. LYON: Lyon.

24 CHAIRMAN GOLDSTEIN: Welcome.

25 MS. LYON: Thank you. I am here to urge the

1 Commission (inaudible) on the City's zoning laws.
2 All over this City our neighborhoods are being
3 desecrated by skyscrapers in low-rise
4 neighborhoods. We are facing this particularly
5 in our own neighborhood, West 15th Street, 16th
6 Street in Manhattan, where a proposed 30-story
7 mega skyscraper is going to rise above buildings
8 that are about a quarter of its size. This has
9 slipped in with very little review and no
10 environmental impact study because there are
11 loopholes in the zoning laws none are required.
12 Very few people in the neighborhood know about
13 this. This is an abomination in this City.
14 Unfortunately, it (inaudible) literally going up
15 in my backyard. But all over this City these
16 buildings are going up, and everybody keeps
17 turning around and saying, "How is this
18 happening?"

19 We need your help. We need these laws to be
20 reviewed. They have not been reviewed. They
21 have not been revised in 40 years. Please give us
22 your utmost attention. Thank you.

23 CHAIRMAN GOLDSTEIN: Thank you, Miss Lyon.

24 Leida Snow.

25 MS. SNOW: I'm going to pass.

1 CHAIRMAN GOLDSTEIN: Pass.

2 Lou Sepersky.

3 MR. SEPERSKY: Pass.

4 CHAIRMAN GOLDSTEIN: Jim Fouratt,

5 MR. FOURATT: Commissioners, my name is Jim
6 Fouratt. I'm an average citizen trying to run
7 for office against the Speaker. I have a bad
8 experience. I have some things I'd like to tell
9 you. Number one, I'm opposed to term limits. But
10 there's no place for me to put that into the
11 discussion. And I don't think you can talk about
12 term limits without talking about campaign
13 financing. They go hand in hand, and you're
14 making this separate categories where people have
15 to make decisions, it's really unfortunate.

16 I saw what happened in my district. I've
17 lived in the West Village for 50 years. I saw my
18 City Council person in her second term abandon
19 her district as she was trying to position
20 herself for higher office. She's now in her
21 third term doing that once again. Prime example
22 is the closing of a hospital in her district,
23 totally silent. (Inaudible).

24 So I'm asking you to be very careful about
25 what you're putting into actual practice.

1 I will tell you that when I ran for office I
2 ran against someone who suddenly had another
3 term. There were numbers of us who were going to
4 run for that open seat. We were given no choice,
5 we were at a great disadvantage. You cannot,
6 cannot, cannot, the average citizen who wants to
7 run for office, with the way it is financially
8 set up with good financing campaign laws that we
9 have here, but it still entitled to (inaudible).

10 Please do not lump all of these proposals
11 together. Transparency means transparency. It
12 will confuse the public. Just lays over them,
13 really not understand them and (inaudible)
14 perhaps in good way or bad way, whatever. Your
15 responsibility is to make this much (inaudible)
16 as possible so the average citizen who votes will
17 have the opportunity to both understand and make
18 a decision. Lumping them together looks like the
19 old practices of machine politics. It could say
20 that something controversial is hidden away in
21 this lumping of these things together. So
22 please, don't give more time to people like you
23 gave to my City Council person and Speaker Quinn.
24 Don't do that.

25 CHAIRMAN GOLDSTEIN: Thank you.

1 I would like to acknowledge that
2 Commissioner Carlo Scissura is with us by
3 telephone. He unfortunately could not be here
4 this evening.

5 I'd like to now bring to the microphone
6 Public Advocate Bill de Blasio. Is he here? Here
7 he is. Thank you.

8 PUBLIC ADVOCATE DE BLASIO: Thank you, Mr.
9 Chairman. I want to thank you for the opportunity
10 to testify tonight. I want to thank you and all
11 the members of the Commission for the diligence
12 and the deep consideration that you've shown over
13 the last several months. New Yorkers have
14 depended on the work you've been doing, and I'm
15 gratified that you have made this a very
16 deliberative, transparent, and, most importantly,
17 independent process. And I think it's been
18 commendable. Thank you.

19 I'd like to applaud your recent
20 recommendation to forego a ballot question on
21 nonpartisan elections that would have threatened
22 the inclusiveness, the diversity of our electoral
23 process, and that decision promises to help limit
24 influence of wealth in our political system. It
25 also demonstrated the clear independence of this

1 Commission.

2 It's been my hope in the beginning that
3 through your work here you could help to undo
4 some of the damage to the public trust that was
5 wrought by the 2008 decision to extend term
6 limits. In placing the issue of term limits
7 squarely on the ballot and giving New Yorkers the
8 right to finally express their will, you will
9 have put us on a path to restoring the public's
10 faith in local government. And I applaud your
11 decision to put term limits on the ballot and to
12 remove the ability of the City Council and the
13 Mayor to extend their own terms without the
14 consent of the people.

15 I do want to express my concern about recent
16 reports that tonight you might reopen the
17 discussion of your decision regarding the
18 effective date of the new term limits.

19 As I mentioned in my letter to the
20 Commission last week, I respect your previous
21 decision to allow all currently serving elected
22 officials to run for a third term. I realize the
23 difficulty the Commission faced in reaching some
24 kind of consensus on such a contentious issue.
25 And I witnessed the openness the Commission

1 Members showed to alternative viewpoints in that
2 discussion, such that you were able to find the
3 solution which commanded the majority of your
4 votes.

5 At this point, I believe preserving the
6 integrity of this process and the independence of
7 the Commission that it has shown so far is what
8 matters most, and I encourage you to approve the
9 following ballot questions consistent with your
10 August 11 vote.

11 Finally, I just want to note that in the
12 2000 election fewer New Yorkers went to the polls
13 than at any time since 1917, and that in fact was
14 the last election before women won the right to
15 vote.

16 Tonight, I urge the Commission to help us
17 rebuild the public trust broken in 2008 by making
18 yet another demonstration of your independence
19 and standing firm to your decisions. Thank you
20 very, very much.

21 CHAIRMAN GOLDSTEIN: Thank you, Mr. De
22 Blasio.

23 Cathy Stewart.

24 MS. STEWART: I'm deferring, Chairman.

25 CHAIRMAN GOLDSTEIN: You're going to?

1 MS. STEWART: I'm not going to testify.

2 CHAIRMAN GOLDSTEIN: Okay. Now, the next
3 person I know is not going to pass. Frank
4 Morano. Frank, is he with us?

5 (Mr. Gorton and the Chairman confer.)

6 CHAIRMAN GOLDSTEIN: Henry Stern?

7 MR. STERN: May it please the Commission. I
8 want to start by complimenting Chancellor
9 Goldstein on his magnificent stewardship of the
10 City University. He's done an enormous good for
11 the City. And before this Commission I thought
12 he was a potential mayoral candidate.

13 Now, here's the problem. The Commission is
14 composed of members with various levels of
15 sophistication and awareness and that's
16 indefatigably so.

17 (Inaudible.)

18 Let me read from the City Charter
19 (inaudible) Chapter 2, Council, Section 38, the
20 Council cannot abolish "an elective office, or
21 changes the method of nominating, electing or
22 removing an elective officer, or changes the term
23 of an elective officer, or reduces the salary of
24 an elective officer during his or her term of
25 office."

1 In other words, the Council cannot
2 unilaterally interfere with the electoral
3 process. That is exactly what they did in
4 September. The obvious intent is to forbid that.
5 They didn't specifically forbid it because it
6 wasn't contemplated at the time that people would
7 have the nerve to overrule the people to increase
8 their own eligibility. That's the only reason
9 it's not specifically forbidden in the Charter.

10 I regard the decision in September as a
11 theft of services. The people creating
12 eligibility in their own interests. Now, there's
13 some justification for the Mayor doing it because
14 the Mayor provides valuable services to the City.
15 There's an existential argument that a third term
16 for Mayor Bloomberg is in the public interest. I
17 think so too. I voted for him. However, that
18 doesn't apply to the Council Members. The only
19 reason they're in is because their votes were
20 necessary to pass the extension, and they were
21 there for completely self-serving, and bought
22 themselves an extra four years at a \$112,500 a
23 year, plus lulus, plus all kinds of other
24 privileges. Alright. They did it and they got
25 away with it for four years. Now, the outraged

1 public protested, demanded the appointment of the
2 Charter Commission to be done, and the Commission
3 has undone some of this by its recommendation.
4 But it's mysteriously given the wrong group in
5 fact another eleven years. Imagine (inaudible).

6 I think that by giving them, in effect,
7 staying your decision and you have, you become
8 accessories after the fact. Theft of services
9 that was before performed by the Council Members.
10 It's like having committed the wrong, you now
11 have to make sure that all of the people who
12 participated in the outrage, who voted to extend
13 their terms, get away with it and get a third
14 term for themselves. It seems the (inaudible)
15 and that's what the Commission is doing then they
16 knowingly (inaudible).

17 It's not the end of the world. It's just
18 something that is sinful and wrong and rejected
19 by the people (inaudible). And not only lowers
20 people's confidence in government, it lowers
21 people's confidence in those members of the
22 Commission who have a public reputation because
23 you renewed that faith. That's why there were two
24 editorials in the Daily News urging you not to do
25 it. I don't write for the Daily News. I have no

1 influence. I didn't speak to them. But the
2 public as a whole is outraged at what's being
3 done. You don't see it. You're blinded by power.
4 You're insiders. That's why the Mayor appointed
5 you. You profess (inaudible).

6 You were right on nonpartisan elections only
7 (inaudible). I voted for it. I think it's a
8 good idea. I disagree with Mr. Morano. But it's
9 just sad. You get the chorus of us who come up
10 here. Most of it is a freak show of people who
11 have individual complaints or grievances and you
12 give them the freedom to express them. But I
13 believe that essentially an injustice has been
14 done, that you wronged the people of the City of
15 New York by this extension, and that as people of
16 conscience you should not do it. Let the people
17 decide at the very least. If you think they
18 should serve longer, put that question up to the
19 people. Put a separate referendum up to the
20 people when this should take effect, in 2011,
21 2017 or 2021. Let them decide. Instead of
22 abrogating to yourself the way things will be for
23 the next eleven years. Thank you.

24 CHAIRMAN GOLDSTEIN: Mr. Stern, thank you
25 very much for your testimony. We appreciate that.

1 We have to just go on.

2 MR. STERN: Of course.

3 CHAIRMAN GOLDSTEIN: Thank you.

4 Michael Farrin. Mr. Farrin, do I have
5 that pronounced --

6 MR. FARRIN: Yes, you did. Thank you.

7 My name is Michael Farrin I'm the Democratic
8 State Committeeman for the 74th Assembly
9 District.

10 I'd like to speak in opposition to the
11 recommendations to reduce the signature
12 requirements. Neither the Preliminary Report of
13 July 9 nor the Draft Proposal of August 11 has
14 the Commission shown an on the ground knowledge
15 of how petitioning, petition challenges, actually
16 work for New York City today. For the picture of
17 how things work both documents rely exclusively
18 on the shoddy and biased reporting in three
19 articles from the Citizens Union's Gotham
20 Gazette. In "Understanding the Labyrinth" the
21 authors claim that errors disqualifying petition
22 signatures "can include unclear handwriting for
23 the absence of a zip code." In truth, unclear
24 handwriting disqualifies signature only in those
25 very rare instances where nothing in the

1 signature or address gives any clue as to the
2 signer's identity. And zip codes are not required
3 signatures at all. There are a number of other
4 articles, I could go on at length, but I'll skip
5 those.

6 In addition to errors of fact, there are
7 articles of these, the authors of one of these
8 articles biased this argument by selecting as
9 there only examples two cases involving special
10 elections, which are hardly typical of the
11 electoral process. The Commission addressed
12 problems in that area.

13 The Gazette and Citizens Union, like many
14 good government groups, seem to be working with
15 the mistaken assumption that petition challenges
16 are brought always by party machines and are
17 always in indefensible. To support this view,
18 they cling to this David and Goliath "Mr. Smith
19 goes to Washington" script and because they hold
20 themselves above the fray cannot correct
21 themselves. Against this skewed take on reality,
22 I offer the petitioning and petition challenges
23 are an integral and defensible parts to the
24 democratic electoral process in New York.
25 Successful petitioning demands hard work and

1 organization and demonstrates a candidate's base
2 of support in the community, particularly when
3 the petitioners are unpaid volunteers as they
4 often are in insurgent campaigns. Thus
5 petitioning requirements can be seen to serve a
6 positive gatekeeping function. Clearly, the
7 ballot cannot include just anyone who takes it
8 into his or her head to run. There's no
9 absolutely right to be on the ballot. There is
10 the right only to ballot access, subject to
11 provisions of the Election Law, to be fair in
12 both substance and application. When the ballot
13 lengthens and begins to resemble a telephone
14 book, it paradoxically reduces voter choice and
15 so undermines democracy. A voter's reasoned
16 decision on the merits becomes ever less possible
17 as candidates multiply.

18 I'll hurry up. For more on this paradoxical
19 effect, candidate choice, I recommend the work of
20 Sheena Iyengar of Columbia University. I also
21 make a point in that in smaller districts with
22 local races, although sometimes these districts
23 are the size of a city like Syracuse, very little
24 media coverage is given there. And in (inaudible)
25 ideal that makes for voters' reasoned decision

1 all that much more difficult. I also want -- I
2 have about three points I'd like to summarize
3 here --

4 CHAIRMAN GOLDSTEIN: Mr. Farrin, do you have
5 any written testimony?

6 MR. FARRIN: I do. I E-mailed it earlier in
7 the day to the Commission. I brought two hard
8 copies with me.

9 CHAIRMAN GOLDSTEIN: We have to get on. Your
10 time has expired. Thank you very much.

11 MR. FARRIN: Thank you very much.

12 CHAIRMAN GOLDSTEIN: Our next speaker is Gwen
13 Goodwin.

14 MS. GOODWIN: Sorry I didn't get more
15 dressed up tonight.

16 I heard Henry Stern this morning on WBAI,
17 and he said, "Come a running" and I did.

18 My name is Gwen Goodwin, and I ran for City
19 Council in 2009, and I also Chair the Coalition
20 to Save P.S. 109.

21 I think we've had some really eloquent
22 speakers here tonight, and I really, really hope
23 that you will do more than just listen. These
24 issues are very serious. And maybe they're not to
25 you because many, many of you have much more

1 money than the place where I come from, East
2 Harlem, where there's so many poor people. And
3 for me, living through this Mayor has been an
4 exercise in being frustrated all the time and
5 feeling powerless.

6 If you wonder why nobody came to the polls
7 it's because everyone knows these are all dog and
8 pony shows. And I'll probably hear another one
9 tonight, but I haven't totally given up on the
10 system. I really love this City. I'm sorry,
11 there has to be a better way of going.

12 I came to speak against the Mayor to get
13 another term. And it was so unbelievable to me
14 the arrogance of this City Council that they
15 usurped my right as a voter in New York City and
16 told me how it's going to be. Now, if you don't
17 think that it's just -- there are many, many
18 people that are thinking just like myself, all
19 you have to do is turn on Channel 1. You can
20 hear a lot of intelligent people speaking about
21 this. The voters do understand it. We hate it. I
22 think it's terrible that we're going to go ahead
23 and allow there to be a push on the ballot for
24 term limits. We're going to tell people: "You
25 have to wait eleven years for it to kick in."

1 This is unbelievable.

2 I mean, when they adopted to give the Mayor
3 an extra time he got it immediately. We are
4 frustrated. We need a change. We cannot have
5 the City by the rich, for the rich, any longer.
6 You're killing us. You're killing us. And I
7 promise you, the next election you're going to
8 see even less people come out, because no one
9 feels enthused about watching people step on us.

