

Transcript of the Meeting of the
CHARTER REVISION COMMITTEE
held on Friday, July 27, 2001
at 110 William Street, 4th Floor
Borough of Manhattan

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Meeting convened at 1:00 p.m.

P R E S E N T

RANDY M. MASTRO
Chairman

COMMISSIONERS:

HOWARD WILSON

ABRAHAM BIDERMAN

JONATHAN BALLAN

VINCENT ROBERTS

YVONNE LIU

TOSANO SIMONETTI

ROSA GIL

MARTA VARELA

HERBERT RUBIN

LISA LEHR

MR. MASTRO: Good afternoon, ladies and gentlemen, I want to welcome you here for the first meeting, the first public meeting of this Charter Revision Commission, but it's not the first time that this particular group has focused on the issues, since most of the members of this Commission have been members of prior Charter Revision Commissions. I feel very fortunate to be with such a distinguished group, people who have devoted their time and energies to past Charter Revision Commissions. In most instances, the members have served on at least one and in some cases several prior Charter Revision Commissions and we're ready to dive right in this year again.

So I want to welcome all the members of the public who are here and I want to particularly thank my fellow Commission members for their service.

Today we are convening to hear from the staff on its preliminary recommendations as to what issues we should focus on as our deliberations continue in this election cycle. We as a Commission reviewed the entire City Charter and we will do that and consider any issues that members of the public intend to raise. However, it is our intent by having had the staff make these preliminary recommendations to give some focus to those issues which this Commission is likely to consider most seriously during this election cycle, so that at those public hearings members of the public will already be aware of the substance and content of those proposals that this Commission is most likely to consider for inclusion on the ballot in this election cycle.

I also wanted to say at the outset before I call the staff up here, they have put together a 150-page report that covers upwards of 100 different issues, and they've made recommendations to us to

focus in nine basic categories. They've done an incredible amount of work in a short period of time, and I wanted to give my fellow Commission members some sense of the direction that I gave to the staff in terms of operating assumptions.

I asked the staff in particular to focus on those issues where we had made material advances in recent years, changes in the way City Government functioned that have succeeded and therefore should become a permanent part of the way in which the City does business, or to focus on changes that would reinforce the positive progress that has been made in recent years, and I also urge the staff to focus on those issues on which we believe we can achieve as broad a consensus as possible over the course of the coming weeks, and to take into account whether the issues that the staff was proposing for our further consideration were of the type where we could achieve widespread and broad consensus during the course of our work in the coming weeks.

I think the staff has done that. I've also advised the staff of my personal view that in connection with the work of this Commission I will be recommending at the end of our work that whatever proposals we intend to put on the ballot, that we divide those up separately into logical individual issues or related issues, so that the voters can vote each of those propositions up or down individually.

That having been said, I'd like to call staff members up to present to us preliminary recommendations, and I particularly want to thank all the members of the staff, but our co-executive directors, who are doing a fantastic job, Sally Renfro, Alessandra Sumowicz, Jan English and our general counsel, Anthony Crowell and everyone who contributed to what is a most impressive preliminary report of recommendations covering so many issues in

quite a decisive fashion.

So if I can call on our general counsel, Anthony Crowell, to come up and start the staff presentation.

MR. CROWELL: Good afternoon, members of the Commission, Mr. Chair. My name is Anthony Crowell, I am the general counsel for the Charter Revision Commission. The purpose of my appearance here today is to present the Commission with a staff report that sets forth the preliminary recommendations regarding Charter revision. Copies of the staff report have been provided to the Mayor, the Comptroller, the Public Advocate and the Borough Presidents as well as the Council speaker. We've also provided each of you with a copy of the report.

Our report, which is approximately 140 pages long, recommends nine separate proposals for Charter revision. It contains a summary of the Charter revision process, a list of issues worthy of consideration, a substantive consideration of those issues, our recommendations and specific language that we believe should be added to our deleted from the Charter.

We will be presenting recommendations in the following areas: Protecting the City's most vulnerable children, promoting public safety, making our schools safer, promoting gun safety, protecting human rights, enhancing public health, Government purchasing procedures, safeguarding Government integrity and reforming the City's building inspections. I would now like to turn the floor over to Matthew Campese, who will describe for you some of the issues under protecting the City's most vulnerable children.

MR. CAMPESE: Good afternoon, members of the Commission. My name is Matthew Campese and I'm a member of the Charter Commission staff. Our first recommendation is that this Commission consider

making the Administration for Children's Services a permanent Charter agency. As you know, ACS was created by Mayor Guiliani through an Executive Order on January 11, 1996 and it has been operating pursuant to that Executive Order ever since. ACS was created to oversee the various child-related services that had previously been the responsibility of the City's Human Resources Administration. Specifically, ACS is comprised of three former divisions of HRA; the Child Protective Services, the Agency for Child Development and the Office for Child Support Enforcement.

The Mayor created ACS to fully integrate these three programs to better serve the interests of children in need.

