
THE REPORT

Volume One



**NEW YORK CITY
CHARTER REVISION
COMMISSION**

December 1986-November 1988

**REPORT
OF THE
NEW YORK CITY
CHARTER
REVISION
COMMISSION**

December 1986-November 1988

VOLUME ONE

January 1989

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CONTENTS

VOLUME ONE

Introduction

PART I:

11 History of the Charter Revision Commission

14 The Commission's Mandate and Composition

16 Values Guiding the Commission's Deliberations

**17 Setting the Agenda and Beginning Work:
January 1987-April 1988**

**21 Shaping the Proposals and Hearing from the Public:
April 1988-November 1988**

24 Election Results

PART II:

Summary of Charter Revisions

26 Government Ethics/Conflicts of Interests

30 Infrastructure Maintenance

32 Administrative Reforms

38 Succession and Filling Vacancies

42 Voter Assistance and Campaign Finance

47 Appendices

On November 8, 1988 the voters of New York City overwhelmingly approved five ballot questions proposing revisions to the City Charter. The charter revision proposals, summarized below, effected broad changes in city government.

INTRODUCTION

Government Ethics

The standards of conduct for public servants have been clarified and strengthened and the board charged with interpreting and enforcing those standards has been made more independent and powerful.

Infrastructure Maintenance

City agencies will be required regularly to prepare and update plans for maintaining major capital assets and the mayor will be required to request the funds for such maintenance or explain the reasons for not doing so.

Administrative Reforms

All city agencies will be required to solicit public comment when adopting rules, regularly publish those rules and provide due process in hearings mandated by law.

The mayor and top city administrators will be required to establish internal controls to ensure the effectiveness and integrity of city operations.

An independent tribunal will be established to hear and decide appeals concerning those city taxes for which no independent administrative appeal previously existed.

The charter has been reorganized to make it more coherent, technically accurate, and gender neutral.

Succession and Filling Vacancies

An orderly process for determining when a mayor is temporarily or permanently unable to carry out the duties of office will be established; and

Vacancies in the offices of Council member, Council president, comptroller, and borough president will no longer be filled by designees of the Council or comptroller but by the voters in special elections.

Voter Assistance and Campaign Finance

A panel of city officials and representatives from community and civic organizations will be created to oversee a non-partisan program to encourage voter registration and voting.

The powers and duties of the Campaign Finance Board, including publishing and distributing a nonpartisan voters' guide, have been established in the charter. Candidates in the 1989 city elections voluntarily agreeing to limit campaign contributions and spending in accordance with the city's campaign finance reform law will be guaranteed the public matching funds promised by that law.

These reforms were initiated and drafted by the New York City Charter Revision Commission, an independent, 15-member body with broad authority to study and recommend changes in the structure of city government. The substance and process of the commission's work are the subjects of this report.

The commission's life had two distinct phases. The first (described in pages 17-21 of this report), covered the period from the commission's first discussions in January 1987 until mid-April 1988. During those months, the commission focused its attention primarily on the structure and functions of the city's elective institutions. This was because of federal district and appellate court rulings that had found one of those institutions--the Board of Estimate--in violation of the one person, one vote principle of the U.S. Constitution. Since the Board of Estimate plays a central role in the governance of New York City, the court findings posed important questions about how the city's government ought to be structured.

On April 4, 1988, however, the U.S. Supreme Court ac-

cepted an appeal of these lower court rulings. As a result, the commission decided to defer action concerning the structure and functions of all the city's elective institutions pending the resolution of this case. (The Supreme Court's ruling is expected in the spring of 1989.) In its second phase (covered in pages 21-24), the commission therefore concentrated on other reforms to city government. The second phase culminated in the November 1988 election.

This report is divided into two volumes. Volume One consists of two parts. Part I describes the commission's history and Part II summarizes the charter revisions approved in the 1988 election. The report is also available in Spanish. Volume Two is a detailed exposition of the charter revisions approved in the 1988 election.

PART I: HISTORY OF THE CHARTER REVISION COMMISSION

The charter is New York's basic governing document. It sets forth the institutions and processes of the city's political system and defines the authorities and responsibilities of elected officials and most departments. It also establishes the forms and procedures of such key government functions as budgeting, planning, zoning, contracting, franchising and collective bargaining.

In the United States, city governments receive their legal authority through charters from higher-level government jurisdictions. In New York State, Albany and New York City have charters of colonial origin; the state's other 60 cities were chartered separately by the legislature. While the substance of these documents varies substantially, each provides the legal framework within which a city may conduct its affairs.

THE COMMISSION'S MANDATE AND COMPOSITION

In November 1986, U.S. District Judge Edward R. Neaher ruled in the case of *Morris v. Board of Estimate* (647 F. Supp. 1463 (1986)) that the present voting structure of the Board of Estimate violates the U.S. Constitution.

The Board of Estimate has been one of the city's key governing institutions since the turn of the century. It exercises broad decision-making authority in such government functions as land use, contracting, and budget approval. The board consists of New York's three citywide elected officials--the mayor, comptroller, and Council president--who cast two votes each on the board, and the five borough presidents, who cast one vote each.

The populations of the city's boroughs vary widely, from

about 2.5 million people in Brooklyn to about 350,000 in Staten Island. The district court ruled that the allocation of equal representation on the Board of Estimate to boroughs of such unequal size violates the one person, one vote standard imposed by the equal protection clause of the Fourteenth Amendment.

New York State's Municipal Home Rule Law grants a city's mayor the authority to appoint a commission to recommend changes to the city charter. In December 1986, New York City Mayor Edward I. Koch exercised that authority in naming a 15-member Charter Revision Commission.

The *Morris* ruling caused the commission's appointment. But by statute, the commission enjoyed a much broader mandate once it was established. Subdivision 5, Section 36 of the Municipal Home Rule Law requires a city's charter commission to "review the entire charter of such city and prepared a draft of a proposed new or revised charter."