10 As far as the City, about the tall glass
11 buildings and the rezoning's, I live in East
12 Harlem, where we've been rezoned river to river
13 now, and the face of Harlem, of East Harlem, has
14 completely changed. And I suppose that most, if
15 not all of you, are completely for that. But
16 you're running over us like a Mack truck, and you
17 don't look at the faces, the hurt and the pain
18 that you're going to cause people. Everyone
19 deserves to be able to have a vote and have their
20 voices count.

21 Every small candidate, like myself, have a
22 right to continue to run. I will run until I win.
23 Came in third place last time out of five with
24 only \$4,000, so it gives me a little hope that
25 maybe real people can be listened to. But I think

1 that my thoughts, not just my thoughts, you're
2 going to hear many, many more people, if you come
3 out and talk to people in New York City. Talk on
4 the subway, talk on the bus, do what I do.
5 Listen to what people say. They don't like it
6 and they're getting more and more angry. And I'm
7 just afraid what's going to happen at the end of
8 all this is massive violence, because people are
9 getting tired of being taxed to death and told --
10 you know, our apartments are more and more in
11 danger. Our buildings are being knocked down,
12 and our neighborhoods are being taken out by
13 glass towers. Please show some humanity in your
14 vote tonight.

15 CHAIRMAN GOLDSTEIN: Thank you, Miss Goodwin.
16 I appreciate those remarks.

17 Peter Anderson is our next speaker.

18 MR. ANDERSON: Decline.

19 MR. BORTNICK: Privilege, Mr. Chairman, if I
20 could have a brief second to respond to
21 Mr. Farrin on how wrong he is on the issues he
22 brought up?

23 CHAIRMAN GOLDSTEIN: Let's move on to Roxanne
24 Delayo?

25 MS. DELGADO: Delgado.

1 CHAIRMAN GOLDSTEIN: Delgado.

2 MS. DELGADO: Hi. There is no Democracy in
3 this City when a few dictate against the
4 majority. I find it insulting that some of the
5 Commissioners stated that the people voted term
6 limits based on their emotions and their lack of
7 knowledge between state and local governments.

8 There are several strong arguments for term
9 limits. The lack of respect of this state for the
10 public (inaudible) has been demonstrated in the
11 Commission's words and actions throughout this
12 process.

13 Why do you think your opinions weigh more
14 than the other millions of voters in this City?
15 Why should you decide what term limits are
16 enacted and who they shall apply? What's the
17 purpose of term limits question on the ballot
18 when they won't be fully enacted until 2021?

19 My City Councilman, James Vacca, initially
20 opposed the term limits extension. He even said
21 to the students at Queens College to testify
22 against the bill as undemocratic; however, at the
23 last minute he supported Speaker Quinn and voted
24 against the people and voted for a term limit
25 extension. In return, he received a committee

1 chairmanship and some funding. James Vacca ran
2 unopposed last year, and he'll run again
3 unopposed in 2013, and he will receive a lifelong
4 pension paid by the taxpayers.

5 Why isn't the Speaker Quinn in jail for
6 slush funds? Whatever happened to the
7 slush (inaudible). There is no democracy in this
8 City. The City's officially (inaudible) a
9 dictatorship. This is why people don't vote.
10 It's already been decided. James Vacca and
11 (inaudible) and others will have a third term.

12 And I am very disappointed with the
13 testimony of Public Advocate de Blasio. I am not
14 surprised that he is a sellout. He won this
15 election based on term limits. But now he wants
16 to grandfather his friends like Jessica Lappin.
17 Shame on him, thank you.

18 CHAIRMAN GOLDSTEIN: The next speaker is Mark
19 Axinn. Mr. Axinn?

20 MR. AXINN: Yes. Thank you. I am Mark
21 Axinn. I'm the Chairman of the New York State
22 Libertarian Party. I'm also, in full disclosure,
23 a 1981 Fordham law grad.

24 COMMISSIONER McSHANE: I knew quality as soon
25 as I saw it.

1 MR. AXINN: I very much appreciate this
2 opportunity to be before the Commission, and I
3 commend the Commission for proposing rules which
4 would improve ballot access for independent
5 candidates.

6 Recently, the Libertarian Party submitted
7 42,000 signatures, which were obtained in the
8 middle of the summer throughout the state, for 14
9 candidates. The role and the difficulty of
10 getting on the ballot for independent candidates
11 is tremendous. Any action at all that this
12 Commission takes, whether or not authorized by
13 State law or something that will send to the
14 State Assembly and Senate the belief of this
15 Commission that the State law should be amended
16 is appropriate if it makes ballot access more
17 simple for independent candidates.

18 The importance of the independent candidates
19 in a true Democracy is very simple. Without
20 independent candidates we only have two parties,
21 and the two parties speak with one voice. But the
22 independent people in New York City represent a
23 large number, many, many, many people, and it is
24 they who wish to be heard, and they are heard by
25 getting independent candidates on the ballot.

1 Therefore, I commend this Commission in any
2 action that it may take to reduce the number of
3 signatures and to make the ballot access more
4 available to independent candidates, particularly
5 by reducing the number of signatures to 450 for
6 City Council.

7 We have here, I notice City Councilman Dan
8 Halloran standing in the back. Mr. Halloran was
9 elected with the help and the assistance of
10 independent parties. Do not shut out independent
11 parties. Please continue to fight to continue
12 ballot access. Thank you all.

13 CHAIRMAN GOLDSTEIN: Thank you, Mr. Axinn.

14 Our next speaker is Assembly Member Jim
15 Brennan.

16 ASSEMBLY MEMBER BRENNAN: Good evening,
17 everyone. It's a pleasure to be here. I want to
18 thank all of you for your public service, and I'm
19 sure by now you're questioning whether or not you
20 should have done this in the first place when you
21 agreed to serve. But I know that you are doing
22 your best and trying to do the right thing in
23 relation to the many hours that you are spending.

24 I chair the Assembly's Standing Committee on
25 Cities which -- through which legislation related

1 to the governance of city charters goes. And I
2 sent you a letter last week about a number of
3 concerns, and my office has previously testified
4 here asking that you put off until 2011 any
5 ballot questions on the grounds that it would be
6 more worthwhile to engage the public to a greater
7 extent. That's still my position. I doubt that
8 you're going to agree with me on that. But the
9 Cities Committee held a hearing in March of this
10 year regarding Charter Commission processes. And
11 among the significant concerns expressed by the
12 public at that hearing is that questions on
13 Charter -- on the ballot be separated and not
14 lumped together.

15 A number of other speakers have expressed
16 that concern. It is, I think, felt that it is
17 more fair to the voters to separate the questions
18 to assure that they understand each question and
19 that to lump them all together discourages
20 participation in the process, because voters
21 cannot choose which ones they support and which
22 ones they do not support.

23 I've been told that you are concerned that
24 the new machine and the new paper ballots will be
25 too long for the voters to easily deal with the

1 separate questions. My solution to that problem
2 would be for you to reduce the number of
3 questions that you present to the voters.

4 And with that in mind, the letter that I
5 sent to you suggested that you drop two
6 questions. First, the question related to the
7 consolidation of the ALJ's. I believed the UFT
8 testified about concerns regarding the collective
9 bargaining rights and qualifications of those
10 employees in relation to their independence and
11 their integrity in relation to making decisions.
12 I would suggest you drop that one, because I
13 think the ALJ employees might have their rights
14 possibly impaired.

15 And the other question related to ballot
16 access. I make the point that last year 126 City
17 Council candidates made the 900 signature
18 threshold without a problem, it was not a burden;
19 and that if you are looking to encourage voter
20 turnout there is no correlation that -- at least
21 in the 2009 election -- between the number of
22 candidates that are on the ballot and the
23 turnout.

24 In addition, as some other speakers have
25 indicated, there are some concerns that the

1 ballot access question might violate the state
2 Election Law because it is preempted by the State
3 from acting local governance, it is believed by
4 many, do not have the right to alter the
5 signature requirements piece by piece, office by
6 office.

7 So that concludes my testimony. And I know
8 you're enjoying your time in public service so
9 much, including you, Mr. Chancellor, thank you.

10 CHAIRMAN GOLDSTEIN: Thank you Mr. Brennan. I
11 appreciate your testimony.

12 Elena Conte is our next speaker. Is Miss
13 Conte here?

14 MS. CONTE: Hello. Hi, good evening. I'm
15 Elana Conte, and I'm with the Pratt Center for
16 Community Government. We would like to thank the
17 Charter Revision Commission for its generally
18 thoughtful recommendations for revision to the
19 City Charter, and especially for the proposal to
20 include waste transfer stations and
21 transportation facilities in the Atlas of City
22 Facilities. This provision will present a much
23 fuller picture than has existed in the past of
24 the environmental burdens faced by low-income
25 communities across the City, and it supports

1 informed decision making about citing polluting
2 facilities. Ultimately, New York City has a
3 greater opportunity to see a fairer distribution
4 of polluting facilities as a result of this
5 measure, so thank you.

6 But much more needs to be done. So tonight
7 we urge you to add power plants and other
8 pollution sources that are still not included in
9 the proposed text change as well as health
10 indicators. We also hope that a future Commission
11 will consider a full of reinvigoration of Fair
12 Share. This will require a more deliberate
13 approach to the gathering and use of information
14 about facilities' impacts. Data on emissions,
15 pollution, public health outcomes, and other
16 basic indicators of local environmental burdens
17 is an essential foundation to an informed fair
18 citing process. Leaders in the environmental
19 justice movement have a base of knowledge,
20 experience and expertise on which proposals can
21 be built, and we look forward to allying with
22 them, and hopefully in the future to develop and
23 work toward the implementation of a fair and
24 protective citing process.

25 We'd also like to reiterate what we've now

1 said at three previous Charter Commission
2 hearings and heard from many others who have
3 testified: Land use in New York City is in
4 urgent need of reform. While other cities and
5 regions have embraced participatory long-term
6 planning as the foundation of land use decisions,
7 New York zones first and asks questions later.
8 The result too often is a development that
9 contradicts communities' stated needs,
10 overburdens our infrastructure, and undermines
11 the sustainability objectives of PlaNYC.

12 We have heard and agreed with Commission
13 Members' concern that land use demands careful
14 and thorough review. So light in of that, Pratt
15 Center urges the appointment of a Commission as
16 early as feasible following Election Day to
17 ensure that it has adequate time to tackle this
18 vital responsibility and build a land use
19 planning infrastructure that this great city
20 deserves and needs. Thank you.

21 CHAIRMAN GOLDSTEIN: Thank you, Miss Conte.

22 Our last speaker is Councilman Daniel
23 Halloran.

24 COUNCIL MEMBER HALLORAN: Thank you, Mr.
25 Chair. And also in full disclosure, I attended

1 Regis High School and Fordham University. I did
2 get into Fordham Law, but I chose to go to St.
3 John's. I hope you don't hold it against me.

4 One of the greatest things I learned from
5 the Jesuits, and one of the things that carried
6 me through in my career as a attorney, as a
7 prosecutor and working for the NYPD was the sense
8 of justice and duty to the community that they
9 ascribed to instill, and I thank them for that.

10 I would respectfully request this Commission
11 take what I say from the perspective of a
12 Republican/Conservative/Independence/Libertarian-
13 elected member of the Council. There aren't too
14 many of those other categories in the Council.
15 In fact, I'm the only one with Libertarian at the
16 end of this election run and I'm very grateful to
17 be there and serve the community that I do.

18 I'm an advocate for two terms because the
19 citizens of this City voted for it twice. But
20 more importantly, I'm an advocate for the uniform
21 application of law. There is not more than one
22 set of laws which would bind men high and low.
23 There should be one law, one law of the land, and
24 it should be applied to everyone equally.

25 Whatever happened in 2008, I was not a part

1 of, thankfully, but I do know that the citizens
2 of this City were revulsed by it. And regardless
3 of who caused it and why it happened, you have an
4 opportunity to rectify that situation. But
5 rectifying it by creating yet another inequity is
6 not a solution. It's neither just nor honorable.

7 Some of my colleagues will be disappointed
8 that I am not here advocating for three terms. My
9 belief is citizen politicians should go back to
10 their day jobs after serving and giving up their
11 time to become members of the legislature. But I
12 am certain as a practicing attorney who has
13 actually tried hundreds of cases before hundreds
14 of juries, that should this Charter Commission
15 put forward in their final version a rule which
16 can be attacked on multiple sides for legal
17 insufficiency is not serving the ends of the
18 City, and more so will insight further disruption
19 amongst its citizens, who have lost great
20 confidence in the body that we call the City of
21 New York. Perhaps every legislator and executive
22 should take the Athenian oath written in Greece
23 centuries ago -- actually millennia ago or two
24 and promise to leave the city they love in a
25 better condition when they leave office than when

1 they entered it. Regrettably, I don't think there
2 are that many people who do that anymore, and
3 that's a shame.

4 You have an opportunity now to stick to your
5 principles, to respect the rule of law, and to
6 abide by a vote you've already taken without any
7 other members being absent.

8 I think if we're being intellectually
9 honest, as the Jesuits always emphasize we should
10 be, then you'll reach the same conclusion I have.
11 Go forward with a uniform vote on term limits
12 that applies to everyone and rewards no one for
13 overturning the vote of the people of the City of
14 New York. Thank you.

15 CHAIRMAN GOLDSTEIN: Thank you. Thank you,
16 Councilman.

17 We're going to take a very brief moment, we
18 need to have a discussion amongst the
19 Commissioners on some redrafting of a provision
20 in the plan that we'll be discussing in just a
21 minute. It should only take about five minutes.
22 So I wonder if Rick and Lorna could take us
23 through some of the items that were brought to
24 our attention by Commissioner Freyre. So we'll
25 just we'll turn off the mike for a moment and

1 then we'll be back.

2 (Whereupon, a short recess was taken between
3 7:05 P.M. and 7:07 P.M.)

4 CHAIRMAN GOLDSTEIN: Could I have the
5 Commissioners back in here, please. I'm told by
6 our attorneys that we do need a motion that I
7 will propose to go into executive session for the
8 sole purpose of dealing with a legal matter that
9 we have to parse with respect to one of the items
10 that we will be introducing as soon as we return.
11 So I'd like to pose that motion on legal matters.

12 Do I have a second?

13 COMMISSIONER BANKS: Second.

14 CHAIRMAN GOLDSTEIN: All in favor? Aye.

15 (A chorus of aye's.)

16 CHAIRMAN GOLDSTEIN: Okay. We will go into
17 executive session now. We should be able to
18 return in about 5 minutes.

19 (Whereupon, a short recess was taken between
20 7:09 P.M. and 7:20 P.M.)

21 CHAIRMAN GOLDSTEIN: Okay. We're reconvening
22 after our break. And I think it's important that
23 the public knows the reason that we went into
24 executive session, and it was exclusively about a
25 legal issue in drafting. And I'm going to call on

1 our General Counsel, if he could just for the
2 record indicate why we went into executive
3 session.

4 GENERAL COUNSEL SCHAFFER: Thank you,
5 Mr. Chairman. The proposal, City Question #1 that
6 was previously drafted and was on the table at
7 the beginning of this meeting appeared to some to
8 be worded in a way that was a little bit
9 confusing. And a suggestion was made, without
10 changing the substance in any way, to clarify it
11 by reorganizing a little bit the bullet points so
12 that it would parallel City Question #2. And
13 that drafting change was made, but before it
14 could be proposed the Commission needed an
15 opportunity to consult with the lawyers from the
16 Corporation Counsel's office, because under the
17 law their approval of the actual ballot language
18 was required. And so we took that short break in
19 order to go over the language with the attorneys
20 from the Corporation Counsel.