Over the past five years the City Council has considered proposed legislation to establish ACS as a Charter agency, but has yet to act on it. ACS acts as a child protective service and is charged with receiving and investigating reports of child abuse and neglect, assisting families at risk by addressing the causes of abuse and neglect, providing children and families with day care and preventive services and placing a child in temporary foster care or permanent adoption when preventive services cannot address the causes of abuse and neglect.

ACS provides opportunities for children's growth and development through Head Start services. Additionally, ACS provides services to insure that parents who are legally required to provide child support do so.

ACS is also dedicated to expeditiously finding safe and appropriate permanent homes for children in foster care either through reunification with families or adoption. In FY 2001, 7,171 children were discharged from foster care to their families or primary resource provider. For those

children who could no longer be reunited with their biological families, ACS has finalized a record-setting number of adoptions over the past five years. As of June 30, 2001, 21,185 adoptions had been finalized since 1996, compared to 11,625 adoptions between 1991 and 1996.

The responsibilities of ACS are clearly among the most important social service responsibilities of this City. An independent ACS brings direct accountability to child welfare and allows for resources and efforts to be focused solely on the needs of children. Child welfare should be the main concern of one agency, rather than only one of many concerns addressed by a larger agency, such as HRA. In addition, as a Charter agency, ACS would have rule-making authority, providing the agency with increased latitude in promulgating regulations for the benefit of our City's children.

While ACS is currently functioning as an independent agency, it is vital that it be made part of the Charter to insure its permanent independence and continued effectiveness in caring for the needs much our City's children.

It should be noted that this proposal was included in the 1999 Commission's voter referendum. Staff believes had it been a separate ballot proposition, it would have passed.

Accordingly, we therefore recommend the Commission consider adopting this proposal.

MR. CROWELL: Thank you, Matt.

Next I'd like to turn the mike over to Dara Jaffe, who will present the first of our recommendations under public safety that would be make OEM a Charter agency.

MS. JAFFEE: Good afternoon, members of the Commission. My name is Dara Jaffe and I will summarize for you the staff's recommendation

concerning the Office of Emergency Management. The staff recommends that the Office of Emergency Management be given Department level status as a new emergency management department in the Charter.

In recent years, acts of terrorism, national disasters and accidents have challenged public safety and emergency response officers in major cities worldwide. New York City is not immune from these threats. Recognizing the need to enhance interagency and Intergovernment coordination during emergency situations, the present Mayor's Office of Emergency Management was created by Executive Order in 1996. As defined by OEM's present mission, the New York City Emergency Management Department operates within five primary parameters. The Department would monitor and respond to all potential emergency conditions and incidents that may require multi-agency response.

Second, the Department would operate an emergency operation center to assist in managing emergency conditions, and potential incidents which may require a multi-agency response.

Third, the Department would research, compile, evaluate and implement citywide contingency plans ranging from anti bioterrorism planning to public information and media outreach programs, to an all hazards mitigation plan.

Four, it would prepare, organize and implement drills and exercises. And finally, the Department would coordinate special interagency and intergovernment responses, as it has done in numerous response situations.

During the past five years, OEM has spearheaded many initiatives and it has addressed various important Citywide health and safety issues. OEM's national recognition in the emergency management community has helped enable the office to form productive alliances with the Federal Emergency

Management Agency, the National Guard, the American Red Cross and many other public safety, health and human service organizations.

In addition to advising the City on emergency and response issues, OEM is often consulted on state and national emergency management issues and projects. By consolidating emergency management functions, improving coordination between City, State, Federal and private agencies, and maintaining direct Mayorial control, the City will continue to implement an effective, efficient and comprehensive approach to emergency management. As evidenced by OEM's record of skillful professionalism, innovative abilities and defined accountability, OEM's codification as a Charter agency with Department level status would insure that the City of New York maintains excellence in emergency management, planning and response.

MR. MASTRO: Thank you, Dara.

MR. CROWELL: Next I'd like to turn the mike back to Matt Campese, who will discuss creating an Organized Crime Control Commission.

MR. CAMPESE: The next proposal we are considering is the creation of an Organized Crime Control Commission. The purpose of this Commission would be to consolidate and oversee the regulatory licensing and investigative functions of the existing agencies that deal with organized crime activities within our City.

The programs dealing with the Fulton Fish Market at the Department of Business Services and the Department of Investigation, the Trade Waste Commission and the Gambling Control Commission would be consolidated to form this new agency. Traditionally, the task of fighting organized crime was assigned primarily to criminal law enforcement agencies such as the Police Department and prosecutor's offices. There was some notable

successes in disrupting the abilities of the organized crime families and Federal and State criminal prosecutions resulted in incarceration of numerous participants in organized crime activities.

In recent years, however, the City has expanded that effort by imposing stringent regulatory and licensing requirements on public wholesale food markets and on the commercial waste carting industry. In 1995, Local Law 50 was adopted to eliminate the influence of organized crime in the Fulton Fish Market. That Local Law empowered the Department of Business Services with the assistance of the Department of Investigation, to license and conduct background investigations on designated businesses and organizations having dealings in the Fulton Fish Market. In 1997, Local Law 28 expanded this effort to the other public wholesale markets.