The Municipal Home Rule Law also required that the commission submit its recommendations to the city's voters no later than the second general election after its appointment; that established November 8, 1988 as the commission's deadline. The commission's tenure would also expire on that date. The law also insured that the commission's operations would be funded from the city budget, but its procedures and recommendations would be independent of review by city officials or agencies.

The members of the commission represented all five city boroughs and brought a wide range of experience in the public and private sectors to the work of charter revision. Their cumulative past experience in city government was approximately 100 years. At the time they were appointed, all were employed in the city's private sector in such areas as law, banking, and communications as well as in academic and cultural institutions, foundations, and community organizations.¹

VALUES GUIDING THE COMMISSION'S DELIBERATIONS

In *Beyond the Melting Pot*, their classic book on New York City, Nathan Glazer and Daniel Patrick Moynihan observed that, "New York is more than ten times as large as San Francisco and twice as large as Chicago, but this does not suggest how much more complicated it is. For in the affairs of men, twice as large means four or eight times as complicated."

New York's size alone makes the task of governing it uniquely challenging. Its population of more than seven million people, its \$25 billion annual municipal budget, and workforce of more than 350,000 public servants far outstrip that of any other United States city and most states. But size alone does not begin to convey the complexity of democratically governing a city of New York's staggering ethnic, social, economic and political diversity and vitality. Effective democratic government requires the balancing of competing interests and values in order to achieve the greatest common good; nowhere is such competition as intense as in New York.

Against the background of these unique conditions, the commission relied on a set of values to inform its revisions of New York City's government. Those values included:

- encouraging democratic representation of the city's diverse racial, ethnic, economic and social interests;
- broadening opportunities for citizen participation in government processes and in the city's political and economic life;
- maintaining and strengthening checks and balances between and among the officials and institutions of city government;
- promoting efficiency in city government; and
- ensuring the integrity of city agencies and programs by establishing clear, public lines of accountability.

At its first meeting in February, 1987, the commission adopted by-laws establishing rules for its operation² and began to formulate a strategy to implement its broad mandate. It also established a tentative workplan designed to fit with its November 1988 deadline.

The workplan included holding two series of public hearings throughout the city. The first would occur in early 1987 and would help frame the issues facing the commission. The second in early or mid-1988 would seek public comment on the commission's proposed charter changes so that the commissioners could reevaluate those recommendations before they appeared on the ballot in November 1988.

The commission also decided to undertake a variety of research activities and to develop a public information and community outreach program. To assist it in carrying out this work, the commission began recruiting and hiring a staff that at its peak numbered 43 people.

Between April 22 and May 7, 1987, the commission held six public hearings, one citywide and one in each borough, to solicit comments on the operation of city government and recommendations for reform. The commission mailed advance notice of these hearings to community groups throughout the city and also advertised the hearings in many weekly community newspapers. Approximately 350 persons, including current and former elected officials, representatives of various community and civic groups and private citizens, testified. (Transcripts of these hearings later were prepared and distributed to public libraries, universities, elected officials and citywide civic organizations.)

At a meeting on June 23, 1987, the commission adopted the following research agenda:

Functions and Organization of City Government

The capital and expense budgetary process

Contracting and franchising

Land use planning and regulation

Internal controls and financial management

**SETTING
THE AGENDA
AND
BEGINNING
WORK:**

January 1987-April 1988

The organization of the executive branch and the administrative process

Representation, Participation and the Political System

The structure and election of the office of the mayor, office of the comptroller, president of the Council, borough presidents, Board of Estimate and Council

Community governance and the decentralization of service delivery

The funding of political campaigns

The code of ethics and its implementation and oversight

Recruitment, selection and retention of high quality personnel for elective, appointive and civil service positions

Separation of powers and checks and balances between and among the city's elected officials.

The commission and its research department adopted an open and multi-faceted approach to exploring and reporting on these agenda items that included research and analysis, interviews, seminars, and review of proposals submitted by elected officials and civic organizations.

The staff's research included: analysis of the testimony presented at the public hearings; reviews of the charters of major urban governments in other countries, in the United States and of cities in New York State; and interpretative explanations of all the provisions in the existing charter, compiled and published in early 1988 as a "Briefing Book." Staff and consultants also wrote a series of analytic papers on the institutions and processes of city government, and prepared detailed outlines of policy options on those topics.

These papers and policy options informed public meetings the commission held to discuss: campaign finance, ethics, mayoral inability, the structure and election of the Council, modes of election for city and boroughwide office, and legal opinions on constitutional and voting rights issues concerning the Board of Estimate.³

The commission also conducted a wide-ranging series of interviews with current and former city officials and experts on municipal government. When these individuals could not testify freely in public because of their official responsibilities, the commission interviewed them in private hearings. During the Fall of 1987, the commission took private testimony on the subjects of: government ethics, budgeting, contracting, the city comptroller, the Council president, and the borough presidents. To assist it in its research on land use planning and regulation, the commission helped organize a two-day conference on land use planning at Columbia University in November 1987. More than 250 community board members, community leaders, developers, planning scholars and others participated.

The commission also received research and position papers and charter revision proposals from a broad range of community boards, academicians, current and former public officials, civic groups and interested citizens throughout the city. These submissions included detailed proposals from the borough presidents of Queens, the Bronx and Manhattan, the state comptroller, Citizens Union and Citizens for Charter Change. The commission also received frequent correspondence from the Association of the Bar of the City of New York and many other groups throughout the city.

The commission, committed to an open process, established the communications and community relations departments which collaborated to inform the public and encourage its participation.

The commission followed a two-track communications strategy. It aimed some of its communications materials at individuals and organizations already familiar with civic issues; other materials were designed for a broader population of likely but relatively uninformed voters.