21 As a result, with the Chair's permission, I
22 will read the first item to be voted on was City
23 Ballot Question #1, and I will now read it aloud
24 as it's been reorganized and slightly redrafted
25 and it is as follows:

1 City Question 1. Term limits:

2 The proposal would amend the City Charter
3 to: (Bullet point) reduce from three to two the
4 maximum number of consecutive full terms that can
5 be served by elected city officials; and (bullet
6 point) make this change in term limits applicable
7 only to those city officials who are first
8 elected after the 2010 general election; and
9 (bullet point) prohibit the City Council from
10 altering the term limits of elected city
11 officials then serving in office. Shall this
12 proposal be adopted?

13 CHAIRMAN GOLDSTEIN: Thank you. We are not
14 voting on anything right now. I'd like to open
15 the discussion.

16 MR. SCHAFFER: You need a motion and a
17 second to the motion.

18 CHAIRMAN GOLDSTEIN: Okay. I'm sorry.

19 MR. SCHAFFER: City Question #1. To adopt
20 City Question #1.

21 COMMISSIONER McSHANE: Adopt the wording as
22 it now appears?

23 MR. SCHAFFER: You have to have a motion and
24 second before you go on to a discussion.

25 CHAIRMAN GOLDSTEIN: Well, wait. Before we

1 actually move the question, what I would like to
2 do is to have a discussion among the members of
3 the Commission about the whole subject of term
4 limits that in my, in my usage basically has
5 three components. It's about the number of terms,
6 it's about prospectivity and it's about start
7 date. Those are the three components that will
8 make up the City Question #1.

9 And before I actually move the motion that
10 we will debate and then ultimately discuss and
11 see where we go with it, I would like to have a
12 general discussion about this, and I know a
13 number of Commissioners want to be heard before
14 we formally bring this for a motion to debate.

15 So let's start with Commissioner Cassino.

16 COMMISSIONER CASSINO: Thank you,
17 Mr. Chairman. And I want to start by
18 acknowledging your leadership throughout this
19 process. I mentioned at the last meeting that
20 we've been able to function as a Commission by
21 really having a great deliberative process and
22 did not have the kind of things you sometimes
23 expect to see, which is phone calls and heavy
24 handedness. And you have set the standard for
25 that and made it possible for us to have these

1 kinds of discussions and again, here, allowing
2 this discussion to continue to go as long as it
3 needed to go. So I appreciate that throughout
4 the process.

5 The issue that I wanted to raise is one that
6 we've all, I think, struggled with and had a
7 strong debate about last time and that's the
8 issue of the effective date or grandfathering.
9 And I'd like to bring up in the spirit of not
10 suggesting a motion as we did last time, because
11 I think that it's much more productive, and we've
12 been able to function much more with a
13 conversation first and foremost among fellow
14 Commissioners, because I think it's too important
15 to engage in sort of a back and forth motion
16 practice here.

17 And I would say that --

18 COMMISSIONER SCISSURA: (Via telephone) Let
19 me ask you a question.

20 CHAIRMAN GOLDSTEIN: Carlo, I'll get to you
21 in just a minute.

22 COMMISSIONER SCISSURA: I was just having
23 some trouble hearing, and I want to make sure
24 that I was on.

25 CHAIRMAN GOLDSTEIN: Okay.

1 COMMISSIONER CASSINO: Carlo is in Italy
2 so...

3 CHAIRMAN GOLDSTEIN: We feel for you, Carlo.

4 COMMISSIONER SCISSURA: Nothing gives me
5 greater pleasure than to be with the wonderful
6 members, so I'm happy to be here.

7 CHAIRMAN GOLDSTEIN: Go ahead, Commissioner.

8 COMMISSIONER CASSINO: You know, I want to
9 say that following our prior meeting it would
10 probably be an understatement to say I was a bit
11 unsettled, obviously because I disagreed in
12 substance. I was in the camp that didn't want to
13 grandfather anybody into the process and I still
14 remain there. And I was also unsettled a little
15 bit by the process, because I felt that I was
16 hopeful that we were going to engage in a process
17 that as our fellow Commissioner Steve Fiala
18 described it, where we would all give a little
19 bit and we would feel some pain and everybody
20 would walk away a little bit unhappy but we would
21 have a collective decision that would reflect
22 that kind of give and take. And, you know, when
23 you look at the votes six, six and five when we
24 voted on each of the provisions, it certainly
25 felt that it would go in that direction. And I

1 think that we got caught up in this whole back
2 and forth motions. And I know I was looking
3 forward to seeing where we would wind up and
4 seeing where everybody would compromise to some
5 extent, including myself.

6 My own position hasn't changed. I still
7 feel strongly that this should become effective
8 immediately. I think it really goes to the heart
9 of what we have been doing over these last months
10 in making this decision. You know, I think that
11 everybody obviously had strong opinions on this
12 issue, but I remain firmly in that camp.
13 However, I also understand that I think that if
14 there aren't enough votes for that, there isn't
15 enough support for that, I'm open. I'm open to
16 hearing whether there's a compromise position,
17 including the ones suggested by the Chairman,
18 that I think would be better for the City. You
19 know, obviously I feel where we wound up was the
20 worst case scenario for the City. But I leave --
21 I left that meeting unsettled mainly because I
22 wasn't sure if that represented the collective
23 thinking of the Commission, and I wanted to just
24 make sure that we're sure about this. These are
25 obviously very important decisions. We've had

1 some time to think about it. Things went back and
2 forth in that meeting, and I think it's important
3 to go back to it and make sure. As I said, for
4 my own position, I remain firm where I am, but
5 I'm open to hearing whether this could be open to
6 other people in terms of compromise. And I think
7 that, you know, I always go back to the same
8 thing, which is that we're here, a lot of what
9 we've heard from the public is about restoring
10 the public trust and that, I come back to that.

11 We talked about things like -- I think we
12 sort of reargued the issue of term limits, which
13 really wasn't the main issue. The main issue is
14 when should this become effective? And I always
15 come back to the issue of public trust, and I
16 think that we do a disservice to the public trust
17 for all the work that we do if we make it so far
18 into the future that the public doesn't believe
19 that it's getting what it should be getting. And
20 I think that having this discussion today doesn't
21 hurt the process, it helps the process. We have
22 to make sure that we're right about this. And so
23 be it if that's the way it stays. Or if people
24 are open to compromising it and coming to a
25 different decision. So I would implore my fellow

1 Commissioners to consider or reconsider some of
2 that and have a discussion about this and not
3 dueling motions. And so I offer that up for
4 discussion and see where we go from there.

5 CHAIRMAN GOLDSTEIN: I thank you for that,
6 Commissioner Cassino.

7 Again, the reason that I think it's best to
8 have this open discussion before we get into a
9 formal process of seeing if we want to amend any
10 component of the term limits tripod I would
11 encourage all of you who wish to speak on this
12 matter to talk about the merits of the position
13 that you have and why you think ultimately this
14 would lead to a more efficient way that we are
15 governed by our elected officials.

16 I know that Commissioner Moltner wanted to
17 speak next, so let me recognize him.

18 COMMISSIONER MOLTNER: Thank you,
19 Mr. Chairman. I agree with Commissioner Cassino.
20 It is why I made the motion last week to adopt
21 immediate effect. I would like to add a few
22 thoughts that I have in terms of that decision.

23 In an analogous context, the Appellate
24 Division in a case called Goldin versus City
25 Council said in effect that -- and this is my

1 interpretation of it -- that it is ruling on the
2 legality of the City Council's action, not the
3 morality of the City Council's actions.

4 The public was outraged over the City
5 Council's overturning the twice expressed will of
6 the voters. What the Council did, let me
7 reemphasize, was legal. It absolutely was. It
8 was upheld. There's no question whatsoever about
9 that. However, if the voters of this City choose
10 to return to what we're calling two-two, the
11 people will have voiced once again that what the
12 City Council did was wrong; that although it was
13 found not to be a conflict of interest, it was
14 done in the Council's self-interest.

15 I would like to address a few arguments made
16 that Commissioner Fiala has eloquently made and
17 spoken to. As you are well aware, Commissioner
18 Fiala, I have the utmost respect for you, as I do
19 all the members of this Committee, and who voted
20 otherwise. It was a majority of them. But in my
21 view, a vote to make the law effective
22 immediately is certainly legal. It is legal. And
23 it most fairly redresses, in my view, the
24 Council's disrespect for the will of the voters
25 by overturning the two referenda.

1 To be sure, the voters can vote their
2 individual Council Members out. But I
3 respectfully submit that the voters can finally
4 collectively redress at the polls this November
5 with this referendum, and there is no reason for
6 the voters to have to wait for that collective
7 redress if they so choose.

8 This Commission, I also respectfully submit,
9 has recognized that the very purpose of bringing
10 the issue of whether term limits should be
11 returned to two-two was again to try to regain
12 voter confidence, as Commissioner Cassino has
13 mentioned. Allowing any Council Member to benefit
14 by postponing the effective date and precluding
15 the public from immediately voting on it, in my
16 view, does not respect the will of the people but
17 continues to circumvent it. So given my position,
18 that is why I introduced two-two and immediate
19 effect.

20 Why then did I vote for the hybrid and why
21 again would I vote for the hybrid is in fact well
22 brought up. When immediate effect was
23 unfortunately voted down I decided hybrid
24 respects the will of the voters certainly more so
25 than does the postponement of the effective date,

1 which, with all due respect, in my view, does
2 not. So while I obviously and strongly disagree
3 with the Commissioner's position on this, I
4 believe that the hybrid does have that advantage.

5 In this regard, I just close where I began,
6 that the issue is about respect for the will of
7 the voters. This Commission respected the Will of
8 the voters when it voted to place on the ballot
9 two-two. I respectfully submit that what it
10 should have done when placing on the ballot an
11 effective date, if not immediate, at least a
12 hybrid.

13 A final note, which I know we'll get to, I
14 don't want to confuse issues, the bundling, I
15 want to make a quick point about it. As just
16 read, the language now will on this issue divide
17 into three bullet points. That being the case, I
18 think this will be spoken to later, but the
19 problem has been with lack of space on the
20 ballot. But given this issue, given the intense
21 scrutiny of it, if it's going to be subdivided I
22 think it should be voted on individually. But my
23 point still remains immediate effect if not the
24 hybrid. And I thank you, Mr. Chairman.

25 CHAIRMAN GOLDSTEIN: Thank you, Commissioner

1 Moltner.

2 Let me just make two points. I think it's
3 important, since both of you mentioned the
4 hybrid, that you say what the hybrid is so that
5 we have it for the record. And then I want to
6 say something about the ballot, which I think is
7 critically important here. There are some real
8 physical constraints that I'll talk about in a
9 moment. So if you want to talk about what the
10 hybrid is since you, both of you brought it up.

11 COMMISSIONER MOLTNER: The hybrid would be to
12 allow the sophomores to run one time, one more
13 time, and then to allow the people in their
14 second term -- wait a minute, I'm sorry. Allow
15 the freshman to run one more time and allow the
16 sophomores to run one more time, I'm sorry.

17 A. Thank you.

18 CHAIRMAN GOLDSTEIN: Since I came up with
19 this idea, let me see if I can explain it in a
20 slightly different language.

21 We have three classes of people that are
22 presently serving in the City Council: Those who
23 were elected in 2001, those who were elected in
24 2005, those who were elected in 2009, and I will
25 eliminate some of the people with special

1 elections.

2 Those that were elected in 2001 have two
3 more terms to complete and then they will
4 complete three consecutive terms. They're out of
5 the discussion about the hybrid as well. It then
6 results in just looking at the first two classes.

7 The second class is in the second year of
8 their first -- of their second term. The hybrid
9 would allow them to finish not only the two years
10 remaining but allow them to go for a third year.

11 COMMISSIONER MOLTNER: Like the sophomores.

12 CHAIRMAN GOLDSTEIN: And the last group, the
13 group that was elected in 2009 that are now
14 serving the first two years of their first term,
15 would be allowed, obviously, to finish this two
16 years but will not be allowed to run for office
17 more than one additional term. They would be
18 restricted to two terms, the group in the middle
19 would be allowed to run for three terms if the
20 voters so subscribe, and the third group is moot
21 because they finished. Okay. So that's basically
22 it.

23 COMMISSIONER SCISSURA: Can I ask a quick
24 question on that?

25 CHAIRMAN GOLDSTEIN: Yes, Carlo. I know it's

1 late for you or evening.

2 COMMISSIONER SCISSURA: That's okay. I've
3 had a lot of espresso. So I'm good for the
4 night.

5 There is one Borough President who was
6 elected in 2005. So under your hybrid version
7 would the Borough President be included in that
8 third term?

9 CHAIRMAN GOLDSTEIN: The answer is yes.

10 COMMISSIONER SCISSURA: Okay.

11 MR. SCHAFFER: Carlo, this is Rick Schaffer.
12 All City officials, not just City Council
13 members.

14 COMMISSIONER SCISSURA: Okay, because the
15 conversations that had just been Council Members.
16 I just wanted to clarify.

17 CHAIRMAN GOLDSTEIN: So the record is clear,
18 I think for the public who is listening to this,
19 what this thing called hybrid attempts to do.

20 Let me also mention very briefly for those
21 of you that can look at the image, the amount of
22 space on the ballot that we're going to be facing
23 is within the interior of the rectangle that I'm
24 holding between my forefingers. If you want,
25 it's also on the boundary, but that's more of a

1 topological interest than a practical interest.
2 And the reason I put my fingers up like this is
3 that I've examined the ballot, I've talked with
4 the people from the Board of Elections. I've
5 actually seen the machines that are going to be
6 used. So some of the testimony that we heard
7 tonight asked about why can't we split out these
8 questions and do this in a way that gives us all
9 the degrees of freedom that we would ask for?
10 And the reason is we cannot do that, in part, if
11 not exclusively, because of the physical
12 constraints that this ballot has. Not only do you
13 have to flip the ballot to show your interest and
14 votes, but the ballot itself is constrained
15 because at the top of the ballot there are the
16 different languages that will translate exactly
17 what you're asked to do. So there are very real
18 constraints on this ballot. And that in part
19 guided the thinking of our legal staff as they
20 not only looked for clarity so that the voters
21 can understand what they're voting upon, but also
22 to be cognizant of the fact that there are --
23 there's limited space. We don't want to make the
24 response so small that you can't even see what
25 you're reading. So there are these problems that

1 we're going to face for the first time in
2 November that we haven't seen before.

3 Okay. So let's go back to the discussion.
4 We've heard from Commissioners Cassino and
5 Moltner. I've like to call on Commissioner
6 Banks.

7 COMMISSIONER BANKS: Thank you, Mr. Chairman.
8 Over the last eleven days I've been thinking
9 about this issue quite a bit, as I know all my
10 fellow colleagues have also been thinking about
11 it, and I have a tremendous amount of respect for
12 Commissioners Cassino and Commissioner Moltner.
13 I've tried to weigh my decision throughout this
14 process by weighing what would ultimately result
15 in a better structure for our government to
16 operate the City.