In 1996, Local Law 42 created a new agency, the Trade Waste Commission, to oversee, regulate and license the private carting industry, and finally, in 1997, Local Law 57 established the Gambling Control Commission to eliminate any organized crime influence from gambling ships sailing out of the City into international waters.

The proposed Charter revision that we are recommending would make these changes permanent and consolidate the City's regulatory and licensing efforts in these areas. Each of the City's current programs deal with the different areas of economic activity, but they perform similar regulatory licensing and investigative functions and each places a special emphasis on background investigations of applicants to determine whether they are of good character and fitness and whether they have had contact with known organized crime figures and activities. However, each agency's efforts to discharge these duties are hampered because relevant information is often scattered

among the various agencies and among various other law enforcement authorities.

Notwithstanding the fact that the same organized crime figures sometimes infiltrate the different economic activities that are currently regulated, there is no formal structure currently in place to insure cooperation among the various agencies or to prevent duplication of effort. This proposed Charter amendment would eliminate this deficiency in the City's current Governmental structure.

It should also be noted that this proposal was included in the 1999 Commission's voter referendum and staff believes that if it had been a separate proposal it would have passed as well.

Accordingly, we therefore recommend the Commission consider adopting this proposal.

MR. MASTRO: Thank you, Matt.

MR. CROWELL: Now I'd like to pass the mike back over to Dara Jaffe, who will discuss coordination of domestic violence services.

MS. JAFFEE: The staff recommends the establishment within the Executive Office of the Mayor to a new Charter agency to be known as the Office to Combat domestic violence.

Domestic violence is a public health issue that threatens hundreds of thousands of households each year and it is important to recognize that the problems posed by domestic violence fall under the jurisdiction of various City agencies.

Developing an integrated approach to the problems of domestic violence, one that coordinates existing services and systems, is critical to the City's success in this area.

The Mayor created the Commission to Combat Family Violence, or CCFB, by Executive Order in 1994 to coordinate the services of the many City

agencies that deal with domestic violence. The CCFB was comprised of representatives from several City agencies and other Mayorial appointees from private and public organizations. Commission members represent a broad spectrum of experts from the field of health care, social services, law, education and housing. Its purpose is to develop and implement a comprehensive Citywide strategy to combat domestic violence by formulating policies and programs relating to all aspects of victim services, developing methods to improve victim services coordination, developing ways to insure that relevant City agencies respond appropriately to domestic violence situations, and that there is agency coordination, and implementing Citywide public health, public education campaigns to encourage victims to seek help and to increase awareness of family violence.

The Commission's staff recommends that the Charter be amended to make permanent the success of these coordinated efforts by establishing an Office to Combat Domestic Violence to be charged with coordinating services relating to the prevention of domestic violence. This will institutionalize the coordination to insure that the City's new focus on combatting domestic violence becomes permanent.

It should be noted this proposal was submitted to the voters by the 1999 Commission. We believe the voters would have approved this proposal in 1999 had it been submitted as a separate item.

MR. MASTRO: Thank you, Dara.

MR. CROWELL: The next category we're going to be discussing it is make our schools safer. The first recommendation under that is school crime reporting.

MR. CAMPESE: The next proposal that I will be summarizing for you today is the staff's

recommendation that the Charter be amended to mandate that public school teachers and other Board of Education officials immediately report suspected sex offenses or other violent crimes against public school students to the Police Department. The City's children are both its most important resource and among its most vulnerable citizens, thus, it should be the primary duty of each individual New Yorker and the City as a whole to insure that each child has an opportunity to reach his or her full potential.

This goal cannot be achieved, however, without our City firmly committing itself to providing our children with two necessary ingredients: A decent education and a safe environment in which to learn and grow. Sadly, time and again we have seen that even in a place traditionally considered among the safest for children, their public schools, young people can fall prey to many dangerous crimes. Under this proposed Charter amendment, teachers and other Board of Education employees would be required to report immediately information relating to suspected sex offenses or other violent crimes committed against the student to the school's principal and to the Police Department. The school principal will also be required, with certain exceptions, to notify the child's parents or legal guardian. This amendment also provides immunity from civil liability to any person who in good faith reports such information to the police.

Lastly, nothing in this amendment would limit the existing authority of the Board of Education or any other agency from conducting any administrative, civil or criminal investigation that is within the scope of their authority. This Charter amendment will help the City to better protect children in public school by more fully integrating

the Police Department into school misconduct investigations. There is little doubt that the New York City school system needs the professional expertise and investigative acumen of the Police Department to aid them in discovering the validity and seriousness of potentially criminal incidents.

For example, in a widely reported recent case, a teacher who may be infected with HIV was charged with sexually abusing a nine year old student. In 1998, three years before the alleged sexual abuse occurred, this same teacher was accused of making inappropriate sexual overtures to a student at the same public school. Although Board of Education officials investigated these allegations without contacting the Police Department, the Board erroneously concluded that no crime had occurred. It was only after the teacher's alleged crime that these prior allegations became known to the Police Department and the District Attorney's office.