The primary audience for the commission's more sophisticated communications materials was a mailing list of about 42,000 names assembled with the help of community and civic groups. This list received the commission's 12-page quarterly newsletter, *The Charter Review*, which provided news of the commission's activities and in-depth descriptions of the issues the commis-

sion faced. A 1,500-name "master" sub-list of particularly active individuals and groups also received more frequent and detailed updates of commission activities as well as notices of all public commission meetings.

The commission also produced a 15-minute informational videotape for distribution to community boards and other groups interested in charter revision. Some 4,000 posters depicting the city's governmental structure were distributed to civic organizations, libraries and city agencies; production of the posters was funded by the J.M. Kaplan Fund.

The commission's communications materials aimed at its wider audience included: *The Voter's Guidebook*, containing a brief overview of city government as well as games and puzzles designed to increase voters' knowledge of how government works. The guidebook was produced with private funds from the New York Community Trust; more than 500,000 copies were distributed through city agencies, labor unions, adult education programs, public libraries and other outlets. Brief booklets on the charter, published in Spanish and Chinese, were distributed primarily through voter registration organizations.

The commission advertised the availability of all these publications in a variety of ways, including: radio public service announcements, subway car posters designed pro bono by the Ogilvy & Mather advertising agency and funded by Con Edison, flyers enclosed with the pay envelopes of more than 250,000 municipal employees, and "bill stuffers" enclosed with one month's local telephone service bills.

The mission of the community relations staff was to establish links between the commission and community-based organizations and leaders as well as to provide a conduit for information and recommendations between community and civic groups and the commission.

The members of the community relations staff were assigned to particular geographic areas of the city. Each also covered groups organized around ethnic, religious or other common interests. The staff identified the most important organizations within those areas and interests, such as community boards, precinct councils, political

clubs and civic, block and neighborhood associations. The staff met with the leaders of these organizations and spoke to membership meetings in order to inform them about the commission's existence, mandate and process. At these meetings, the staff solicited recommendations on charter revision from these groups. The staff's goal in such meetings was to provide information; they avoided advocating or opposing particular charter revision proposals.

On April 4, 1988, the U.S. Supreme Court accepted an appeal by the city of the lower court rulings in the *Morris* one person, one vote case.

That decision caused a sharp shift in the work of the commission. As its November 1988 deadline approached, the commission had begun focusing more closely on questions concerning the Board of Estimate's structure and functions. In fact, in the days immediately preceding April 4, commission chairman Richard Ravitch had presented the commission with tentative proposals for distributing the powers of the Board of Estimate in budgeting, contracting and land use planning among the borough presidents, comptroller, mayor and Council. At a commission meeting on April 4, Ravitch also released a plan to enlarge and restructure the Council.⁴

At a meeting on April 14, the commission agreed to postpone any further consideration of these or other proposals concerning the structure and functions of the city's elective institutions pending the Supreme Court's decision in the *Morris* case.

At the same meeting, however, the commissioners also agreed to consider those reforms not affecting the powers and structure of elected institutions which still merited attention by the voters. Many of these topics, such as ethics and internal controls, had appeared on the commission's initial research agenda; others arose in the course of the commission's research; others were recommended to the commission by elected officials and civic groups.

After two months of study and deliberation, the commission agreed to present the public with preliminary proposals for charter revision in a series of hearings

SHAPING THE PROPOSALS AND HEARING FROM THE PUBLIC:

April 1988-November 1988

throughout the city. The proposals, adopted at a public meeting on June 13, were:

- Ethics/conflicts of interest
- Infrastructure maintenance
- Administrative rule-making
- Internal controls
- Tax appeals
- Reorganizing the charter
- Mayoral inability
- Filling vacancies in elected offices
- Campaign finance reform
- Voter assistance

During the deliberations leading to the adoption of these proposals, the commissioners agreed that two items originally considered for the November ballot -- strategic planning in the office of the mayor and providing legal counsel independent of the corporation counsel for elected officials -- should be postponed until after the Supreme Court's decision. At the June 13 meeting, the commissioners voted to leave unresolved certain features of the conflicts of interest and campaign finance reform proposals pending further public comment on them.

Six public hearings -- one in each borough and one citywide -- were held between June 27 and June 30. They were advertised in the city's daily newspapers and in weekly papers and through radio public service announcements. The commission's master mailing list received an advance schedule of the hearings and a 14-page "Summary of Preliminary Proposals." Copies of this summary also were distributed at the hearings.

More than 100 individuals testified, including current and former public officials, representatives of community and civic organizations and interested citizens. The commission also received written comments and recommendations on its proposals.

The comments received at the public hearings and in subsequent correspondence prompted the commission to amend its proposals. It adopted those amendments in public meetings in July and August. At a meeting on August 23, the commission approved the final slate of

charter revision proposals to be submitted to the voters on the November 8 ballot.

At that meeting, the commissioners also voted to present the charter revision proposals as two ballot questions -- one concerning campaign finance reform and voter assistance and one summarizing the other proposals. Civic groups and the press, however, criticized these questions as vague. At a meeting on September 20, the commission approved a new draft that incorporated the five questions that appeared on the November 8 ballot.

In compliance with provisions of the federal Voting Rights Act, the commission submitted its proposals on campaign finance reform, voter assistance and filling vacancies in elected offices to the civil rights division of the United States Department of Justice on August 12. On October 11, the Justice Department cleared those proposals for appearance on the election ballot.

Once the commission adopted its final proposals, the communications and community relations staff focused on reaching a broad range of potential but not necessarily knowledgeable voters.

The primary vehicle in this effort was *The Voters' Handbook on Charter Change*, a 16-page summary of the commission's final proposals printed in English, Spanish and Chinese. Approximately 2.5 million free copies were distributed in a variety of ways in the weeks before the election. Thousands were mailed out as the result of citizen inquiries prompted by subway posters and radio public service announcements advertising the *Handbook's* availability. Thousands more were delivered to tenants of public housing projects, distributed to employees and clients of government agencies and programs, and made available at meetings attended by the commission's community relations staff. About 1.5 million were inserted in Sunday, October 23 editions of *The New York Times*, *Daily News* and *New York Newsday*.