17 The issue of whether or not to grandfather
18 in members of the Council is one that's difficult
19 for a variety of reasons. I've tried to balance
20 it and look at it from the perspective of what is
21 the most fair, not just for the Council Members,
22 but for the people who voted for those Council
23 Members the last time they had an opportunity to
24 vote for them. The electorate, right or wrong,
25 voted for the Council Members with the

1 understanding that the law of the land was that
2 they were three terms. And it's somewhat ironic
3 that we are having a discussion about that,
4 because we are now once again possibly going to
5 tinker with the will of the voters and reverse
6 that which was before them when they voted last
7 year, 2009. So the members of the public voted,
8 they understood that three terms were the law of
9 the land.

10 We are now debating whether or not we should
11 undermine their understanding and impose a
12 different will on them.

13 I also am concerned about the impact on a
14 practical standpoint on the body, in particular,
15 the City Council, although it applies to all
16 citywide. I did a little digging around the last
17 few days, and I understand that approximately
18 half of the freshman class, as Commissioner
19 Moltner described them, are people of color, and
20 that we would, if we go back to the hybrid
21 version, have a practical impact of limiting
22 those freshmen members to, excuse me, to a second
23 tier within the legislative body dominated by
24 seniority, and they would, therefore, have less
25 opportunity to rise to leadership position within

1 the institution. And that would have a profound
2 impact on the ability of people of color and
3 community of color to play an enhanced role in
4 the legislative body. I think that's something
5 that we should think about and we should talk
6 about, and we should seriously consider before we
7 do anything.

8 We also arrived at the conclusion to
9 grandfather everyone in through a process that
10 was, as Commissioner Cassino aptly described,
11 devoid of any external influence. We sat here,
12 we listened to the debate. We engaged in an open
13 and honest conversation about the merits of the
14 three options. After a couple of attempts to come
15 to a conclusion we ultimately decided, based on
16 deliberative process, to go with the
17 grandfathering proposal.

18 Again, a sense of irony strikes me that one
19 of the issues during this debate we're currently
20 having is that we would be once again potentially
21 undermining the vote of a duly appointed body by
22 going back and changing it, especially given that
23 several of our members are not here to voice
24 their opinion, and I find that troubling.

25 I am open to, and have tried to, remain open

1 to all of the arguments. But quite frankly, I
2 have not been swayed by those arguments that have
3 been made to revisit this issue, and I await to
4 hear from my fellow Commissioners if they have
5 other suggestions or ideas that would sway me one
6 way or the other.

7 COMMISSIONER McSHANE: Thank you,
8 Mr. Chairman. Let me start by echoing what my
9 colleague to my left said when he began his
10 remarks, and that is I want to acknowledge the
11 extraordinary work that you have done as our
12 Chair. You have made this process very inclusive,
13 rigorously fair, and you have presided with
14 serenity and wisdom throughout all our
15 deliberations. So I want to thank you, I want to
16 congratulate you on bringing us this far.

17 Secondly, I want to acknowledge Carlo, whose
18 presence in Italy (inaudible) of foreign policy.

19 COMMISSIONER SCISSURA: Thank you.

20 COMMISSIONER McSHANE: I did notice before
21 that four of us, four of the members of the
22 Commission who voted for Option 1, which was
23 effective immediately, placing the term limits
24 immediately after voting, I notice that we have
25 the four of us together. I don't know if that

1 was for convenience or --

2 COMMISSIONER PATTERSON: I'm over here.

3 COMMISSIONER McSHANE: You're over there.

4 We'll reach out to you.

5 I voted for the immediate phasing in of term
6 limits because I thought it did two things: One,
7 it did reflect, I think, most adequately and
8 fully the will of the people. We had listened
9 for several months from testimony in all five
10 boroughs. We gave that testimony very, very
11 serious consideration, and I think we got it
12 right. It was going to be right. It was going to
13 be two-two, because that is what we were hearing.
14 I wanted everyone who is in the room tonight or
15 watching us to understand we did hear that very
16 clearly.

17 Second, I thought that making it effective
18 immediately was more consistent than any of the
19 other votes of the other two proposals that we
20 were asked to consider. If we were advocating the
21 imposition of term limits it seems to me
22 consistent with that belief that we had to impose
23 them, they should come into effect immediately. I
24 think may have been one of you may have been with
25 me, we voted consistently against the other

1 options (inaudible) where we had to revote,
2 revote.

3 COMMISSIONER PATTERSON: I wouldn't be able
4 to contemplate.

5 COMMISSIONER McSHANE: Jesuits aren't either.
6 But I remained consistent in my stance, because I
7 thought it was important to demonstrate to people
8 that we heard them, that we were responsive to
9 their will, and we wanted to impose it as quickly
10 as possible. So that's why I did what I did.

11 I listened very carefully to many
12 Commissioners' arguments, as Commissioner Banks
13 has since our last meeting. I have had some, I
14 would say, fairly robust conversations on this
15 matter. I am like yourself, Commissioner Banks,
16 troubled by the fact that we are without three
17 members this evening as we share our
18 understanding of what we were doing two weeks
19 ago. And I feel truly their absence and the
20 absence of their visage. But I just want to say
21 why I did what I did, to reflect the will of the
22 people and be consistent with their issue.

23 I should also say I was troubled by the
24 argument that some made, and I don't remember who
25 they were, so like hearing confession, you never

1 remember what you hear, what was said to you,
2 where expectation somehow became a right. Someone
3 who had run for office ran with the expectation
4 of three terms. Somehow that expectation became a
5 right. I had difficulty dealing with that
6 concept. But that's me. Clearly a limited Irish
7 guy, who grew up in Manhattan, who couldn't deal
8 with more sophisticated things. You probably
9 came from Queens and came all the way in from
10 Regis to Queens. I did not. But that's why I did
11 (inaudible).

12 I'm anxious to hear the other Commissioners,
13 because I think this conversation tonight has
14 actually shaped a lot of the way in what we did
15 two weeks ago. And Kitty, I'd love to hear
16 yours.

17 COMMISSIONER PATTERSON: You will.

18 CHAIRMAN GOLDSTEIN: Commission Cohen.

19 COMMISSIONER COHEN: Thank you, Mr. Chairman.
20 I would like to echo everything that Commissioner
21 McShane just said. I'm going to go a little bit
22 further than he. I'm going to venture out on my
23 preferences, lack of preferences. As he noted,
24 I'm one of this line of four that voted for
25 immediate effect. I think that was the right

1 vote. I think, as we've been hearing testimony
2 tonight, that the Commission's decision to do the
3 effective date not essentially coming into effect
4 until well into the future was not consistent
5 with what we were trying to achieve in bringing
6 two terms back to the people. But I have to say
7 that I do not think, no offense, Mr. Chairman,
8 because I know it was your suggestion, I do not
9 think the so-called hybrid proposal is an
10 acceptable solution. And so if the Commission
11 were to rethink itself and want to go to
12 immediate effect, although I am also troubled by
13 the absence of our colleagues for this
14 discussion.

15 Obviously, I do think in a greater good of
16 the City and in response to the will of the
17 people, I would be very excited if my colleagues
18 wanted to adopt an effective date immediately.
19 However, if my colleagues are thinking about
20 moving to the hybrid, I'm afraid that I would not
21 be able to move with them. I find that the
22 hybrid is inconsistent and illogical.

23 And in response to your remark about
24 expectations, it's counter to all of the
25 expectations of all of the parties as it allows

1 the people who entered office with the
2 expectation of two terms to run for three. And
3 those that entered office with the expectation of
4 three terms to be limited to two. I find that
5 logically inconsistent.

6 I find the application of the time to be
7 strained at best and unfair at worst. And I hope
8 that I prefer to stick with where we are, which
9 is far from ideal, in my view, but at least
10 explainable. Or that we in fact respond to the
11 outcry tonight as well as the outcry between 11th
12 of tonight and in fact all of the testimony we've
13 heard leading up to it.

14 CHAIRMAN GOLDSTEIN: Kitty?

15 COMMISSIONER PATTERSON: Yes. I could go now
16 if you want or I'll wait for somebody else to
17 speak.

18 CHAIRMAN GOLDSTEIN: I'm perfectly happy to
19 acknowledge you.

20 COMMISSIONER PATTERSON: Alright. While I've
21 listened to everyone speak, I am also troubled by
22 the absence of three of our colleagues, because I
23 value their wisdom. On the other hand, as a
24 parliamentary matter, the votes have been cast
25 for whichever option they selected in the

1 previous meeting would continue to be. As I
2 understand it from advice of counsel, the votes
3 they would have considered to have cast this time
4 around. So I don't think that -- I mean yeah, we
5 are missing three Commissioners who voted in
6 favor, in essence, of giving every sitting
7 elected official three terms. And I would assume
8 that when we take a vote their votes would not be
9 perceived as changeable.

10 MR. SCHAFFER: Their votes are not counted
11 at all, but the number of votes needed to do --

12 COMMISSIONER PATTERSON: Still taken into
13 consideration their votes. Right.

14 COMMISSIONER CROWELL: Well, Carlo, you don't
15 object to this conversation. You're not here?

16 COMMISSIONER SCISSURA: You know, I just want
17 to -- sometimes I'm going in and out. But Kitty,
18 just to make sure I heard you correct. The three
19 of us, myself and Commissioner, the two
20 Commissioners Chen voted essentially for the
21 language that the Chairman read a little bit ago.

22 COMMISSIONER PATTERSON: Right.

23 COMMISSIONER SCISSURA: Okay. I did hear you
24 correctly.

25 CHAIRMAN GOLDSTEIN: All, just for the

1 record, Carlo Scissura, Betty Chen and David Chen
2 count in the denominator but cannot vote if we
3 take a vote tonight.

4 That being the case, that when any vote that
5 is, that will lead to a favorable action must be
6 at least eight people of the body. That's all the
7 same.

8 COMMISSIONER PATTERSON: Alright. Getting to
9 some of the other issues that were raised, the
10 issue of fairness and expectation. I completely
11 agree with everything Commissioner McShane said.
12 There is too much of an expectation among elected
13 officials in this City that they will keep
14 getting elected just because they are incumbents,
15 and I do not feel that expectation equals right
16 nor should it. And I do not feel that anybody
17 should be pointing to those very few City Council
18 Members who did not prevail when seeking
19 reelection and pointed to those elections and say
20 it was their vote under term limits that made
21 them lose their bid for reelection. There were
22 many other reasons in the case of those
23 candidates as to why they did not -- why they
24 were defeated when they sought reelection.

25 I just want to go on the record for that,

1 because a remarkable number of newspaper pundits
2 and blogs have said it was your vote on term
3 limits. The reality is, with all due respect to
4 Commissioner Fiala, the ballot box has not worked
5 because the power of incumbency is so strong.
6 People do not get voted out simply because they
7 voted against terms terms. They voted for an
8 extension of term limits.

9 On the issue of what is fair with respect to
10 all Council Members, including a freshman class,
11 Commissioner Banks, your argument with respect to
12 freshman of color, your proposal or your concern
13 with the hybrid would not be relevant if we went
14 back to the more draconian proposal where the
15 limitation is two terms right now, because that
16 would in fact give the freshman class the
17 leadership positions the next time around that
18 they would be sitting and waiting for. They would
19 have their turn without the sophomores. So I
20 think it's a little bit disingenuous to say that
21 the only way in which that freshman class can be
22 in positions of influence in the City Council is
23 by allowing every member of the City Council to
24 have three terms.

25 The other thing I wanted to say regarding

1 expectations in change is, as Commissioner Fiala
2 remembers as a victim of it, when term limits
3 were first voted on by the voting public, those
4 people who were in elected office had been
5 elected with the expectation they would have no
6 term limit in there. And they -- we, survived as
7 a city. They survived as well. And a large
8 number of them went on to serve the -- to public
9 service in other ways even though they may have
10 been subject to term limits. So I don't think we
11 should assume just because the law is what it is
12 in November of 2009 that it has to stay that way.
13 And the practical effect of going to the
14 formulation that was adopted in the last meeting
15 is to have three terms stay in effect for an
16 extraordinarily long time. It rather reminds me
17 of creative accounting where you accelerate your
18 revenue now and hope that you can balance your
19 budget 15 years from now. There is no real
20 reason that I can see why we should assume that
21 expectation equals entitlement.

22 And the other thing I really wanted to
23 mention was with respect to process. When we
24 took our vote at the last meeting we knew very
25 well it wasn't the last meeting of this

1 Commission. And we also knew that we were going
2 to be listening to the reactions of the public at
3 this very meeting tonight to whatever we had
4 decided, including the report that had been
5 produced by staff and the votes we had taken at
6 the previous meeting. The process wasn't over at
7 the last meeting. Tonight is when the process
8 ends. And I don't -- I mean, why on Earth did we
9 ask the public to speak tonight if we weren't
10 going to listen to them? It doesn't necessarily
11 mean we'll agree with them, but we have to
12 listen. We cannot assume that the vote is the
13 vote, is the vote, and it will not change.
14 Otherwise, there really was no need for public
15 testimony tonight.

16 CHAIRMAN GOLDSTEIN: Thank you very much.

17 Commissioner Crowell.

18 COMMISSIONER CROWELL: Yes. I was one of the
19 people who did vote for the hybrid after a lot of
20 thought, and I found it to be a valid solution.

21 One of the things that concerned me most
22 when we came out of the last meeting was sort of
23 many people thought was and as Commissioner
24 Patterson said, and in my mind, it was a step
25 towards the end but it wasn't the end. And I was

1 disappointed that a body like ours that had been,
2 I have to say, amazingly genial and had worked
3 with consensus in everything it did was so
4 fractured. And I was disturbed to say the least
5 that we had like these, you know, we all watch
6 these reality shows and they're speeding. I
7 thought it was sort of speed voting, and I was
8 really concerned at the rapid pace at which
9 things were moving, and then all of a sudden
10 consensus wasn't built, and we went back to
11 another option that people can build a consensus
12 around the first time. People started switching
13 votes and everyone coming towards the middle.

14 I happen to believe the hybrid provides
15 something that's in the middle that we can all
16 coalesce around, that offers something that is
17 appealing to all of us for the civic values that
18 we're trying to put in place in the proposal we
19 put forth. So I think the hybrid, I think the
20 hybrid is in fact a uniform system.

21 I'll look at this from two perspectives. A
22 community/voter perspective, and individual/
23 candidate perspective or elected official
24 perspective. But I find the issue of term limits
25 is really more about communities and voters and

1 giving them opportunity to have new people
2 represent them and to ensure that there's a
3 constant freshness of ideas that come in. But by
4 creating, by moving towards the hybrid, every
5 community in the City, every district or every
6 borough, whether it's a Citywide office that gets
7 elected to Citywide office, everyone will be able
8 to vote for the incumbent right now unless
9 they're in their third term one more time. That
10 provides a phase-in approach. So everybody is
11 going -- everybody who is an elected official
12 now, unless they are firmly term limited, gets to
13 be up for election one more time. The voters get
14 to vote for them one more time. That gives an
15 adequate phase-in.

16 I find it difficult to make this personal to
17 elected officials that one elected official is
18 entitled to three terms over another. I think no
19 one's entitled to even one term, frankly. The
20 voters are entitled to vote for who they want to
21 vote in office, and I find it really difficult to
22 digest that when hearing that someone in their
23 eighth month of their first term is somehow
24 claiming the right to a third term. In fact,
25 that is counterintuitive to absolutely everything

1 this Commission stood for, which was opening up
2 voter opportunity, opening up opportunities for
3 other candidates, not to protect the incumbents.
4 And I think that's a dangerous road to go down.

5 There are plenty of opportunities for very
6 qualified, excellent elected officials in this
7 City to move from office to office. So if you're
8 serving in the Council for two terms, my goodness
9 you can become a Borough President, you can
10 become a Public Advocate. We've seen that
11 happen. You can become a Comptroller. We've
12 seen that happen. And we've seen that happen with
13 the Mayor, so I think that's something to
14 certainly consider.