Since then, the teacher has been indicted for the recent offenses as well as the offenses committed in 1998. If this were an isolated incident, it would be disturbing enough. But, unfortunately, it is only one of several cases in recent years in which it was revealed that students had claimed to be the victims of sexual abuse or other crimes and the education officials or teachers in charge failed to report such incidents to the police. Clearly something needs to be done.

The purpose of this proposed amendment is two-fold: To insure that the Police Department receives reports of all suspected sex offenses or other violent crimes committed by an adult against a child as well as reports of serious allegations of sex offenses or other violent crimes committed by a student against another student that rise to the level of a Class B felony or above, as defined in

the penal law.

It is not the purpose of this amendment to mandate the reporting of incidents amounting to ordinary misbehavior among children. This recommendation is aimed at eliminating the likelihood that crimes committed against students will continue to fall through the cracks of the Board of Education bureaucracy and not be reported to the police. It is vital that incidents of crime be reported to and handled by those people best equipped to deal with it, the NYPD. Accordingly, the staff recommends this proposal.

MR. MASTRO: Thanks, Matt.

MR. CROWELL: The next recommendation will be reported on by Michael Bonafede, and that's dealing with gun-free school safety zones.

MR. BONAFEDE: Good afternoon. School shootings are an epidemic problem threatening the safety of children in every classroom across the nation. The mass shootings this year of students at Santana High School near San Diego, California and in 1999 in Columbine High School in Littleton, Colorado underscore the sad reality that children may be safe nowhere.

Indeed, statistics released by the Centers for Disease Control in 2000 show that in a single two- year period 105 violent deaths occurred at or near school grounds or at school associated events nationwide. The majority of these deaths, 81 percent were homicides, and the use of guns caused 77 percent of them.

The City's schools are by no means immune to gun-related incidents. In 1999 and 2000, the School Safety Division reported a total of 71 gun-related incidents in City schools. During that same period, officers seized 41 handguns. Therefore, the Commission staff believes that it is essential that the 1999 Commission's proposal to

amend the Charter to include gun-free school safety zones be proposed once again. The Commission's staff is confident that had this gun-free school safety zone proposal been placed on the ballot as a separate issue in 1999, that it would have been passed by the voters.

A gun-free school safety zone would prohibit the possession or discharge of any firearm 100 feet of any school in the City, whether public, private or parochial school, day care center or nursery or preschool, elementary, intermediate, junior high or vocational or high school. Violators would be subject to criminal and civil penalties of up to one year in jail and a \$10,000 fine.

Federal law makes it a crime to possess a gun within 100 feet of a school. The federal law is, however, is riddled with exceptions and fails to go far enough in protecting the City's children. The federal law by its terms does not preempt the City from establishing its own gun-free school safety law, but, unlike the federal law, which provides broad exceptions to gun possession in school zones, only a limited number of exceptions to possession or discharge, such as possession of a gun for personal safety stored in a residence or business or possession of a gun by a law enforcement official would be available.

In addition, State Penal Law currently bans possession of a firearm in a school or on school grounds. The Commission believes that this proposal is consistent with and furthers the intent of the State Penal Law to keep our children safe from the terrible risk posed by guns in and around our schools.

Thank you.

MR. MASTRO: Thank you, Mike. Just to clarify, the proposal is to ban any possession or discharge of a weapon within a thousand feet of any

school, preschool, day care center.

MR. BONAFEDE: I apologize. If I didn't say that, I meant to say 1,000.

MR. MASTRO: Thank you.

MR. CROWELL: The next issue falls under the category of promoting gun safety and Michael will also report on that, Michael Bonafede.

MR. BONAFEDE: Each year in the United States, 30,000 people are killed and thousands more injured by guns, making this nation the world leader in both the number of adults and children who die and are injured by such weapons annually. This nation's yearly death toll from guns compares to a few hundred such deaths every year by guns in other industrialized nations. Indeed, a teenager in the United States is more likely to die from a gunshot wound than all other causes combined.

New York City has long recognized this level of death and injury results from the easy availability of guns, especially by those too young to possess and keep them responsibly. Indeed, in recent years the City has taken many steps to eliminate the violence and death caused by guns. In perhaps one of the boldest moves to address the problem, the City recently initiated litigation against gun manufacturers for the devastation that their products have wrought on the City's communities. The City has also enacted and vigorously enforced, many laws intended to keep guns out of the hands of children and criminals.

Although City law prohibits the possession of most types of guns by people under 21, it provides a loophole that allows certain types of guns, including rifles and shotguns, to be purchased and possessed by persons beginning at age 18. The Commission's staff believes that in a densely urban environment like New York City, only a uniform minimum age of 21 for the permitting and possession

of any type of gun makes good sense and this loophole should be closed.

The Commission's staff is consistent with the rationale set by the City Council in setting 21 as the minimum age in which most types of guns may be permitted and possessed by anyone in the City and by the State Legislature as the as the statewide minimum age at which alcoholic beverages may be purchased. Indeed, persons under the age of 21 are extremely susceptible to injury resulting from immaturity and often lack of sound judgment. The older and more experienced a person becomes, the more likely that person would be able to appreciate the deadly nature of all types of guns.