Some 750,000 fliers reprinted a sample ballot in English and Spanish. They were inserted in community newspapers and in the mailboxes of public housing tenants. Two thousand bilingual posters depicting the sample ballot also were produced and posted in public

places such as libraries, college campuses and political clubs.

WNYC-TV produced two half-hour programs on the charter revision proposals and broadcast them in the weeks before the election; the programs also were shown on several cable television stations. WNYC-AM radio broadcast a series of five live call-in programs on charter revision during October. Commission members and staff also appeared on other television and radio public affairs programs.

The editorial boards of *The New York Times*, *Daily News*, *Newsday* and *Village Voice* endorsed all of the charter revision proposals; *The New York Post* endorsed three of the five. In the weeks before the election, *The Times*, *Newsday* and *The Amsterdam News* printed op-ed pieces and letters to the editor from commission chairman Richard Ravitch.

The commission took out full-page ads on Monday, November 7 reprinting the ballot questions in *Newsday*, *the Daily News*, *the Post* and *El Diario* and a half-page ad in *The New York Times*.

Issues of *The Charter Review* appearing in June, September and October summarized the commission's final recommendations. Commission members and community relations staff made daily speaking appearances at community groups throughout the city during September and October.

ELECTION RESULTS

The charter revision questions appeared on the ballot as Proposals 2 through 6. (Proposal 1 was an unrelated statewide transportation bond issue.) The proposals passed by the following margins.

Proposal #2	82.3 per cent YES	17.7 per cent NO
Proposal #3	88.9 per cent YES	11.1 per cent NO
Proposal #4	85.7 per cent YES	14.3 per cent NO
Proposal #5	87.2 per cent YES	12.8 per cent NO
Proposal #6	79.8 per cent YES	20.2 per cent NO

There is normally a steep drop-off from the number of votes cast for president, governor and other elective of-

ferences to the number of votes cast on ballot questions such as charter proposals. This drop-off was, however, far smaller in 1988 than in other comparable elections. In 1984, for example, only about one-third of those voting in the presidential election voted on two proposed state constitutional amendments that also were on the ballot. But in 1988, the vote on charter revision was about 50 per cent of the total vote in the city in the presidential election.

On average, more than one million ballots were cast on each of the charter proposals; this was the largest vote on charter revision in New York City in more than 50 years.

PART II: SUMMARY OF CHARTER REVISIONS

BALLOT QUESTION TWO: GOVERNMENT ETHICS/CONFLICTS OF INTEREST

In its final report of December 1986, the State-City Commission On Integrity In Government (the Sovern Commission) wrote that: "*By its very nature, assuring the integrity of government is a continuing task, not a job that can be finished and forgotten. Like liberty, honest government requires constant vigilance.*"

The issue of government integrity was of primary concern to the Charter Revision Commission throughout its tenure. It was also the focus of extensive testimony at the public hearings and in correspondence to the commission. Representatives of good government and other groups, as well as the city's Department of Investigation, stressed the inadequacies of the code of ethics and the absence of an adequate mechanism to enforce it.

The commission concluded that the code lacked clarity, comprehensiveness and uniformity. For example, the charter contained several sections on prohibited interests and conduct, each applicable to different groups of city employees. Also, public servants were prohibited from owning "substantial" interests in firms doing business with the city, but the term "substantial" was never defined.

The commission also concluded that the Board of Ethics was not sufficiently independent: it was composed of five members appointed by the mayor without confirmation by the Council and included two members of the administration. The board also lacked adjudicatory powers, was not required to meet regularly, and did not routinely receive copies of the financial disclosure statements filed with the city clerk.

The goals of the commission in revising the ethics chapter of the charter were: to provide clearer rules on prohibited

interests and conduct, to ensure that public servants know the rules, and to establish an independent and effective enforcement mechanism.⁵

The revised charter sets forth a single, uniform set of conflict of interest standards applicable to all public servants unless an exception is provided within the particular standard.

CONFLICT OF INTEREST STANDARDS

The intent of the new provisions is to clearly define those actions which pose, or appear to pose, conflicts between private interests and official duties. Public servants whose primary employment is with the city are prohibited from having interests of more than five percent or \$25,000, whichever is less, in firms which the public servant knows are engaged in business dealings with the city. This prohibition also extends to interests held by their spouses and unemancipated children. Public servants are also prohibited from holding positions in any such firms. For public servants whose city employment is not their primary employment, these prohibitions apply only to interests and positions in firms with business dealings with the agency served by such officials.

PROHIBITED INTERESTS

However, public servants are not prohibited from having interests in firms engaged in business dealings with the city if the stock of the companies is publicly traded and if the companies are not doing business with the agency served by the employee. In addition, to avoid particular hardship, the Conflicts of Interest Board is authorized to grant exceptions to the prohibition on ownership interests in four specified circumstances.⁶ The board is also empowered to waive restrictions on holding positions in firms engaged in business dealings with the city if the board determines that holding the position would not be in conflict with the purposes and interests of the city.

Public servants are also prohibited from taking official action particularly affecting any of the interests they are allowed to own. However, if those interests are less than \$10,000, public servants must only disclose them to the board before they take such official action.

PROHIBITED CONDUCT

The Charter Revision Commission incorporated all of the previous charter's restrictions on the conduct of the city's public servants into the new conflict of interest standards. For example, public servants may not accept valuable gifts from individuals engaged in business dealings with the city. They also may not coerce other public servants either to engage in political activities, or to pay political assessments, subscriptions or contributions. In some cases, these previous restrictions were modified; for example, the prohibition on disclosing confidential information now exempts public servants who are protected as "whistleblowers."