15 The other thing is an issue of consumerism.
16 I heard the arguments of people who want to go
17 back to two terms, and I respect that. And then I
18 hear people who want to give everyone three
19 terms, in short three terms because that's what
20 the elected officials thought they were going
21 to have, that's what the voters thought they
22 could have. But I think it's an issue for us as
23 a purveyor of a product, a ballot question, to be
24 responsible in that if the voters think they're
25 going to make a rollback to a two-term limit then

1 that should be from a legislative drafting
2 standpoint and from a common sense standpoint
3 take effect sooner rather than later. It should
4 take effect under the hybrid in 2017 versus 2021.
5 2021 is so far into the future that voters can't
6 possibly conceive that actually -- their kids
7 will be grown up and out of school. It's a
8 difficult, it's a difficult thing. So I think
9 that we have a responsibility if voters are going
10 to do it to make term limits come into effect
11 sooner rather than later.

12 I also think that it's an important thing,
13 that, as John said, the Council in particular is
14 an exceptionally diverse body, and I think that
15 that is a legacy over the 1989 Commission that
16 expanded the body from 35 to 51 with the express
17 goal to make it in fact more diverse, to be more
18 representative of all communities. I think what
19 we will find based on the 2010 (inaudible)
20 census, this district will become even more
21 diverse and we'll see an even further
22 diversification of Council. And I think that's
23 something we can celebrate and that something
24 that voters will always have the opportunity to
25 elect a candidate of their choice, especially

1 minority voters, and that's the question we have
2 to asks ourselves, a Voting Rights Act question,
3 whether there will be a retrogressive effect.
4 Some experts said there would not be any
5 retrogressive effect on the ability of minority
6 voters to vote for candidates of their choice. I
7 think that for those minority members of the
8 Council who are in there now, they will have
9 under a hybrid system amazing opportunities in
10 holding other offices, because as their terms
11 come up so will some certain Borough Presidents,
12 so will certain Citywide offices, so those
13 provide opportunities as well as in State office
14 and Federal office as we see constantly a cycling
15 of very qualified minority elected officials into
16 various offices. So I think that's something
17 that I feel comfortable with.

18 I have over the years of my time in Charter
19 revision been particularly sensitive and
20 cognizant of minority concerns, and I think that,
21 I think that that is adequately addressed.

22 As far as some of our fellow colleagues not
23 being here, I think it's unfortunate. I know that
24 Betty Chen expressed that she had no objection to
25 us having this conversation because she too

1 understands that practice. She had unfortunately
2 scheduled a trip, and she supports everyone
3 wanting to move toward a consensus going to
4 hybrid. Obviously, Carlo is joining us but he's
5 not objecting to us having this discussion. And
6 David Chen indicated that his preference to stay
7 where he was if he were here. So I think that so
8 long as we recognize where those members were and
9 understand that and they understood that by might
10 being here, as many of us may have missed a
11 meeting (inaudible) for small votes or major
12 votes, and we may not be part of simply by
13 choices we make personally, but our personal
14 choices can't hamstring the consensus of the
15 selected body.

16 COMMISSIONER HART: Coming to this debate on
17 term limits it was difficult for me because I
18 don't believe in term limits as a general
19 proposition. And I know a lot of my colleagues
20 feel the same way, but we're beyond that now.
21 The voters voted for it, and I think it is
22 incumbent on us to recognize that and to put a
23 ballot question on the ballot this coming
24 November.

25 This discussion that we're having now about

1 what we did in the last meeting kind of reminds
2 you of the last meeting in that there is diverse
3 amount of views that are being expressed, the
4 same views that were expressed at the last
5 meeting. Very different than many of my
6 colleagues have changed their view as to how they
7 voted or not, but my vote, and the last vote that
8 passed that resolution was, it was a compromise.
9 It was different, I think. I departed from the
10 voting pattern that I had up until that point.
11 And looking at the discussion and to move the
12 issue forward, in my mind I compromised the
13 discussion.

14 The issue for me, and I understand what
15 concerns are, take effect immediately, 2021,
16 2017, I understand why people feel the same way
17 both on this Commission and in the public. It's
18 a very difficult question. Everything that we've
19 discussed here, we even hear more diversities
20 than we did last time. So all this is to say I
21 just want to explain my vote last week. I'm open
22 to what others have to say as I was open the last
23 time.

24 CHAIRMAN GOLDSTEIN: Commissioner Taylor.

25 COMMISSIONER TAYLOR: Thank you, Chair

1 Goldstein, and to the other fellow Commissioners.

2 Well, without question, all of us are
3 wrestling with a very difficult decision. The
4 decision swings like a pendulum between instant
5 gratification and equitable process. And as
6 Commissioner Hart has expressed, our last
7 confluence of testimony resulted in a very wide
8 and diverse variations of opinions. And as I
9 expressed in our last meeting to the Chair and to
10 my fellow Commissioners, I said this process is
11 very complicated even to me. I'll speak for
12 myself. And I am able to interrogate other
13 Commissioners and talk to them with a little more
14 definition than the public would have opportunity
15 to do. And still it becomes a very conflicting
16 decision.

17 Having said that, there was a great and loud
18 resounding objection to overturning the will of
19 the people to extend the limits so that
20 legislators can run for a third term. And I will
21 say that after we hear some further testimony
22 that I will make it, if I'm pushed to it, because
23 it is in my stomach to say it, and it may not be
24 popular, but if I'm pushed I will have to say it
25 because I think that we have to think relative to

1 the best and most equitable decision that
2 reflects the testimony that we have heard over
3 and over and over again from the public. And I
4 think the longer we debate it and the longer we
5 talk about it, you know, different thoughts
6 continue to resonate, and I'm sure that opinions
7 will continue to sway.

8 I do respect Commissioner Crowell's citing
9 of the elongated action that our vote will result
10 in. It will not give the public any instant
11 gratification or satisfaction or even bring it
12 back to where the public had it from the
13 beginning if we continue with where we are. And
14 for the record, I voted for grandfathering. I
15 voted twice the same way, and I must say it was a
16 very difficult decision.

17 I am also, I must say, for the record, I
18 don't believe in term limits, so I think again it
19 was compromise. But I'm just willing, I'm open
20 to hear more testimony, but I also have to concur
21 with Father McShane that expectation, I think you
22 said, became a right for legislators when -- or
23 they assumed it was a right for legislators to be
24 extended. Expectation is not an entitlement
25 because you can run for three terms. So again,

1 I'm open to think about and hear what the public
2 is saying, what my fellow Commissioners are going
3 to continue to add to this, and I would venture
4 to say that if I were a prophet that we can go
5 around the table with this issue another three
6 hours. However, everyone's saying: "No, we
7 won't." But we could. If you were open to it. And
8 you wanted to and we had the time to and so on
9 and so forth.

10 Again, this is a very difficult position. I
11 think that we are charged with making the most
12 out of the confluence of testimony that we've
13 received and make our decisions based on our
14 convictions, and I think that's where I am right
15 now, and I'm open to what the further
16 deliberations are going to be, but there's
17 no (inaudible). Thank you, Mr. Chair.

18 CHAIRMAN GOLDSTEIN: Thank you very much,
19 Commissioner Taylor.

20 Commissioner Freyre.

21 COMMISSIONER FREYRE: The first thing that I
22 want to say is that I feel extremely honored to
23 be part of this group. My Commissioners are very
24 thoughtful, they're very intelligent, and they're
25 very heartfelt. I feel that -- I know that we are

1 all trying to act in the best interests of the
2 City. And I know that we are all independent and
3 we're trying to do the right thing. And for that
4 I feel very honored to be associated with all of
5 you.

6 This is a very, very difficult issue, and I
7 think it's an issue upon which reasonable men and
8 women can disagree, and we do. We are not in
9 violent agreement nor are I think are in
10 necessarily violent disagreement either, but I
11 really do think this is a very tough issue on
12 which we reasonably can disagree.

13 I support Commissioner Cohen's point about
14 going from three to two. The immediate effect
15 versus letting the sitting elected officials to
16 have the benefit of what is the existing law
17 today. I mean, let's step back for a moment and
18 realize that there is a law in effect today that
19 permits them to run for three terms. And that in
20 any event, the electorates can vote to the ballot
21 box and vote them out of office. There's no
22 automatic reelection in this town. But I do have
23 a problem with a hybrid, because I feel that the
24 hybrid leaves us open to an equal protection
25 argument, which not only can attack the hybrid,

1 it can attack the entire question, number one,
2 that we're going to put on the ballot. I mean,
3 there obviously have been noises about those that
4 could sue for lack of equal protection if we go
5 with the hybrid. And I am very concerned about
6 that.

7 I have been open. I have listened to the
8 testimony of my fellow Commissioners. I have
9 read the articles in the press, and I'm still
10 really not clear as to whether or not we should
11 change our position.

12 COMMISSIONER McSHANE: Mr. Chair, could we
13 get clarification on the question raised by the
14 Secretary of the Commission from Rick Schaffer,
15 about leading a challenge.

16 COMMISSIONER CROWELL: We have the Law
17 Department here, too. I think the Law Department
18 has looked at the issues certainly when term
19 limits came into effect in the '90s. The same
20 impact on term limits as (inaudible) now imposed
21 with term limits. I'm sure they could answer the
22 equal protection question. That would be very
23 helpful.

24 CHAIRMAN GOLDSTEIN: You want to say anything
25 about that?

1 MR. SCHAFFER: I've discussed it with the
2 Law Department. I think we're of a similar view.
3 Equal protection claims are easy to bring.
4 There's never any -- no lawyer will give you an
5 firm guarantee of success at the end of the day.
6 But we are in an area where there's neither a
7 fundamental right nor suspect classification at
8 issue and, therefore, the standard for review as
9 to whether the distinction or classifications
10 that's being made is a very low standard of
11 review for the courts to see whether there's some
12 rational basis for the decision. Obviously, an
13 effective date is necessarily a somewhat
14 arbitrary exercise on the line drawing whether
15 you make it effective immediately or affect one
16 or two of the classes or both of them. And the
17 arguments are very similar whichever way you draw
18 the line. You are balancing stability,
19 continuity versus an effort to make the change as
20 quickly as possible because that's what the
21 people seem to want. And so on balance I think
22 the equal protection claim, while it's not a
23 frivolous one, would not likely succeed.

24 COMMISSIONER SCISSURA: Mr. Chairman, may I
25 have a some follow-up on that legal question?

1 CHAIRMAN GOLDSTEIN: Go ahead, Carlo, I'm
2 sorry.

3 COMMISSIONER SCISSURA: Rick, when term
4 limits was voted, I believe it was 93, correct?

5 MR. SCHAFFER: That's right.

6 COMMISSIONER SCISSURA: Okay. So when it was
7 voted it was supposed to take effect immediately.

8 MR. SCHAFFER: No.

9 COMMISSIONER SCISSURA: And, therefore,
10 anyone elected in '93 would have had two terms,
11 correct?

12 MR. SCHAFFER: Well, it was not effective
13 immediately. It was effective in 2001. That is
14 to say the people who already had --

15 COMMISSIONER SCISSURA: Right. So people
16 that voted in '93, in theory, waited eight years
17 for any current elected official whether it was a
18 Council Member, a Borough President, et cetera.

19 MR. SCHAFFER: That's correct.

20 COMMISSIONER SCISSURA: So the way the way
21 the wording is now, we would basically be waiting
22 the exact same time, if not a year less, than
23 people waited in '93. Am I correct in that?

24 COMMISSIONER CROWELL: But you had no term
25 limits in effect at the time, so there's a

1 fundamental difference.

2 COMMISSIONER SCISSURA: Well, but putting
3 that aside. But am I correct in that the '93
4 election allowed any incumbent two more terms,
5 which gave them another eight years? Currently,
6 the way the wording is written allows a freshman
7 incumbent two more terms, which would be a little
8 less than eight years should they run for
9 reelection, of course.

10 I'm trying to make a parallel view on what
11 happened in '93 and what's happening today. They
12 really are the exact same words.

13 COMMISSIONER CROWELL: No. Because you're
14 actually -- back when the votes were first were
15 going to implement a new system of term limits
16 that would be a maximum of two, and when you're
17 starting anew you're worried about when it's
18 going to start. Two terms, obviously a four-year.
19 Again, it depends on the states. There you were
20 starting very quickly after.

21 What we're doing here is we're modifying an
22 existing term limits scheme, and if you looked at
23 the hybrid you would have said: "Okay. Except
24 for those who are term limited because they
25 served two terms, every single elected official

1 shall get one more term, one more time to run, or
2 the voters shall get one more chance to elect an
3 incumbent official before the term limits shall
4 take effect."

5 COMMISSIONER SCISSURA: Correct. No, I got
6 that. But I think I want to go back to my
7 question. And maybe, Rick, you can answer it.
8 Am -- I'm sorry?

9 COMMISSIONER CROWELL: There -- what we're
10 doing is not analogous to the '90s.

11 COMMISSIONER SCISSURA: But we are in theory,
12 because if we leave it as it's currently written
13 we are basically saying that if people vote for
14 two terms it will basically allow those in to
15 have two more terms. When people voted in '93 it
16 basically said if you are in -- so if you are a
17 Council Member reelected in '93, you were able to
18 fill that two more terms (inaudible). So in
19 theory, term limits for those currently elected
20 officials running for reelection in '93 did not
21 take place until eight years in the future, which
22 is exactly what this ballot question will do. So
23 we really are repeating the same ballot question
24 in effect.

25 COMMISSIONER FREYRE: Rick, can I ask one

1 more followup question? Did you in the Law
2 Department look into the fact the effective date
3 is one of three parts of this question? And that
4 if there was a challenge to that third part would
5 that bring any (inaudible) to the first two?

6 MR. SCHAFFER: It was agreed that would be a
7 problem. The Court would be faced with the
8 question if it were deemed to be a violation of
9 equal protection what the appropriate remedy
10 would be whether you bring everybody under the
11 grandfather clause or conceivably no one. But in
12 situations like that, the party making the equal
13 protection claim usually gets the benefit of the
14 advantage that the other groups got. So in
15 theory, if there were a successful challenge on
16 the equal protection grounds to the hybrid the
17 result would be, and I don't think this is likely
18 as I indicated, but the remedy would presumably
19 be that those who are in their first term would
20 also get a third term. And you would wind up as a
21 court ordered solution that in effect you're
22 total grandfathering. But as I indicated, I
23 don't think that result is likely because I don't
24 think the challenge is likely to succeed.

25 COMMISSIONER FREYRE: They would not redirect

1 the reconstitution of this Commission to continue
2 discussing this issue?

3 MR. SCHAFFER: No. Fortunately, you go out
4 of existence.

5 CHAIRMAN GOLDSTEIN: Rick, let me move on.

6 I'd like to conclude before I speak, to ask
7 Commissioner Fiala.

8 COMMISSIONER FIALA: Thank you Mr. Chairman.
9 Let me first accept the gracious invitation of
10 Commissioners Cassino and Moltner who opened this
11 up, and in the interest of letting the public see
12 how things were supposed to work. This is a
13 great testament to our system where reasonable
14 people can come together and disagree and not be
15 disagreeable. We have operated under an expedited
16 schedule now for five or six months. We have
17 done so much work in the course of that time
18 criss-crossing this city.

19 It dawned on me Saturday that in the event
20 this subject came up again I should be thoroughly
21 prepared. So taking a cue from -- well, I mean
22 that sincerely because I think it's important
23 that the public realize that each of us, 15
24 different members, come to this task with a high
25 degree of sincerity and really wrestled with

1 these issues.