Accordingly, to further the City's progress in reduction of gun violence and gun-related accidents in its communities, the Commission's staff recommends that the Charter be amended to prohibit anyone under the age of 21 from purchasing or possessing any type of gun, including any type of handgun, pistol, rifle, shotgun, assault weapon or machine gun. The Charter should be revised to provide that civil and criminal penalties of up to one year in jail and a 10,000 fine be imposed upon anyone found in possession of any type of gun and upon anyone who sells or provides any type of gun to anyone under the age of 21 years of age.

MR. MASTRO: Thank you.

MR. CROWELL: The next issue we'll be permitted and possessed by anyone in the City and by the State Legislature as the as the statewide minimum age at which alcoholic beverages may be purchased. Indeed, persons under the age of 21 are extremely susceptible to injury resulting from immaturity and often lack of sound judgment. The older and more experienced a person becomes, the more likely that person would be able to appreciate

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MR. MASTRO: Thank you.

MR. CROWELL: The next issue we'll discuss is protecting human rights. Dara Jaffe.

MS. JAFFEE: The City continues to be at the forefront of local governments nationwide in the battle against discrimination and the protection of civil rights. So that this progress continues, the Commission staff recommends that the Commission on Human Rights be given Charter status and the Commission's powers to enforce the protections of the Human Rights Law should be established in the Charter.

As the City Human Rights Law recognizes in its introductory section, there is no greater challenge to the health, safety and welfare of the New York and its inhabitants than to the existence of groups prejudiced against one another and antagonistic to each other because of their actual or perceived differences, including those based on race, color, religion, creed, age, national origin, alienage or citizenship status, gender, sexual orientation, disability, marital status, status as a victim of domestic violence and whether children are

or may be residing with a person. Including the Commission on Human Rights and its powers in the Charter will illustrate the City's continued commitment to human rights and make it more difficult for future leaders in the City to eliminate those protections.

The proposal to incorporate the Commission on Human Rights and its powers to enforce the Human Rights Law into the Charter is extremely important, since City law offers protections not available under State or Federal law with respect to the treatment accorded to sexual orientation, alienage and citizenship status and status as a victim of domestic violence. Thus, if the Commission on Human Rights were to be abolished or the Human Rights Law repealed, there would be no administrative enforcement agency that individuals could turn to in seeking protection from certain discriminatory conduct.

The New York City Human Rights Law is too lengthy and highly detailed to incorporate in a short form charter, thus the approach taken here is to refer specifically to it in the Charter as providing the basis for the City's antidiscrimination policies. These very important protections and the obligations they impose on private and public parties already exist by virtue of law. Thus, the staff's recommendation will place obstacles to any efforts to undermine the City's fundamental opposition to discrimination.

Therefore, in order to strengthen the City's public policy of eliminating unlawful discrimination, the Commission staff recommends that the Commission consider codifying the City's Commission on Human Rights in the Charter and codifying the protections of the City's Human Rights Law enforced through the Charter.

It should be noted that this proposal was

submitted to the voters by the 1999 Commission. We believe that the voters would have approved this proposal in 1999, had it been submitted as a separate item.

MR. CROWELL: Thanks Dara. I'd now like to ask Eileen Smith to join the group.

MS. SMITH: Good afternoon, my name is Eileen Smith.

It has long been a policy of the City of New York to make its services fully available to all immigrants. This policy was first established by the Executive Order number 124 initially issued by Mayor Koch and renewed by both Mayor Dinkins and Mayor Guiliani. That Executive Order recognizes that the welfare of the entire City is jeopardized if some of the city's residents do not educate their children, do not report to the police when they're victims or witnesses to a crime and do not have illnesses treated which may be contagious.

Currently the principal agency that's charged with dealing with the needs of the City's foreign born population is the Mayor's Office of Immigrant Affairs. The Commission's staff's recommendation is to establish an Office of Immigrant Affairs in the Charter to provide a firmer legal foundation for that office's activities and also to insulate that office from the vagaries of politics. In addition, the staff also recommends that the Charter be amended to explicitly state that it is a public policy of the City of New York to make public services available to all eligible persons, regardless of their alienage and citizenship status. This amendment essentially codifies one version of the Executive Order that I referred to.

In addition, it also recognizes that the Office of Immigrant Affairs should be empowered to take all appropriate action assembled in its

policies.

Finally, the staff recommends that the Charter provides that the City as part of its inherent power may require confidentiality in order to protect the trust of individuals who have business with the City. This amendment would also state that the Mayor may issue rules and regulations to protect the confidentiality of such information, including the immigration status of a person. This is an important objective with the City of New York and it is important that it be reflected in the Charter.

It should be noted that the 1999 Commission, this issue was included in the voter referendum. Staff believes had it been a separate ballot proposition, it would have passed. We therefore recommend the Commission consider adopting this proposal. Thank you.

MR. MASTRO: Thank you.

MR. CROWELL: Thanks Eileen.

The next item we will be discussing is enhancing public health. Matt Campese will be discussing the two propositions. One is merging the Department of Health, and the Department of Mental Health, Mental Retardation and Alcoholism Services, and the second is expanding the Board of Health. Matt?