The revised charter also includes several new prohibitions. Public servants may not enter into any business or financial relationships with superior or subordinate public servants. Additional limits are placed on their partisan political activities. They are now prohibited not only from coercing, but also from requesting, subordinate public servants to participate in political campaigns, or to pay political assessments, subscriptions, or contributions. Certain high-level non-elected officials are prohibited from requesting any person to make or pay political assessments, subscriptions or contributions for candidates for citywide office or for elected city officials running for other political office.

POST-EMPLOYMENT ACTIVITIES

The new conflict of interest standards balance two competing goals. They protect the city's ability to recruit individuals who intend eventually to pursue, or return to, private sector careers. At the same time, they reduce the likelihood that former public servants will be able to trade on their contacts in city government or their knowledge of confidential city information for the benefit of their new employers in private business.

Former public servants may not appear before their own agencies for one year after leaving city service. Certain top-level officials are prohibited, for the same time period, from appearing before any agency in the branch of city government in which they served.

Former public servants are also permanently banned from appearances or employment regarding any particular matter which they participated in personally and substantially while in city service.

Public servants may not negotiate for employment with a person or firm which has a particular matter pending before them. They also may not negotiate for any employment prohibited by the new standards.

The post-employment prohibitions do not apply to any position with a local, state or federal agency and the board is authorized to waive the prohibitions if it determines that the employment would not conflict with the purposes and interests of the city.

The revised charter enhances the power and independence of the board charged with interpreting and enforcing the conflict of interest standards. The board consists of three members appointed by the mayor, subject to confirmation by the Council, and removable only for cause. The members serve for staggered six-year terms and are compensated on a per diem basis. The three members must be independent private citizens who do not hold any public or party office or do not appear as lobbyists before the city.

THE CONFLICTS OF INTEREST BOARD

The powers of the Board of Ethics to receive complaints, issue advisory opinions, and request investigations are retained in the new Conflicts of Interest Board. The new board, however, is also required to:

- promulgate rules, particularly to interpret and implement the conflict of interest standards;
- conduct training for city employees;
- receive and review financial disclosure statements; and
- respond to requests by public servants to review their past or current activities.

City agencies must refer any information regarding possible conflicts of interest to the board. The Department of Investigation is required to notify the board of the results of investigations concerning possible violations.

The Conflicts of Interest Board is also authorized to hold enforcement hearings and must produce a record of them. When a public servant, other than a member or employee of the Council, has been found to violate the standards, the board may impose fines of up to \$10,000 and/or recommend suspension or removal from office. If a member or

employee of the Council is found in violation, the board may recommend penalties to the Council.

A violation of the standards can also be prosecuted as a misdemeanor; a conviction subjects the individual to loss of city office and, in some instances, to permanent exclusion from city employment.

BALLOT QUESTION THREE: INFRASTRUCTURE MAINTENANCE

New York City's infrastructure is the platform on which its economy rests and the anchor of its neighborhoods. It includes almost 50 waterway bridges, over 2,000 highway bridges and elevated structures, a water supply system that delivers over a billion gallons of water a day from a reservoir system of about 2,000 square miles, over 6,000 miles of sewers, thousands of miles of streets which cover approximately 30 percent of the city's land, and over 25,000 acres of parks.

The short-and long-term costs of neglecting this infrastructure are very high. Breakdowns mean inconvenience, economic loss, and threats to public health and safety. Deferring infrastructure maintenance also costs the taxpayers more in the long-run since it is usually easier and cheaper to fix something sooner rather than later.

The reasons for neglecting infrastructure maintenance go beyond the failings of any one city administration. A 1982 report by the New York state comptroller's office on New York City's infrastructure offered this explanation:

"In times of stress, municipal officials often seize upon the deferral of maintenance...as one of the most expedient options for cutting costs...It is less painful politically than reducing employee levels; its harmful effect, in the early stages, is gradual, and sometimes almost invisible; and there is always the hope that sufficient funds will later be found to compensate for the neglect."

Such governmental entities as the Metropolitan Transportation Authority and the New York City Water Authority must plan and report on maintenance of the subway and water supply systems to fulfill their bond covenants. However, before November 1988, the charter imposed no similar requirements on city agencies responsible for such major portions of the infrastructure as bridges, streets, and city-owned buildings.

The revised charter promotes foresight, planning and accountability for infrastructure maintenance. Government agencies responsible for the city's major capital assets are required to prepare inventories and condition assessments for those assets as well as schedules of the maintenance activities necessary for keeping them in good repair. Registered engineers or architects must issue written opinions and recommendations on the scheduled maintenance activities. The agencies are required to keep the inventories, assessments and schedules up to date and accurate.

Each year, the mayor is required to publish estimates of the amount of money necessary to carry out the scheduled maintenance activities over the next four fiscal years. Registered engineers or architects must review these estimates, comment on their reasonableness and present any recommendations for changing them.

In the annual expense budget, the mayor is required to specify proposed appropriations for the maintenance of all major portions of the city's capital plant, organized by agency and project type and, within the latter, by personal services and other-than-personal services.

In the accompanying budget message, the mayor must set forth the proposed maintenance activities to be completed during the coming fiscal year, by agency and project type. The budget message must also include an explanation of any substantive differences between:

- these proposed activities and the activities set forth in the maintenance schedules;
- the proposed appropriations for maintenance and the previously published estimates; and
- the amounts appropriated for maintenance in the previous and current fiscal years and the amounts actually expended.

This revision of the charter ensures that maintenance schedules, based on expert standards, will be prepared for the city's major capital assets, that public officials will be accountable for decisions to defer scheduled maintenance, and that the public will be told clearly how much the city is proposing to, and has, spent on preventive maintenance.

BALLOT QUESTION FOUR: ADMINISTRATIVE REFORMS

CITY ADMINISTRATIVE PROCEDURE ACT ("CAPA")

The reforms adopted by the voters institute a new City Administrative Procedure Act, specify the internal control responsibilities of the mayor and agency heads, establish an independent tax appeals tribunal, and reorganize the charter.