2 Professor Douglas Muzzio was one of the
3 expert witnesses at a forum back a couple of
4 months ago and he came fully prepared. He said,
5 "I'm bringing you my paperwork." So I have not
6 throughout this Commission, because my preference
7 is to speak extemporaneously as I'm jotting notes
8 down, but this weekend I did write something
9 down, because this is déjà vu for me, 2001 again,
10 and that was the only time the Council ever
11 prepared remarks then. They're brief so I don't
12 mess this up and go off course from my own
13 message, I want to read it to you.

14 I sit down and I look at my notes and I
15 weigh the judgments expressed by the 14 other
16 members with my own, and then with a pen and a
17 legal pad I start to jot down my thoughts and I
18 usually start with a question. So the question
19 that I wrestled with late Saturday and into last
20 evening was: How do you solve a challenge like
21 term limits in New York City? The operative word
22 is "challenge." It's not a problem. It's not a
23 crisis. It is a challenge.

24 On the 11th of August this Commission voted
25 on a series of ballot propositions to place

1 before the voters. I believe that the agenda that
2 we advanced meets the goals that we established
3 at the outset of our work, namely, to create
4 opportunities, opportunities for a more
5 responsive and efficient City government. Sound
6 familiar? Our charge was not to cater to public
7 sentiment but rather to listen to it, reflect
8 upon it, and then exercise our best judgment with
9 a clear eye on our stated goals. For whatever
10 it's worth, my considered opinion is that the
11 three-pronged approach to addressing a term limit
12 challenge that we adopted nearly two weeks ago
13 represents a thoughtful and a balanced solution
14 to that challenge. It is an approach that
15 recognizes the need for the people to have a
16 direct say as to the number of terms imposed on
17 city officeholders. I concede that need. It is
18 an also an approach that codifies a restriction
19 on officeholders from changing term limits to
20 affect themselves, an extraordinary step in and
21 of itself; and it is an approach that recognizes
22 the inherent value, the inherent value, and
23 honors the notion of the rule of law and a sense
24 of fundamental fairness by establishing a
25 smart -- operative word "smart" -- implementation

1 date which permits a more balanced staggering of
2 terms thus creating a more responsible government
3 and avoiding a legal challenge under equal
4 protection law.

5 In short, we applied the old "When life
6 throws you lemons you should make lemonade"
7 approach. That we find ourselves divided on this
8 issue is probably an indication that we have
9 acted responsibly, for if no one leaves fully
10 satisfied from the table of Democracy it probably
11 means compromise and balance, the sustenance of a
12 Republic, were served up in just the right
13 proportions.

14 The most effective check on the conduct of
15 elected officials, as I have said for more than a
16 decade, is the consent or the rejection of those
17 officials by the people themselves as registered
18 at the ballot box. The people still hold that
19 ultimate insurance policy.

20 No artificial instrument, ladies and
21 gentlemen, whether they be term limits or a
22 Charter revision Commission, no artificial
23 instrument imposed to direct, to control, or to
24 punish the behavior of elected officials is as
25 powerful or as meaningful a force as is the

1 judgment of the voters themselves. Our legitimate
2 desire for an immediate remedy to term limits is
3 an understandable and natural response to the
4 feelings many have of being wronged in a manner
5 perceived as unfair in 2008. But that desire has
6 a legitimate impulse. It may be, must, as I
7 said, be tempered by reason as detached from
8 emotion as possible. Not merely for the sake of
9 detachment itself but rather for the necessity of
10 insuring that we craft the best possible solution
11 for our long-term interests, not simply
12 satisfying our legitimate thirst for immediate
13 gratification.

14 The law, the law infuses our culture with an
15 understanding of what is right and what is wrong.
16 In essence, it seeks to bring order to the random
17 chaos that surrounds life and society. But as we
18 learned throughout our lives, and certainly
19 throughout this exercise, many matters of human
20 affairs often exceed that simple definition. It
21 isn't always as simple as being black and white.
22 Often we find ourselves living in the gray, and
23 more often than not in the gradation of grays.
24 Such is the case with this aspect of term limits.
25 That the City Council acted within its legal

1 authority is now beyond refute. Owing to the
2 decisions of both the State and Federal appeals
3 courts, the aspects relating to legality are now
4 settled. However, however, something being
5 legally permissible should not automatically be
6 equated with morally correct or even politically
7 advisable. Legally permissible, morally suspect
8 and politically volatile. These are the
9 attributes surrounding this vexing issue.
10 Attempting to reconcile this issue is a matter
11 that balances our desire for immediate catharsis
12 with hopefully, hopefully an equal desire to do
13 no additional harm.

14 When you consider that it all but guarantees
15 that the resulting solution will be one both
16 lauded in part and condemned in part by all
17 sides, such as the case when equally worthy goals
18 are at odds.

19 So we find ourselves here tonight. The
20 politics of term limits will continue on and off
21 for as long as proponents and opponents choose to
22 place it at the center of public debate. There
23 is nothing wrong with having differences of
24 philosophy on subjects which directly relate to
25 first principles. There is nothing wrong with

1 that. Life is supposed to be dynamic, not
2 static. But for now, for now, it is time to yield
3 to the practice of government and away from the
4 politics of an issue.

5 I believe our work has resulted in a
6 thoughtful and balanced solution, a principled
7 and pragmatic course. All in all not too bad.

8 Finally, I did my homework because I
9 misspoke at one meeting. This is a chart for my
10 fellow Commissioners. I had said that I didn't
11 think anybody got thrown out of office and the
12 people sent everybody back. That wasn't true.
13 Five members got thrown out. It's speculative as
14 to what reasons. I can't divine for them. But
15 if the Commissioners looked, I haven't approached
16 this room from a position of Council Members or
17 individuals. I've approached it from a position
18 of voters in a district. The members, quite
19 frankly, are irrelevant. They're irrelevant. But
20 let's go over the membership, because that seems
21 to be something we spent a lot of time
22 discussing. A, B and C. In column A you'll
23 notice the very first column says: "Out". In
24 2008 51 members of the Council had to make a
25 decision. Here we are less than two years later,

1 17 of those members are already out. They've
2 already left office. 19 of them are in their
3 final term. No matter what the voters decide
4 this November, 19 of them are gone. So 36 members
5 that were part of this are gone. Column B
6 represents those in their second term, 13
7 members, and column C represents those in their
8 first term, 19 members.

9 The argument I make is partly pragmatic. We
10 have taken not by design, ladies and gentlemen,
11 but by pure accident. We took an action in 2008
12 that many of us disagreed with. One of the
13 unintended consequences of that is, believe it or
14 not, we created nicely staggered terms. If you
15 look at it, we have now set up as near even
16 staggered terms as we could get. If we allow the
17 process to unfold organically and the
18 implementation date to take effect as we
19 previously voted. In doing so, we strengthened
20 the City Council and we ensured that we're not
21 throwing everyone out in relatively short order.
22 I think that's a good thing. I think that's a
23 healthy thing.

24 And I conclude by saying this. For those
25 people that are watching, and those people who

1 will read about this, this is an important issue,
2 and if it's important to you, and if you fear
3 that your Council Members by virtue of whatever
4 institutional protections exist, if you fear that
5 they'll get reelected, then do what I did 20
6 years ago. Jump into the arena, run against
7 them. Use their own language against them. Make
8 it an issue of what they said. But let's not cut
9 our nose to spite our face. Let's think smartly.
10 Let's, since we were handed lemons, try to make
11 lemonade.

12 CHAIRMAN GOLDSTEIN: Thank you very much,
13 Commissioner Fiala. Your words are always
14 elegant and thoughtful.

15 There remains one person to be heard and
16 that's your Chairman. So let me start with a yet
17 another mathematical metaphor.

18 When Commissioner Cassino -- Commissioner
19 Taylor said that this is going to go on and on
20 and on, it reminds me of an infinite series that
21 doesn't have a convergence, and we really have to
22 bring this discussion to a convergence, and we
23 need to decide within the next few minutes
24 whether we will leave the action that we took on
25 August 11 stand, or if there is sentiment that

1 would result in a modification of the effective
2 date to be moved and voted upon in the
3 affirmative. But before I conclude with my
4 opinions on those matters, let me speak a little
5 more in theory because that's the way that I look
6 at this problem.

7 When I was first asked to chair the Charter
8 Revision Commission I didn't really have a lot of
9 time to think about my response. But as I always
10 do with any new assignment, I knew that whatever
11 I was going to do I would try to use my own
12 intellect, my own sense of fairness, my sense of
13 experience, and my sense as a good listener to
14 converge on a solution. And for me, the most
15 important thing was my integrity.

16 You know, when you think about your life
17 there are very few things that you really have
18 control over. But one thing that I think you do
19 have control over is your integrity. And one of
20 the things I have enjoyed about these past six
21 months is that I am surrounded with very able
22 women and men, who I think not only are highly
23 intelligent and thoughtful but want to do the
24 right thing. And also are people of great
25 integrity.

1 Whatever we do tonight, I just ask each of
2 you to think about the legacy that you're going
3 to leave. In the short run, there will be people
4 that will applaud the work that we do, and there
5 are others that will be very unhappy and cast
6 stones at what it is that we've done. But if we
7 have our integrity in place none of that really
8 matters. And for me, integrity is not to be
9 influenced by people who have very strong views,
10 some of whom have skin in the game, and their
11 views are motivated by self-preservation and
12 self-advancement.

13 I think we really have to, to the degree
14 that we can, cast that away, because if we are
15 manipulated into a solution we really lost our
16 integrity. And I don't know how we are going to
17 come out this evening, but I really would like us
18 to be close to a unanimous view on this matter.
19 And if it's not unanimous, I hope that we could
20 have something very close to a consensus, because
21 I think that would be very helpful here. It
22 would maintain not only integrity, but here is an
23 example of where convergence is so difficult,
24 because as Mr. Fiala has said, we have discussed
25 this for decades in this City, and we still have

1 very, very strong feelings about the matter.
2 Whichever way we're going to come out tonight
3 they're going to be some of us that are going to
4 have to swallow and accept what we did and not be
5 happy, and others that will breathe a little more
6 freely and feel that they've gotten what they
7 want. So, I just hope that all of you can keep
8 those very basic principles in your mind; know
9 that we have had sufficient time to discuss these
10 issues; know that we have an opportunity to
11 inform and educate the people who will react to
12 what it is that we're going to do; know that we
13 are calculating the odds, if we have that
14 capacity, to decide if indeed what it is that
15 we're recommending will be supported by the
16 voters, and, most importantly, if indeed our
17 actions, we believe, will lead to a more
18 effective government than we have today.

19 We're not going to solve the term limits
20 issue tonight. So we will come to a conclusion
21 but we're not going to solve the problem, because
22 the problem is much more complex and deep than I
23 think many of us understood when we first
24 embarked on that road. But we will have our
25 integrity, because each of us, I hope, will make

1 a decision that we believe is in our best
2 judgment, something that is free from
3 interference, and something that is driven by
4 thoughtful deliberation as we've had tonight. I
5 really want to thank all of you for that, because
6 every time I'm with you I learn something, and
7 that's a good thing.

8 So, I want to move this process at this
9 point and want to know if there is a member of
10 the Commission that wishes to move a motion to
11 change that provision of our term limits proposal
12 dealing with effective date? And if you want to
13 move a motion it be would a motion to amend what
14 it is that we voted upon. And if you don't want
15 to do that, then we will just move on and get
16 through the rest of the agenda.

17 (The Chairman and the parliamentarian
18 confer.)

19 CHAIRMAN GOLDSTEIN: Okay, so I will move the
20 motion that we look to amend, what is it, motion
21 number 1? Term limits. The first item, the first
22 question on term limits. So I've moved it.

23 COMMISSIONER FREYRE: As read by --

24 MR. SCHAFFER: You're moving to adopt the
25 City Question #1.

1 CHAIRMAN GOLDSTEIN: That is correct.

2 COMMISSIONER FREYRE: Which you read earlier
3 this evening.

4 MR. SCHAFFER: Right, which I previously
5 read.

6 CHAIRMAN GOLDSTEIN: So it's been seconded?

7 MR. SCHAFFER: The resolution to move has
8 been seconded.

9 CHAIRMAN GOLDSTEIN: Let me make sure
10 everybody understands what I said --

11 COMMISSIONER SCISSURA: My phone just went
12 out.

13 CHAIRMAN GOLDSTEIN: Well, if it went out we
14 can still hear you. So you either have DC
15 current or AC current. I have moved the question
16 number 2 that has been --

17 COMMISSIONER COHEN: Question number 1.

18 CHAIRMAN GOLDSTEIN: Question number 1 that
19 was amended by our General Counsel, Rick
20 Schaffer, and it's been seconded, okay?

21 Now it's open for discussion. And if
22 anybody has an amendment to that now is the time
23 to bring it up. Yes.

24 COMMISSIONER CASSINO: And again I want to
25 thank you for really, Mr. Chairman, for having

1 the strength of character to say these are tough
2 things to bring up and to bring up again, and I
3 appreciate it as well as my fellow Commissioners,
4 who we've all struggled with this, and I just
5 thank you all for your comments. It's been a very
6 worthwhile to do this again.

7 I want to mention that I'm certainly,
8 because I mentioned, prepared to move my own
9 provision to what we have described as a hybrid.
10 So I would like to suggest a motion to amend that
11 provision of the term limits, or part 1, to --
12 I'm not sure of the exact language for that, but
13 put a motion forward for us to consider or
14 reconsider the issue of the effective date to the
15 hybrid suggestion that was raised or a phase-in.
16 Joe McShane has a great expression, better than a
17 hybrid we should have used phased implementation.

18 CHAIRMAN GOLDSTEIN: Okay. Since which
19 started with the word "hybrid" let's just
20 continue it since that has been used.

21 So we now have an amendment on the table
22 advanced by Commissioner Cassino to amend the
23 provision on effective date that was voted upon
24 on August 11 and to replace that with the hybrid,
25 which has been described earlier. We'll need a

1 second on that.

2 COMMISSIONER MOLTNER: Second.

3 CHAIRMAN GOLDSTEIN: It's been seconded by
4 Moltner, Commissioner Moltner.

5 Now it's time for debate. Anybody want to
6 say anything more on this?

7 COMMISSIONER PATTERSON: I do.

8 CHAIRMAN GOLDSTEIN: Yes.

9 COMMISSIONER PATTERSON: Because there has
10 been so much discussion about fairness both to
11 the voters and to the elected officials, most
12 importantly to the voters, I was quite moved by
13 Commissioner Crowell's point, which is that this
14 hybrid gives the voters a chance to vote one more
15 time for whoever their elected official is.
16 That's pretty fair. It is not -- it doesn't
17 necessarily have the symmetry of allowing
18 everybody to have exactly two terms or exactly
19 three terms. But it does respond to the voters'
20 need to feel that they voted for somebody who can
21 be leader in response to voters needs, to feel
22 their City Council person isn't in it just for a
23 short period of time. It's another way of
24 looking at the issue of fairness to voters, and
25 it is equally responsive to the concern of the

1 voters that the return to a term limit of two is
2 not held off for an extended period of time. It
3 really, the hybrid has, does have, I think, a
4 very good balance that gives the voters the
5 option of voting once again for their
6 representative.

7 CHAIRMAN GOLDSTEIN: Thank you. Anybody
8 else?

9 We are voting now on the amendment to the
10 question that was advanced by Commissioner
11 Cassino and seconded by Commissioner Moltner. The
12 hybrid, I claim credit for that. Never in my mind
13 did I believe that it would have involved so much
14 discussion.