MR. CAMPESE: The next proposal I would like to summarize for us is our recommendation that the Department of Health and the Department of Mental Health, Mental Retardation and Alcoholism Services be merged to create a new agency called the Department of Public Health.

In 1998 the Department of Health and Department of Public Health were effectively merged when the Mayor appointed Dr. Neil Cohen as Commissioner of both agencies. Concurrently, the Mayor sought legislation to formally merge these two

agencies. However, the City Council has declined to act on this legislation. Nevertheless, these two agencies have demonstrated the City has much to gain through better coordination of these public health activities. Indeed, a growing consensus now believes today's complex health problems are best addressed through the integration of health and mental health services.

For example, the United States Surgeon General issued a report on mental health in December 1999 that highlighted the connection between physical and mental health. That report stressed the importance of facilitating access to mental health care by better integrating public health and mental hygiene services. The operation of DOH and DMH under one Commissioner over the past three years has demonstrated some of the benefits that would be realized through a merger. For example, these agencies have use relationships with family health providers to raise awareness in the medical community of mental health and rehabilitation issues, identified training needs for health providers, brought attention to health concerns that are most frequently affected by stress and other psychological factors such as asthma, and reduced the marginalization of those with mental disabilities by bringing them into integrated health and disability planning and policy discussions.

The previous 1999 Charter Revision Commission also included this proposal in its voter referendum and at the time there were reservations expressed from the mental health community. The mental health community was concerned that a small agency such as DMH would get lost in a much larger department of public health and that a reduction in services to this community might result. Therefore, consistent with the concerns raised by the public during the 1999 Commission's hearings, this current

proposal has been amended to insure that a reduction in services for the constituencies of either agency would not result; specifically, the Charter revision language has been amended to provide that the new Deputy Commissioner for Mental Hygiene report Directly to the Commissioner, require separate budgetary units of appropriation for the Mental Health, Mental Retardation and Alcoholism Services Unit, stipulate the Deputy Commissioner for Mental Hygiene coordinate contracts between community-based providers and the agency's procurement status, require that there be executive coordination of mental retardation and developmental disabilities within the Mayor's Office of Operations, require the Mayor's Office of Operations to review the merger in the second and fourth years after its adoption, mandate that the early intervention programs be administered in the Division of Mental Hygiene, require that the Commissioner to develop plans and mechanisms to insure community participation at the borough level and include a maintenance of effort clause which should insure that the current funding stream for mental health services remains intact.

At the time the 1999 Commission considered the merger of these two agencies, it contacted individuals and organizations that had initially opposed the union to inform them of the amendments I have just described. Several groups and individuals initially opposed to the merger stated that these changes addressed their concerns. Their comments, together with indications of support from many experts in the field, have provided the basis for this staff's recommendation that DOH and DMH be merged to create a new Department of Public Health.

The next topic I would like to summarize for you is the expansion of the Board of Health. Our staff's recommendation is that this Commission

consider expanding the Board of Health from five to eleven members, including the Commissioner. The main function of the Board of Health is to promulgate the New York City Health Code, a significant body of law that can encompass any matter within the jurisdiction of the Department of Health and which has the force and effect of law.

Since 1928, the city Charter has specified that the Board of Health comprise five members, including the Commissioner of Health. The Commissioner of Health serves as the chairperson. Under the Charter, two of the five members of the board must be medical doctors with at least ten years experiences in clinical medicine, public health administration or college or university teaching experience. The remaining two members are not required to be physicians.

In response to new and emerging issues in public health, much has changed in the delivery of health services since this language was added to the Charter back in 1928. The jurisdiction of the Health Department is now currently among the most extensive and varied of all City agencies. Its scope includes such diverse disciplines as communicable diseases, environmental health services, radiological health, food safety, veterinary affairs, water quality, pest control and vital statistics. New emerging pathogens and biological warfare are the most recent additions to the roster. Expanding the Board of Health will increase the likelihood that members expertise will extend to any public health issue that comes before the Board; will assure more diversity and the Board will be better positioned to advise and serve the Health Department as it moves towards greater involvement with community-based organizations.

Also, to achieve the highest level of expertise, staff is recommending that future

non-physician board members should be required to hold at least a master's degree in environmental, biological, veterinary, physical or behavioral health or science or in a related field, as well as possess a minimum level of experience such as more than ten years in their respective fields. In addition to increasing the number and the qualifications of board members, the proposal we are recommending to the Commission would reduce the terms of office for these members from eight to six years. Six year terms are more consistent with the term length for members of boards of health of other jurisdictions, including Westchester County and the New York State Public Health Council.

Additionally, shorter terms will provide the Board with more flexibility by allowing it to more quickly change the composition and experience of its membership to better address the City's evolving health issues.

Accordingly, the staff recommends that the Commission consider adopting this proposal. Thank you.

MR. CROWELL: Thanks, Matt. The next issue we'll be discussing is Government purchasing procedures. I'll turn the Mike over to Julie Lubin.