Most city agencies promulgate rules which regulate the behavior of individuals and businesses and, in some cases, provide sanctions or penalties for violations. Examples of these rules include: determining how and when a food service license should be issued, suspended or revoked; setting fees; regulating day care centers; and imposing standards for buildings in the city.

Though the rules are promulgated pursuant to authority granted by law, wide discretion is usually given to agencies in implementing the general provisions of law. Because rulemaking significantly affects the lives of city residents, the Charter Revision Commission resolved to establish a rulemaking process which would assure openness, efficiency and accountability.

The previous charter required that agencies publish notice of their proposed rulemaking but it did not define "rule" and did not specify when the rulemaking requirements applied. Agencies frequently used such alternative devices as directives, guidelines and special orders -- which did not require public notice or comment -- to establish city policy. The charter also required that all rules be published in a single place, indexed by subject matter, but no such compilation had been published since 1967. Consequently, persons subject to rules often had difficulty finding them.

The previous charter also did not provide uniform procedures for adjudicating disputes, but left the establishment of adjudication procedures to the individual agencies.

Rulemaking

The new City Administrative Procedure Act clearly defines the term "rule" to include actions which impose standards of conduct on members of the public. It also sets forth uniform procedures which agencies must follow in proposing and promulgating such rules.

Agencies are required to publish regulatory agendas giving advance notice of the rules they expect to propose. They must identify any possible duplication or overlap between these rules and the requirements already imposed by other city agencies or other levels of government.

The act requires that public hearings be held when rules are proposed unless an agency determines and states publicly that such hearings would serve no public purpose. All written comments on proposed rules, and a summary of oral comments received at public hearings, must be accessible to the public. Also, a procedure is included which permits citizens to request an agency to adopt, amend or repeal rules.

Agency rules, written in plain language whenever possible, must be published in a single convenient Compilation indexed by subject matter. To ensure that this obligation is fulfilled, rules not published in the Compilation will not be enforceable.⁷

Many agencies are required by law to conduct hearings with a record and the opportunity for all parties to present their positions before a final decision is made. In these cases, the new City Administrative Procedure Act sets forth standard adjudicatory procedures which the agencies must follow. Copies of all recommended and final decisions must be provided to all parties to the hearings. The adjudications must be conducted by trained, impartial law judges acting as part of an Office of Administrative Trials and Hearings (OATH) unless a decision is made that specialized needs require agencies to have their own hearing officers for specific matters.

Adjudication

Internal controls are the techniques that detect, prevent and correct problems in organizations, whether in government or the private sector. These techniques include: top management responsibility to assess, minimize and remedy risks of mismanagement and fraud; administrative procedures to provide information on operations, monitor performance and assure that transactions are based on proper authorizations; accounting controls that safeguard assets and the reliability of financial information; and internal audits.

INTERNAL CONTROLS

Over the past decade, business and government have increasingly recognized that a good system of internal controls requires executive leadership. In 1977, for example, the Securities and Exchange Commission adopted regulations stating that "a fundamental aspect of management's stewardship responsibility is to provide shareholders with reasonable assurance that the business is adequately controlled." Similarly, the Federal Managers' Financial Integrity Act of 1982 makes federal agency managers responsible for establishing and maintaining effective internal controls.

The previous charter did not systematically discuss internal controls nor specifically assign internal control responsibilities to the mayor or agency heads. The commission concluded that this weakened the government's capacity to carry out its programs efficiently and responsibly.

Under the new provisions, the mayor is made explicitly responsible for the effectiveness and integrity of city government operations. He or she must establish and maintain policies and procedures to fulfill this responsibility, including: (a) the implementation and coordination of effective systems of internal control by each agency under the jurisdiction of the mayor; and (b) the establishment of a professional internal audit function to provide the information and assurances the mayor requires to fulfill assigned internal control responsibilities.

The heads of all mayoral agencies are required to maintain internal controls to maximize the effectiveness and integrity of agency operations and reduce vulnerability to fraud, waste, abuse, error and corruption.

Finally, in the annual Management Report, the mayor is required to review the status of each agency's internal control environment and system and to discuss recently implemented or proposed actions designed to strengthen agency operations in this area.

TAX APPEALS

Fairness in taxation is a basic principle of representative government. To ensure fairness, the government's tax assessments should be reviewed by a body independent of the assessors. The pre-November 1988 charter, however, did not provide any independent administrative entity to

hear appeals from most of the Department of Finance's nonproperty tax determinations.⁸ A taxpayer's only recourse for administrative appeal was to request that the department review its own decision. That review occurred either informally or at a hearing by the department's Bureau of Hearings. The taxpayer could then seek judicial review of the department's final determination, but the scope of such judicial review is limited.

The new charter provisions create an administrative tribunal, independent of the Department of Finance, with jurisdiction to hear and decide taxpayers' appeals of certain New York City nonproperty tax determinations rendered by the Department of Finance.

Examples of these nonproperty taxes are: the unincorporated business income tax; the general, financial and transportation corporation taxes; the commercial rent tax; the real property transfer tax; the commercial and passenger motor vehicle taxes; the hotel room occupancy tax; the utility tax; the retail beer, wine and liquor license tax; and the cigarette tax.⁹

The tribunal will be composed of three commissioners appointed by the mayor for six-year terms, except the first set of commissioners who will be appointed for staggered terms of two, four, and six years. Commissioners will be removable only for cause. Also, the number of commissioners on the tribunal may be increased by local law. The mayor will designate one of the three commissioners to serve as president of the tribunal. Commissioners must have been members of the New York State bar for at least ten years and must be competent in tax matters. They are required to serve full time.

The charter authorizes the tribunal to make determinations only after the petitioner has exhausted all available review procedures provided by the Department of Finance. Moreover, the filing of a petition with the tribunal does not prevent the department from collecting any taxes due and payable unless otherwise provided by law or unless the tribunal issues an order staying collection.