15 (Inaudible comment by Commissioner McShane.)

16 CHAIRMAN GOLDSTEIN: I'm sure there will be
17 many corollaries.

18 COMMISSIONER McSHANE: I wonder if I could
19 address a question to Commissioner Patterson. I
20 made my position from last time pretty clear both
21 then and now. It's also clear to me I'm not
22 going to get my way. I have enormous respect for
23 you. Therefore, I ask you is this a greater
24 approximation of justice than option, which was
25 voted in by the majority with whom I did not vote

1 the last time. Is this a greater an approximation
2 of justice than what we saw? I have my own -- I
3 have a greater approximation of justice is option
4 1.

5 COMMISSIONER PATTERSON: I think there may be
6 few too many humanists on this committee to vote
7 for option 1. No, I do agree with you it has,
8 there is a logic to option 1 that I find very
9 compelling. So yes, I think option 2 is an
10 appropriate balance and for that reason -- not
11 what we voted on before, the hybrid. The phase,
12 the Goldstein theorem. The Goldstein theorem, I
13 think is -- sets the right balance. It hits the
14 right mark.

15 COMMISSIONER McSHANE: It believe it does
16 respond appropriately, not fully.

17 COMMISSIONER PATTERSON: It responds
18 appropriately to the concerns that have been
19 expressed by the voting public. And I have no
20 qualms about saying that it's alright to rethink
21 something just because we've -- and I am not
22 rethinking it because I've read something in the
23 papers, or because I have gotten E-mails from
24 some of the highly respected people in this room
25 who have testified tonight. I just rethought it

1 because I think it strikes the right balance.

2 COMMISSIONER MOLTNER: Mr. Chairman, can I
3 make a quick comment?

4 CHAIRMAN GOLDSTEIN: Absolutely, Commissioner
5 Moltner.

6 COMMISSIONER MOLTNER: Thank you. I am, of
7 course, a proponent to in effect why did I vote
8 for the hybrid why did I second it and why again,
9 because, Commissioner McShane, in answer to your
10 question, I think the answer is yes. When we
11 spoke -- and that's the only reason I vote for
12 it.

13 You spoke of the will of the people. This
14 does give due respect to the will of the people.
15 For me, that's where I started out and that's my
16 conclusion, which obviously others disagree, but
17 the will of the people of which you spoke is
18 paramount. The option that extended term limits
19 which was already voted for does not respect the
20 will of the people, and this does and, therefore,
21 I think the answer to your question is yes, I
22 agree with Commissioner Patterson. It does. It
23 strikes a balance. It is not what I would have
24 liked to have seen, but it strikes a balance and
25 it respects the will of the people.

1 CHAIRMAN GOLDSTEIN: Okay. I'm going to call
2 a roll now. Start with Mr. Banks.

3 COMMISSIONER BANKS: No.

4 CHAIRMAN GOLDSTEIN: Miss Freyre:

5 COMMISSIONER FREYRE: I'm going to abstain.

6 CHAIRMAN GOLDSTEIN: Mr. Cassino.

7 COMMISSIONER CASSINO: Yes.

8 CHAIRMAN GOLDSTEIN: Betty Chen is not here.
9 David Chen is not here.

10 Commission Cohen.

11 COMMISSIONER COHEN: No.

12 CHAIRMAN GOLDSTEIN: Mr. Crowell?

13 COMMISSIONER CROWELL: Yes.

14 CHAIRMAN GOLDSTEIN: Mr. Hart.

15 COMMISSIONER HART: Yes.

16 CHAIRMAN GOLDSTEIN: Mr. Fiala.

17 COMMISSIONER FIALA: With the utmost respect,

18 A. No.

19 CHAIRMAN GOLDSTEIN: Mr. McShane.

20 COMMISSIONER McSHANE: With a divided heart,
21 yes.

22 CHAIRMAN GOLDSTEIN: I'm sorry?

23 COMMISSIONER McSHANE: With a divided heart,
24 yes.

25 CHAIRMAN GOLDSTEIN: With a divided heart,

1 yes.

2 Mr. Moltner.

3 COMMISSIONER MOLTNER: Yes.

4 CHAIRMAN GOLDSTEIN: Miss Patterson.

5 COMMISSIONER PATTERSON: Yes.

6 CHAIRMAN GOLDSTEIN: Mr. Taylor.

7 COMMISSIONER TAYLOR: No.

8 CHAIRMAN GOLDSTEIN: What is an abstention?

9 (Discussion among the Commissioners and the
10 Chairman.)

11 CHAIRMAN GOLDSTEIN: The action fails. We
12 only have six votes, and even if I were to vote
13 "yes" it would still fail. The action fails.

14 COMMISSIONER PATTERSON: May I ask the person
15 who abstained whether she still wishes to
16 abstain?

17 CHAIRMAN GOLDSTEIN: Yes, you -- she's voted
18 and I think that's it. Okay?

19 COMMISSIONER FREYRE: I do wish to abstain
20 because I really do have a problem with the
21 hybrid.

22 CHAIRMAN GOLDSTEIN: Okay. The Goldstein
23 theorem, the hybrid, does not pass.

24 We'll go on to the motion --

25 COMMISSIONER TAYLOR: Excuse me, Chairman.

1 One clarification. What was the vote?

2 CHAIRMAN GOLDSTEIN: There were six yeases.

3 COMMISSIONER PATTERSON: Six yeases, four
4 no's, one abstention, and the Chair did not vote.

5 CHAIRMAN GOLDSTEIN: Independent --

6 (Discussion among the Commissioners and the
7 Chairman.)

8 CHAIRMAN GOLDSTEIN: So it's an abstention
9 for the Chair. Okay? The motion failed. Okay?

10 COMMISSIONER CROWELL: I'd like to reopen.

11 CHAIRMAN GOLDSTEIN: It's not to be reopened.
12 We have voted. I've been counted and I think
13 it's fine. Six, four, two is the vote.

14 COMMISSIONER PATTERSON: Mr. Chairman?

15 CHAIRMAN GOLDSTEIN: Yes.

16 COMMISSIONER PATTERSON: I would move, then,
17 if we go, if we evaluate whether we should have
18 the reduction in term limits effective
19 immediately, which we called Option 1, that is
20 another vote that has not been we discussed.

21 COMMISSIONER MOLTNER: Second.

22 CHAIRMAN GOLDSTEIN: So this has been
23 advanced by Commissioner Patterson. It's been
24 seconded by --

25 COMMISSIONER MOLTNER: I'll second.

1 CHAIRMAN GOLDSTEIN: -- Commissioner Moltner.
2 Let's discuss that.

3 COMMISSIONER FREYRE: So what we have on the
4 table is to amend question 1, to make it take
5 effect immediately.

6 CHAIRMAN GOLDSTEIN: That is correct.

7 COMMISSIONER SCISSURA: Can you repeat that?

8 COMMISSIONER FREYRE: It is to amend question
9 1 on term limits in order to make the effective
10 date immediate.

11 COMMISSIONER PATTERSON: With the recognition
12 that if this vote fails we stay with the
13 formulation that we previously had voted on, on
14 the 11th.

15 COMMISSIONER FREYRE: Correct.

16 CHAIRMAN GOLDSTEIN: We have the original
17 motion. It was amended. The amended motion to
18 replace it by the hybrid failed.

19 A second amendment to the original motion
20 was just advanced by Commissioner Patterson. It's
21 been seconded by Commission Moltner. It's open
22 for discussion.

23 Commissioner Cohen.

24 COMMISSIONER COHEN: Once again, this is in
25 fact the only option that is reflective of what

1 we have heard from the people. And it is a
2 consistent application, as was the (inaudible)
3 approved last time. It's just as consistent as
4 this was responsive to the voters. I urge us all
5 to adopt it.

6 CHAIRMAN GOLDSTEIN: All right. So it's been
7 seconded by Commissioner Moltner. We just heard
8 from Commissioner Cohen. Anybody else? Anybody
9 else?

10 I'm ready to call the question.

11 Commissioner Banks.

12 COMMISSIONER BANKS: No.

13 CHAIRMAN GOLDSTEIN: Commissioner Freyre.

14 COMMISSIONER FREYRE: Yes.

15 CHAIRMAN GOLDSTEIN: Commissioner Cassino.

16 COMMISSIONER CASSINO: Yes.

17 CHAIRMAN GOLDSTEIN: Commissioner Cohen.

18 COMMISSIONER COHEN: Yes.

19 CHAIRMAN GOLDSTEIN: Commissioner Crowell.

20 COMMISSIONER CROWELL: No.

21 CHAIRMAN GOLDSTEIN: Commissioner Hart.

22 COMMISSIONER HART: No.

23 CHAIRMAN GOLDSTEIN: Commissioner Fiala.

24 COMMISSIONER FIALA: No.

25 CHAIRMAN GOLDSTEIN: Commissioner McShane?

1 COMMISSIONER McSHANE: Yes.

2 CHAIRMAN GOLDSTEIN: Commissioner Moltner.

3 COMMISSIONER MOLTNER: Yes.

4 CHAIRMAN GOLDSTEIN: Commissioner Patterson.

5 COMMISSIONER PATTERSON: Yes.

6 CHAIRMAN GOLDSTEIN: Commissioner Taylor.

7 COMMISSIONER TAYLOR: No.

8 CHAIRMAN GOLDSTEIN: And the Chair votes no.
9 So that fails.

10 COMMISSIONER McSHANE: What's the vote?

11 CHAIRMAN GOLDSTEIN: It's one, two, three,
12 four, five, six. Six-six.

13 Okay. We are back to the original motion
14 now. And the original motion with the language
15 artfully changed but the substance exactly the
16 same due to Commissioner Freyre, and we
17 appreciate that, we're back to the motion that
18 was voted upon affirmatively on August 11. I
19 will -- well, since it's already been moved and
20 seconded, right?

21 MR. SCAHFFER: Just for the record to note
22 that you are voting on the ballot question and
23 the accompanying text which you have in front of
24 you.

25 CHAIRMAN GOLDSTEIN: Okay. Discussion on the

1 motion.

2 COMMISSIONER SCISSURA: I have a procedural
3 question. If it was voted on and both amendments
4 failed you would vote on it or opposed or the
5 vote on August 11 stands?

6 (Inaudible comments by Commissioner
7 Moltner.)

8 MR. FIELDS: Putting the question on the
9 ballot.

10 CHAIRMAN GOLDSTEIN: The vote today is to put
11 this on the ballot. We have voted on the
12 provisions on the 11th policy.

13 All right. So let's vote. I don't think
14 hear any further Commissioners on this.

15 Starting with the Chair, the Chair votes
16 yes.

17 Mr. Banks.

18 COMMISSIONER BANKS: Yes.

19 CHAIRMAN GOLDSTEIN: Mrs. Freyre.

20 COMMISSIONER FREYRE: Yes.

21 CHAIRMAN GOLDSTEIN: Mr. Cassino.

22 COMMISSIONER CASSINO: Yes.

23 CHAIRMAN GOLDSTEIN: Miss Cohen.

24 COMMISSIONER COHEN: Yes.

25 CHAIRMAN GOLDSTEIN: Mr. Crowell.

1 COMMISSIONER Crowell: Yes.

2 CHAIRMAN GOLDSTEIN: Mr. Hart.

3 COMMISSIONER HART: Yes.

4 CHAIRMAN GOLDSTEIN: Mr. Fiala.

5 COMMISSIONER FIALA: Yes.

6 CHAIRMAN GOLDSTEIN: Mr. McShane.

7 COMMISSIONER McSHANE: Yes.

8 CHAIRMAN GOLDSTEIN: Mr. Moltner.

9 COMMISSIONER MOLTNER: Yes.

10 CHAIRMAN GOLDSTEIN: Miss Patterson.

11 COMMISSIONER PATTERSON: Yes.

12 CHAIRMAN GOLDSTEIN: Mr. Taylor.

13 COMMISSIONER TAYLOR: Yes.

14 CHAIRMAN GOLDSTEIN: We have a unanimous
15 vote.

16 COMMISSIONER McSHANE: The Chair voted?

17 CHAIRMAN GOLDSTEIN: Yes, the Chair voted
18 first. Twelve-zero.

19 Let me move now to the question number 2 and
20 the accompanying text of the proposed amendment.
21 Let me read the -- there are no changes to this?
22 Question number 2. Okay. Everybody has question
23 number 2. Again, this is a question that is
24 bundling the following areas: The disclosure of
25 independent campaign spending, ballot access, the

1 Voter Assistance and Campaign Finance Board,
2 conflicts of interest law, City Administrative
3 Tribunals, city reporting requirements and
4 advisory bodies, and the mapping for facility
5 siting.

6 I'll move that. Do I have a second?

7 COMMISSIONER BANKS: Second.

8 CHAIRMAN GOLDSTEIN: Seconded. Anybody want
9 to discuss this at all.

10 COMMISSIONER MOLTNER: Yes. Thank you,
11 Mr. Chairman. I was going to vote in favor of
12 this, but I wanted to just address, as I
13 mentioned previously, the issue of bundling.
14 This, as I understand it, is due to the
15 limitations that we have on the ballot, on the
16 Board of Elections ballot. I for one think that
17 the laws of the City of New York are too
18 important that to vote "yes" or "no" I think
19 there could be disagreement. With term limits for
20 example, we have now points, bullet points I
21 strongly (inaudible) I'm in the minority that
22 they should be voted on separately. But this
23 goes as well with regard to the other issues. I
24 for one believe they are what's called mom and
25 apple pie or mother and apple pie issues, is that

1 the expression? But someone else may not. I
2 would prefer to see a ballot that gives due
3 recognition to what we as a Commission and what
4 the people as voters are voting on, the
5 importance of it, because an up down yes/no, I
6 respectfully submit, is just -- is not the best
7 public policy. I think all these issues are
8 absolutely imperative and should vote yes. I
9 think -- I strongly am disappointed that the
10 Board of Elections could not find some way to
11 give more room on the ballot the vote, the term
12 limits, in terms of voting on the issues
13 separately, and the issues as well. But
14 nevertheless I strongly support it.

15 CHAIRMAN GOLDSTEIN: Thank you, Commissioner
16 Moltner.

17 Anybody else want to discuss this?
18 Mr. McShane.

19 COMMISSIONER McSHANE: Mr. Chair, I am
20 agreeing with Mr. Moltner. To bundle this way I
21 think is it may be efficient given the geography
22 of the ballot (inaudible).

23 CHAIRMAN GOLDSTEIN: You know, I don't think
24 this is a matter of efficiency, I think it is a
25 matter of the structural efficiencies that we are

1 faced with the ballot. I have actually seen the
2 ballot. I think we passed it around earlier, and
3 I believe it would be impossible to disaggregate
4 all of these questions in the space that has been
5 provided.

6 We will reach out to the Board of Elections,
7 as we have before, to express our displeasure and
8 that we think the issues are much greater, as
9 Commissioner Moltner has said. But at this
10 particular point in time, some of this obviously
11 is expediency, and there's very little that we
12 can do to control this, and I don't think that
13 that ought to stop us from voting this evening if
14 we can get them to arrange the, arrange the
15 questions so that we could have greater
16 disaggregation, I think that would be a good
17 thing, but we can't promise to do that.