MS. LUBIN: Good afternoon, the staff's recommendation concerning the Government's purchasing procedures, known as procurement, is designed to strengthen's the City ability to identify and deny business to corrupt contractors by providing for a centralized integrity assessment process in a number of ways, including by allowing the Procurement Policy Board which is known as the PPB, more flexibility to regulate the City's purchasing processes. The staff believes that a centralized integrity assessment program should be established in the Charter.

Currently, the Charter authorizes City

agencies to find that corrupt contractors are not responsible, even if they are debarred or precluded from providing such services under the Charter. The Charter also provides that the Mayor may advise such agencies concerning integrity matters. Some contractors have argued they must be formally debarred pursuant to the Charter before an agency's non-responsibility finding could take effect. They have also argued that the Mayor may not advise agencies regarding contractor integrity matters.

To insure integrity in the process, the staff recommends that the Charter provision regarding debarment be replaced with a provision clarifying that the Mayor may coordinate the integrity assessment of Mayoral agencies. It would be left to the PPB to address further rule-making authority.

Another example would allow for centralized prequalify lists which when allowed by law would be available for use by all Mayoral agencies. Prequalified lists enable vendor qualifications to be evaluated before a vendor begins and before the time pressures that particularly effect public pressures are felt. Prequalification is not anticompetitive, given that entry to a prequalified list is continually open.

The second component of the recommendation concerns the dollar limits placed on small purchases by city agencies in a competitive framework as required by the PPD. Currently the small purchase limits are \$25,000 for goods and services, \$50,000 for construction and construction related services and \$100,000 for information technology. These limits are unreasonably low in light of the cost of goods, services and construction, and they fail to reflect economic realities. The Council has refused to increase the small purchase limit as it may do through concurrent

resolution with the PPB to an amount that reflects reasonable cost. In addition, legislation to raise the limit has languished in the Council for the past four years.

Staff believes that a \$100,000 limit for all purchases would be more appropriate, but that the power of the Council and the PPB to revise the limit by concurrent action should be retained.

The third component of the staff's recommendation concerns the Department of Citywide Administration Services, known as DCAS, which purchases common goods in bulk needed by many agencies. The staff recommends that in certain circumstances, DCAS be permitted to delegate the authority to purchase goods that are specific to a user agency when that agency has the only expertise concerning the good. Centralized procurement of common goods would remain with DCAS. Such delegation would eliminate a time consuming step in the process by some agencies, thereby expediting the purchase.

The fourth component of the recommendation is to remove specific requirements regarding bid deposits from the Charter. These types of basic procedural details are more appropriately left to the PPB, because such specific requirements do not typically appear in a short form charter. Instead, the Charter would be amended to require the PPB to promulgate these rules.

The fifth component of the staff's recommendation is for the Charter to allow that multi step sealed proposals be eliminated. This is time consuming, in that the Charter already contains provisions that allow an agency to learn and act on any information before it moves ahead with a procurement.

The sixth component would raise the threshold amount for contracts on which public

hearings must be held from \$100,000 to \$500,000 and create a new written public comment process for contracts that are valued between \$100,000 and \$500,000.

The final component of the staff's recommendation would provide for automatic contract registration if the Comptroller failed either to register a contract or to file an objection to it within 30 days of the date it was filed.

Furthermore, the proposal would provide for automatic registration of contract with City databases within their required times.

The staff's recommendation concerning the centralized bid deposit requirements and multi step sealed proposals were submitted to the voters by the 1999 Commission. The staff believes had those recommendations been proposed as a separate ballot item, the voters would have approved them.

In sum, the staff's recommendation would facilitate and would insure that the City engages in business with only responsible contractors.

MR. MASTRO: Thank you.

MR. CROWELL: Thanks, Julie.

The next category we'll be discussing is safeguarding Government integrity. Ashly Goodale.

MS. GOODALE: On the issue of government integrity, the staff recommends that the Charter provisions governing salary increases for elected officials be amended. The City Council currently has the power to adopt and the Mayor to enact local laws that increase their salaries and the salaries of other elected officials whenever they wish in whatever amount they choose. Any such salary increases can create the appearance that elected officials are acting out of self-interest against the best interests of the public. Indeed, under the U.S. Constitution, salary increases for members of Congress and the President cannot take effect until

they have been reelected to another term of office. These Constitutional requirements create an effective check against an appearance of impropriety or abuse of power. Therefore, the Commission staff recommends that the Charterer be amended to provide that any elected official who is holding an office when a Local Law is passed to increase the salary of that office receive the salary increase only upon being reelected to another term of office.

The staff would also like to propose amendments to the Charter that would enhance its conflicts of interest rules. The Conflicts of Interest Board is responsible for enforcing the City's Conflicts of Interest Law the law that governs appropriate conduct for public servants and City officials.

The staff's recommendation is that the Board be given authority to conduct independent investigations of allegations of conflicts of interest and impropriety and be empowered to issue subpoenas similar to other such boards across the country, like the Securities and Exchange Commission, the Pennsylvania Ethics Commission and the Massachusetts Ethics Commisison.