A taxpayer wishing to appeal an assessment or penalty must do so within 90 days of being issued the Department

of Finance's determination; the department is given 30 days to respond to the taxpayer's petition.

The next steps in an appeal will be set forth in the rules of procedure formulated by the tribunal. The rules must establish a system that guarantees a formal hearing when the tribunal determines that a case involves either (a) a matter in controversy exceeding \$10,000, or (b) a matter of sufficiently substantial significance to warrant a formal hearing. The tribunal's rules must also provide a simplified and informal small claims procedure for cases in which the matter in controversy is \$10,000 or less.

In all categories of cases, the tribunal is given the discretion to confine its factual review to the record established before the Department of Finance, or to hear and determine any issues of fact on its own, or to remand to the Department of Finance for further findings of fact. The tribunal makes its own determination as to issues of law, but it is directed to consider decisions on relevant legal points rendered by certain other courts and tribunals.

Each decision of the tribunal, including those of its small claims division, is the final administrative decision on all the issues raised in the proceedings before it. Decisions of the tribunal, like any other final administrative decisions, are subject to judicial review, which can be sought by either the Department of Finance or the taxpayer.

REORGANIZING THE CHARTER

The commission proposed, and the voters adopted, a set of revisions which make the charter more coherent, consistent, and accessible. The reorganization principally affected the 23 charter chapters dealing with mayoral departments and the single chapter outlining the responsibilities of the city's officers and employees. These chapters were repetitious and inconsistent. Provisions concerning the powers and duties of agency heads were listed in the same words in many of the chapters while obvious executive responsibilities were listed in some chapters but omitted in others. Some sections in the individual agency chapters applied to all city personnel and belonged more appropriately in the chapter on officers and employees.

The chapters on mayoral departments had also become inconsistent with executive orders and with state and local law. Finally, the charter was replete with inappropriate gender references which the commission sought to eliminate.

The revised charter contains a new chapter which describes the powers and duties of mayorally appointed single heads of agencies in: planning, advising and coordinating activities; program management; financial management; and internal controls, rulemaking and contracting. Pre-existing provisions, scattered throughout the charter, were repealed and replaced by the generic provisions of the new chapter.

The chapter on personnel was reorganized to include relevant provisions on the personnel management powers of agency heads which also had been scattered throughout the charter.

The chapter on officers and employees was also reorganized to become a more inclusive compendium of the responsibilities of the city's public servants. Sections dealing with these responsibilities were moved into this chapter and deleted from those in which they had appeared. A new provision requires public servants to certify in writing that they have read and will conform to the provisions of the chapters most significantly affecting them. In this way, the reorganization of the charter enhances the accountability of public servants for the performance of their official duties.

Technical amendments also were made in the chapters on mayoral departments. A new departmental chapter was added in order to make the charter consistent with law and executive orders. Inappropriate gender references were eliminated from all revised sections.

BALLOT QUESTION FIVE: SUCCESSION AND FILLING VACANCIES

These revisions of the charter provide a mechanism for determining when a mayor is unable to fulfill the duties of office and require that vacancies in the offices of Councilmember, comptroller, borough president and Council president be filled by the voters in special elections.

MAYORAL INABILITY

The 25th amendment, which became part of the United States Constitution in February 1967, establishes a procedure for determining when a president has become disabled. It has been said that next to the president, the mayor of New York City has the toughest job in the country. Nevertheless, until November 1988, the charter did not contain a procedure for determining when a mayor was temporarily or permanently unable to discharge the powers and duties of office. The importance of such a provision was brought to the attention of the Charter Revision Commission during the summer of 1987 when Mayor Koch suffered a minor stroke.

The commission concluded that a procedure for determining mayoral inability established in the charter would assure continuity and stability in the performance of executive functions and minimize confusion and conflict in times of stress.

Voluntary Declarations of Inability

The new provisions allow a mayor who knows that he or she is, or will become, temporarily unable to carry out the duties of office voluntarily to declare such inability. The mayor may resume the powers and duties of office at any time by transmitting a declaration that the inability has ceased.

Involuntary Declarations of Inability

Initiation

The charter now provides a procedure for determining mayoral inability when a mayor cannot or will not declare his or her own inability. The procedure would be initiated by a "committee on mayoral inability" composed of the city's corporation counsel, the comptroller, the Council's majority leader, a deputy mayor designated by the mayor,

and the borough president with the longest consecutive service as borough president. The declaration of inability must be signed by four of the five members of this committee, which ensures agreement from at least one person appointed by the mayor as part of the administration.

Mayoral Objection

The commission believed that the committee on mayoral inability would be most likely to declare a mayor unable to discharge the powers and duties of office when the inability was apparent but the mayor unable to declare it. Nevertheless, the commission believed it prudent to provide an appeal process in case the mayor objects to a declaration of inability by the committee.

In such case, a second body -- a "panel on mayoral inability" -- would decide the issue by a two-thirds vote. The panel would be composed of all the members of the Council, unless a different body is provided by state law. Because judges traditionally enjoy public confidence as impartial decision-makers, the commission believed that the final determination of mayoral inability should be made by a panel of judges. However, since the courts are subject to the state and not the city, the commission could not propose such a panel and decided instead to recommend to the state legislature that the panel be created. In the event that a judicial panel is not created, the city's legislative body will make the determination.

A mayor determined to be temporarily unable to perform the duties of office, either by the panel or by an uncontested declaration of the committee, may declare the ability to resume those duties. The mayor will, in fact, resume them unless the committee declares the mayor still unable. In the case of contest, the decision again goes to the panel on mayoral inability for resolution by a two-thirds vote.

The new provisions also describe a procedure for determining permanent inability, which would trigger the charter's requirement for a special mayoral election. The proposal authorizes the committee on mayoral inability to declare a mayor permanently unable. The panel on mayoral inability makes the final determination by a two-thirds vote.