18 COMMISSIONER McSHANE: Thank you very much.

19 CHAIRMAN GOLDSTEIN: Anything else?

20 Commissioner Cohen?

21 COMMISSIONER COHEN: Yes, well, I absolutely
22 share Commissioner Moltner's concern about this,
23 and I think it just makes it more incumbent upon
24 us to educate the public about what we're putting
25 out there. I think among other things we have to

1 make clear to the public that this was not our
2 choice to organize the questions in this way,
3 that we are forced by physical space, space
4 constraints imposed upon us by the Board of
5 Elections, all of which is extremely unfortunate.
6 But I would suggest that perhaps in looking at
7 this language there are some extraneous words in
8 various clauses that could come out, it could be
9 a little shorter, easier to read, and then
10 perhaps at least be printed a little larger on
11 the ballot. I understand anything we do to change
12 the language has to be approved by the Law
13 Department, but I think we can certainly -- I
14 have already gone through this and seen places we
15 could lose some excess verbiage.

16 CHAIRMAN GOLDSTEIN: I don't think any of the
17 Commissioners would object to an analysis by our
18 legal staff, and the staff in general, to have a
19 discussion with the Board of Elections to see if
20 we can restructure the questions as long as
21 they're not, the content is not --

22 MR. SCHAFFER: Actually, Mr. Chairman,
23 actually we have to vote on the exact words. On
24 the report that which we're going to vote on
25 presently, there can be some final edits, but on

1 the ballot question the exact words as they will
2 appear on the ballot have to be voted on tonight.

3 CHAIRMAN GOLDSTEIN: Sorry about that. But we
4 can find a way perhaps to disaggregate if
5 possible. I don't know how we're going to do it.

6 MR. SCHAFFER: There are bullet points.

7 CHAIRMAN GOLDSTEIN: Even these alone without
8 the term limits is going to take up a
9 considerable amount of --

10 MR. SCHAFFER: No, I understand.

11 CHAIRMAN GOLDSTEIN: I don't think that we
12 ought to stop from voting tonight on this just
13 because of a problem that we're facing, and we'll
14 do the best that we can discussing (inaudible).

15 Anybody else want to discuss the content of
16 these items at all?

17 Let's move it. Let me go through the list
18 again. The Chair votes yes.

19 Mr. Banks.

20 COMMISSIONER BANKS: Yes.

21 CHAIRMAN GOLDSTEIN: Miss Freyre.

22 COMMISSIONER FREYRE: Yes.

23 CHAIRMAN GOLDSTEIN: Mr. Cassino?

24 COMMISSIONER CASSINO: Yes.

25 CHAIRMAN GOLDSTEIN: Miss Cohen?

1 COMMISSIONER COHEN: Yes.

2 COMMISSIONER GOLDSTEIN: Mr. Crowell?

3 COMMISSIONER CROWELL: Yes.

4 CHAIRMAN GOLDSTEIN: Mr. Fiala.

5 COMMISSIONER FIALA: Yes.

6 CHAIRMAN GOLDSTEIN: Mr. McShane.

7 COMMISSIONER McSHANE: Yes.

8 CHAIRMAN GOLDSTEIN: Mr. Moltner?

9 COMMISSIONER MOLTNER: Yes.

10 CHAIRMAN GOLDSTEIN: Miss Patterson.

11 COMMISSIONER PATTERSON: Yes.

12 CHAIRMAN GOLDSTEIN: Mr. Taylor.

13 COMMISSIONER TAYLOR: Yes.

14 CHAIRMAN GOLDSTEIN: It's unanimous, twelve/
15 zero. Thank you all.

16 The next item is to approve the Final
17 Report, which all of you have in front of you.
18 It's been amended about three times now, but I
19 think the very last amendment was at best
20 ministerial in terms of the -- at least in my
21 reading of it, so I will move this.

22 Do I have a second?

23 COMMISSIONER McSHANE: Second.

24 CHAIRMAN GOLDSTEIN: Seconded. Discussion on
25 the final report?

1 Let me recognize Commissioner Freyre.

2 COMMISSIONER FREYRE: I have not had the
3 opportunity to review the report because I
4 received the report about shortly after 4:00
5 o'clock this afternoon, and I did not have the
6 ability to review it before I got down here. I
7 understand that we have made minor,
8 non-substantive changes before -- fine. I
9 promise I will give my comments to the staff by
10 the close of business tomorrow. But I do have
11 one substantive point, which is at the end of the
12 discussion on independent budgets I believe that
13 we changed our conclusion, which in the
14 Preliminary Report basically said that we
15 recommend that future commissions consider the
16 arguments and devote some resources to studying
17 the roles of the elected officials and others who
18 are seeking independent budgets. And that came
19 out of the final report. And so I would like to
20 see that back in as a recommendation -- I have
21 the language here obviously from the preliminary
22 report. But I'd like to see that put into our
23 Final Report as a recommendation that the issue
24 of independent budgets be studied.

25 Shall I move that? Shall I move that?

1 DEPUTY DIRECTOR MARKOVITZ: I think you
2 should read it.

3 COMMISSIONER FREYRE: Should I read it? Shall
4 I move it and read it?

5 CHAIRMAN GOLDSTEIN: I don't think it needs
6 to be moved. Why don't you just read it and if
7 it's a minor amendment --

8 COMMISSIONER FREYRE: I'd like to put back
9 what was in the preliminary report that said
10 these are important legitimate concerns. We
11 recommend that future commissions consider those
12 arguments and devote significant resources to
13 study the role of the COIB and various elected
14 officials so as to make an intelligent assessment
15 of their fiscal needs. Only then can we create a
16 solution with transparency and accountability
17 which characterizes the present system we
18 developed to ensure the independence and
19 stability of such entities.

20 CHAIRMAN GOLDSTEIN: Just for clarification,
21 was this in the original --

22 COMMISSIONER FREYRE: It was in the
23 preliminary, yes.

24 CHAIRMAN GOLDSTEIN: In the initial draft?

25 COMMISSIONER FREYRE: It was in the initial

1 draft, that's right.

2 CHAIRMAN GOLDSTEIN: And somehow it was
3 changed or removed?

4 COMMISSIONER FREYRE: It was removed.

5 EXECUTIVE DIRECTOR GOODMAN: It's similar but
6 in a different --

7 CHAIRMAN GOLDSTEIN: Look, if there's no
8 objection -- it sounds more editorial to me than
9 anything else -- I would just assume by
10 Affirmation that we will make that change to what
11 it was.

12 COMMISSIONER FREYRE: Thank you.

13 CHAIRMAN GOLDSTEIN: Commissioner Cassino.

14 COMMISSIONER CASSINO: Mr. Chairman, I want
15 to express my appreciation for the items in the
16 report set forth for future discussion relating
17 to a number of City Council items that were
18 raised over the past. I appreciate their being
19 included in the report for future study related
20 to member items, and full-time Council, lulus. I
21 look forward to the day where a future Commission
22 will be able to open this up and know there was a
23 record that this Commission thought was important
24 enough to study this in the future and hopefully
25 take some action on this. So I think it's a

1 significant step forward, and I want to thank the
2 Chairman and the staff for including that in this
3 report. So I thank you.

4 CHAIRMAN GOLDSTEIN: Okay.

5 COMMISSIONER SCISSURA: Mr. Chairman, one
6 quick thing before we close.

7 CHAIRMAN GOLDSTEIN: Yes, I'm listening.

8 COMMISSIONER SCISSURA: Okay. I also just
9 wanted to really thank you for being a man of
10 honor and a man of your word and allowing us to
11 spend some time and put into the Final Report the
12 important issues of government structure,
13 Community Boards, Borough President, Public
14 Advocate and really emphasize what we heard on
15 local input and local governance. I really think
16 this has been for me a great pleasure working
17 with you, and I look forward to working you with
18 again in the future.

19 I just want the record to reflect that I
20 along with the other 12 Commissioners support
21 that reading of the hybrid that you are
22 presenting and also support the Final Report as
23 well.

24 CHAIRMAN GOLDSTEIN: Thank you for that,
25 Commissioner Scissura.

1 Okay. Hearing no further comments, I'll ask
2 for a vote. The Chair votes yes.

3 Mr. Banks?

4 COMMISSIONER BANKS: Yes.

5 CHAIRMAN GOLDSTEIN: Miss Freyre.

6 COMMISSIONER FREYRE: Yes.

7 CHAIRMAN GOLDSTEIN: Mr. Cassino.

8 COMMISSIONER CASSINO: Yes.

9 CHAIRMAN GOLDSTEIN: Miss Cohen.

10 COMMISSIONER COHEN: Yes.

11 CHAIRMAN GOLDSTEIN: Mr. Crowell?

12 COMMISSIONER CROWELL: Yes.

13 CHAIRMAN GOLDSTEIN: Mr. Hart.

14 COMMISSIONER HART: Yes.

15 Mr. Fiala.

16 COMMISSIONER FIALA: Yes.

17 CHAIRMAN GOLDSTEIN: Mr. McShane.

18 COMMISSIONER McSHANE: Yes.

19 CHAIRMAN GOLDSTEIN: Mr. Moltner.

20 COMMISSIONER MOLTNER: Yes.

21 CHAIRMAN GOLDSTEIN: Miss Patterson.

22 COMMISSIONER PATTERSON: Yes.

23 CHAIRMAN GOLDSTEIN: Mr. Taylor.

24 COMMISSIONER TAYLOR: Yes.

25 CHAIRMAN GOLDSTEIN: And that's twelve to

1 zero, that is unanimous.

2 The last resolution I think is quite
3 ministerial. It's going to require all of you to
4 sign this before we leave for tonight, but it's
5 basically that pursuant to Section 36 of the
6 Municipal Home Rule Law to proposals to amend the
7 Charter, it goes, on its right in front of all of
8 you, this really directs the staff to deliver the
9 Final Report with the unanimous recommendation
10 for its adoption to the City Clerk and has a
11 number of steps that just have to be followed.

12 So I'll move that motion. Do I have a
13 second?

14 COMMISSIONER McSHANE: Second.

15 CHAIRMAN GOLDSTEIN: Any discussion on this
16 at all?

17 Hearing none, let's go through again the
18 list. The Chair votes yes.

19 Mr. Banks.

20 COMMISSIONER BANKS: Yes.

21 CHAIRMAN GOLDSTEIN: Miss Freyre.

22 COMMISSIONER FREYRE: Yes.

23 CHAIRMAN GOLDSTEIN: Mr. Cassino.

24 COMMISSIONER CASSINO: Yes.

25 CHAIRMAN GOLDSTEIN: Miss Cohen.

1 COMMISSIONER COHEN: Yes.

2 CHAIRMAN GOLDTSEIN: Mr. Crowell.

3 COMMISSIONER CROWELL: Yes.

4 CHAIRMAN GOLDSTEIN: Mr. Hart?

5 COMMISSIONER HART: Yes.

6 CHAIRMAN GOLDSTEIN: Mr. Fiala.

7 COMMISSIONER FIALA: Yes.

8 CHAIRMAN GOLDSTEIN: Mr. McShane.

9 COMMISSIONER McSHANE: Yes.

10 CHAIRMAN GOLDSTEIN: Mr. Moltner.

11 COMMISSIONER MOLTNER: Yes.

12 CHAIRMAN GOLDSTEIN: Miss Patterson.

13 COMMISSIONER PATTERSON: Yes.

14 CHAIRMAN GOLDSTEIN: Mr. Taylor.

15 COMMISSIONER TAYLOR: Yes.

16 CHAIRMAN GOLDSTEIN: Again, unanimous,
17 twelve/zero.

18 That completes the agenda for this
19 Commission. Any last words that anyone wants to
20 say?

21 Commissioner Fiala?

22 COMMISSIONER FIALA: As we have alluded to
23 for five or six months, part of our task
24 involving objectivity and trying to show the
25 public how our Democracy works, I want to end my

1 work here by showing the public, particularly
2 those that are younger, that the appropriate
3 thing to do when you conclude work with people
4 the that you have enjoyed getting to know and
5 labor with is to say thank you.

6 One of my favorite sayings, and I don't know
7 who said it, I certainly didn't, but I stole it,
8 is that outside one's love, the greatest gift you
9 can give your fellow man is your labor, and if
10 you're able to marry the two you are truly
11 blessed.

12 I feel blessed to have been able to serve
13 with an extraordinary group of Commissioners, who
14 I think hopefully feel the same we committed
15 ourselves well. It's been a wonderful experience
16 getting to know each of you and I hope and I look
17 forward to maintaining these relationships in the
18 future.

19 I also want to thank our staff, our
20 Executive Director, our Research Director, the
21 Deputy Executive Director, legal counsel, our
22 General Counsel, all of the interns, all of the
23 legal staff, Corp Counsel. A lot of people
24 helped to help us throughout this process, and
25 they too have proved to be expert at their craft.

1 I also want to acknowledge some of the
2 pioneers who helped make our effort well a
3 pioneering one and that's the CUNY TV production
4 crew that labored throughout this process and
5 really brought us into the living rooms of those
6 that were interested.

7 To our Stenographer, who we never showed on
8 TV, and who has been here throughout.

9 (Applause.)

10 MR. FIALA: To all of the expert witnesses
11 who came in with thoughtful presentations and
12 helped to shape our views. To the citizens of New
13 York who came out in over two dozen meetings
14 across this City. And finally, to a man that I
15 feel blessed to have gotten to know and that's a
16 man, the Chair, who handled himself with absolute
17 skill and grace and personal dignity and
18 certainly should be a role model for us all. And
19 I thank you for the leadership you provided in
20 bringing us to this harmonious conclusion, and it
21 should not be lost upon anyone that it was
22 harmonious, and we came together for a unanimous
23 vote despite varying differences of opinions.
24 That is in part, I think, our collective belief
25 in your leadership and in part our collective

1 belief that we know ultimately the people will
2 make the right decisions, and regardless of what
3 happens in an election, this City will go forward
4 as it always has.

5 Mr. Chairman, thank you so much for making
6 this a wonderful experience where we were able to
7 contribute, hopefully something that will meet
8 the goals that we established from Day One.

9 CHAIRMAN GOLDSTEIN: Thank you. Let me have
10 the last word because it is getting late. I want
11 to thank all of you. I learned a lot from each
12 and every one of you. I know that this has been a
13 burden on you and your families because we've
14 spent so much time doing the work of this
15 Commission.

16 It's been a pleasure getting to know all of
17 you as I have, and I look forward to those
18 relationships continuing in the future. I also
19 want to thank our staff, because they're the ones
20 that have worked so tirelessly, Lorna Goodman,
21 Ruth Markovitz, Rick Schaffer, who has been by my
22 side day in and day out. He's just an
23 extraordinary attorney and a very, very capable
24 fellow. And Rick, thank you. And Joe Viteritti,
25 for your very good work as Director of Research,

1 and all of the other people who work so
2 tirelessly. Jay Hershenson for the insistence
3 that we really bring technology in ways to expand
4 the catchment area of people participating. I
5 want to thank you and the staff of CUNY TV, it's
6 been a pleasure. And our Stenographer. You now
7 have a gray machine. It used to be pink if I
8 remember.

9 THE COURT REPORTER: I rotated them.

10 CHAIRMAN GOLDSTEIN: And thank you. And that,
11 if there are no further --

12 EXECUTIVE DIRECTOR GOODMAN: I'd like to
13 recognize the people on our staff. If they could
14 just stand up.

15 (Applause.)

16 (Continued on the next page.)

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1 CHAIRMAN GOLDSTEIN: The unsung heros. I
2 know because I used to call on weekends and
3 people were always there working away. So thank
4 you all.

5 With that I'll ask for a motion to adjourn?

6 COMMISSIONER McSHANE: So moved.

7 CHAIRMAN GOLDSTEIN: It's been moved. By
8 acclimation, thank you all. We are done.

9 (Whereupon, at 8:23 P.M., the above matter
10 concluded.)

11

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

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NORAH COLTON, CM

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