The staff also recommends that the Board be permitted to open its proceedings where appropriate. Open proceedings would both keep the public and complainants informed of the progress of certain enforcement matters and serve as an educational function by alerting City employees employees to the requirements of the law and the enforcement power and actions of the Board.

The staff also recommends that the Charter be amended to explicity permit agencies to adopt their own conflicts of interest standards in conflict with the Board. Agency specific conflicts rules would provide employees with direct work-related guidance and would help to reinforce

the need for public servants to abide by a strict ethics code.

Another component of the staff's recommendation is that conflicts training should be required for all public servants through their individual agencies. The Board would work with agencies to create appropriate programs to educate public officers as to their duties and responsibilities under the law. Requiring the agencies and the Board to collaborate on mandatory training programs would help employees better understand the rules under which they work.

MR. CROWELL: Thanks, Ashley. And the final proposal category we'll be discussing is reforming the City's building inspections. Ashley.

MS. GOODALE: During the past two decades, corruption scandals involving employees at the Department of Buildings has caused widespread concern that the integrity of the Buildings' Department function to ensure public safety by regulating construction and administering a range of public and State Codes and statutes related to construction activity has been compromised and has put the public safety at risk. In response to these concerns, in September 2000 the Administration convened a Task Force that examined the operations of the Buildings Department.

The Task Force's April 2001 report made clear that major reengineering and operational reform of the Buildings Department were essential to insure public safety and confidence. The Task Force identified construction and safety inspections and enforcement as areas that were in need of immediate reform. To achieve this reform, the Task Force recommended that the Fire Department be given jurisdiction to oversee buildings inspections and enforcement activities.

Such jurisdiction would enable the City

to focus the resources and expertise of the Fire Department on significantly improving buildings inspections while reducing the potential for corruption. The Fire Department's up to date technology, first-rate oversight of personnel and anti-corruption training would produce more effective scheduling of inspections and Code enforcements.

In the months since the Task Force issued its report, the Administration has worked to implement the Task Force's recommendations by assigning Buildings Department staff to work at the Fire Department as part of a joint task force for inspections. The work of the joint task force has already made strides in improving inspections and enforcement efforts and in deterring corrupt activity.

The Commission staff believes these positive changes should be made permanent by amending the Charter to grant the Fire Department concurrent jurisdiction over inspection of buildings and related enforcement initiatives. The Buildings Department, however, would retain exclusive jurisdiction over many of its current functions, including the review and approval of plans, the issuance of permits and certificates of occupancy and the issuance and administration of licenses.

The Commission staff is also proposing other amendments for reforming the Department of Buildings, including an amendment to the qualifications for employment as a building inspector, an amendment requiring that property owners notify the City when they obtain title, and a clarification of the powers of building inspection officials to inspect properties.

The staff believes that these amendments will facilitate the goal of effective enforcement. It should be noted that the Administration proposed

legislation consistent with the Task Force recommendations. However, the Council has refused to act on it.

Thank you.

MR. CROWELL: Thanks, Ashley. I'd like to mention also that there are summary executive summaries available at the back of the room for anyone who wishes to have a written statement as to what the Commission staff has just presented.

MR. MASTRO: Thank you very much, everyone for a most interesting presentation.

At this time, what I would like to ask of the Commission is that we vote to accept the staff report and approve its public release. I want to reiterate that all we are doing at this stage is reviewing issues. We've made no decisions on any issues that will or will not be proposed for the ballot this coming November. The staff has made certain recommendations. We're taking no position on whether to adopt or reject staff recommendations, we're simply agreeing to accept the staff report and approve its public release.

We will then hold public hearings in every borough, and then reconvene as a Commission to decide which proposals, if any, to recommend for inclusion on the ballot this November, and we will have to complete our work by early September.

I want to also add that the purpose of having the staff having gone through these many issues, there are over 50 specifically addressed in this report, was to give some focus to the hearings and those issues which we are most likely to consider seriously for inclusion on the ballot this coming November.

In that regard, it is equally the case that this preliminary report and recommendations from the staff gives an indication of those issues that we are less likely to consider for inclusion on

the ballot this November, but in terms of the public hearings, we encourage members of the public to address any issue that they think we should be considering, because we will only make our decisions towards the end of this process for what proposals to make, if any, for inclusion on the ballot, so members of the public are encouraged to comment on any issue that they believe this Commission should be considering.

We want the public to have some guidance on the issues that this Commission was most likely to consider for inclusion on the ballot this November.

With that having been said, I would ask for a motion to accept the staff preliminary report and recommendations and approve it for public release.

MR. BALLAN: So moved.

MS. GIL: Second.

MR. MASTRO: All in favor?

(Chorus of "ayes.")

MR. MASTRO: Opposed?

(No response.)

MR. MASTRO: Thank you very much, that concludes our business today. We look forward to seeing you again.

(Time noted: 2:00 p.m.)

C E R T I F I C A T I O N

I, LINDA FISHER, a Certified Shorthand Reporter and Notary Public, do hereby certify that the foregoing is a true and accurate transcription of my stenographic notes.

I further certify that I am not employed by nor related to any party to this action.

LINDA FISHER, CSR