Permanent Inability

FILLING VACANCIES

Prior to this charter revision, vacancies in the city's elective offices were filled by succession or appointment rather than election. Since vacancies have occurred quite frequently, the appointment procedure has significantly affected the democratic and representative character of the political system.

Since 1961, for example, 33 people --- more than a fifth of those serving during the period --- initially entered the Council upon appointment of the remaining members and, if they subsequently sought election to the position, confronted the voters for the first time as incumbents. During this same period, virtually two-thirds of those who served as borough president (17 of 26) were initially appointed to fill vacancies. These borough presidents served for 86.62 years in all, while those who were initially elected served for a total of 48.21 years. Of the five current borough presidents, four (Shulman, Golden, Lamberti, and Ferrer) were initially selected by the Council to fill a vacancy in the office.

Under the previously existing procedure, vacancies in the offices of Councilmember, comptroller, and borough president, unless they occurred late in the term, were filled temporarily by one process and for the remainder of the term by another.¹⁰

The procedures for filling the vacancies temporarily (for as long as 15 1/2 months) were:

Councilmember - selection by the majority of the remaining members of the Council;

Borough President - selection by the majority of the borough's Council delegation;

Comptroller - filled by the first deputy comptroller, previously appointed by the comptroller.

Vacancies in the three offices were filled for the remainder of the term at specially called elections held at the time of the next general election. Party nominations for these elections were by primaries unless the vacancy occurred after the beginning of July, when nominations were by party committee.

Under the provisions of a pre-empting state law, if a vacancy occurs in the office of Council president, the vice-chair-

man of the Council succeeds to the office and serves for the remainder of the term.

In accordance with the value it assigned to democratic representativeness, the Charter Revision Commission determined that vacancies in the city's elective offices should be filled by elections. They decided that these elections should be held promptly and that the procedures governing them should encourage maximum voter participation and a broad range of candidates.

The revised charter provides that vacancies in the city's elective offices must be filled temporarily by the voters at specially called elections, with nominations by independent nominating petitions.¹¹ The nominations will not involve party designations and the elections will not include run-offs so that the expenses of candidates and the public will be minimized.

Several provisions are included to ensure adequate notice of the specially called elections. The mayor must proclaim the election date within three days of the occurrence of the vacancy. The Board of Elections must publish notice in newspapers of general circulation in the city and mail notice of the election to all registered voters eligible to vote in the election.

The charter continues to provide that unless vacancies occur late in the term, they are filled for the remainder of the term by the voters at general elections. It now also requires, however, that the general elections be scheduled so that nominations can be made by primary elections.

State legislation must be enacted before these voter approved provisions can be applied to fill vacancies in the office of Council president. The Charter Revision Commission is recommending such action to the legislature.

**BALLOT
QUESTION SIX:
VOTER
ASSISTANCE
AND
CAMPAIGN
FINANCE**

The current relatively low levels of citizen participation in elections present clear problems for the city's electoral system. An estimated two out of every five New Yorkers eligible to vote in the November 1988 election - roughly two million people - were not able to do so because they were not registered. Moreover, the situation has been worsening in recent years: between the presidential elections of 1984 and 1988, voter registration in the city declined by 380,000. By comparison, the decline for all the rest of New York State was 46,000. Thus, New York City accounted for almost 90 per cent of the decline in New York State's voter registration, although it accounts for only 35 per cent of the registered voters in the state.

The city's electoral system is further compromised by the ever-escalating costs of running for office. During the last city elections in 1985, the winning candidates for mayor, comptroller, Council president, and the five borough presidencies collected and spent more than nine million dollars in campaign contributions. The races for mayor in 1985 cost four times as much as those of 1981. These escalating costs highlight the actual or perceived influence of large-scale contributors on government decision-making. They also block healthy competition. "Our politics and our government have become too much of a club in which membership is limited by one's access either to private money or to the political party apparatus," Peter Zimroth, the city's corporation counsel wrote in *Newsday* in July 1987.

The new charter provisions on voter assistance and campaign finance strengthen the democratic character of New York City's elections by increasing the opportunities for participation by voters, candidates, and small contributors.

VOTER ASSISTANCE

A Department of Campaign Finance and Voter Assistance, consisting of a Campaign Finance Board, a Voter Assistance Commission, and a coordinator of voter assistance, is established in the charter. The powers and duties of these entities, including the obligation to conduct their activities in a strictly nonpartisan manner, are also specified.

The commission consists of 16 members and is chaired by the chair of the Campaign Finance Board. The other members include three high-ranking mayorally appointed city officials, as well as the president of the Board of Education, the president of the Council, the executive director of the Board of Elections, three citizen members appointed by the mayor, and six citizen members appointed by the Council. The nine citizen members must be representative of community, voter registration, civil rights and disabled groups, the business community, and groups that are underrepresented among those who register or those who vote. The initial citizen members serve for staggered terms; all subsequent members serve for terms of three years.

The commission is required to monitor the performance of the voter assistance program. It must also initiate and recommend actions to encourage and facilitate voter registration and voting.

The coordinator is appointed by the commission upon nomination of the mayor. He or she is required to identify groups or categories of city residents who are underrepresented among those who register or those who vote. The coordinator must also recommend methods for increasing registration and voting, coordinate the activities of city agencies in this area, and submit a detailed annual report to the Voter Assistance Commission on the extent of voter participation in New York City. The Voter Assistance Commission is required to review this annual report and send it, together with comments, to the Campaign Finance Board. The board, in turn, must transmit the report to the mayor, Council, and Board of Estimate, as well as to other public officials and private entities involved in efforts to increase registration and voting.

The heads of all mayoral agencies are required to prepare annual voter assistance plans, specifying the resources, opportunities and locations that the agencies can provide for voter assistance activities.

These provisions put the city government squarely in the business of encouraging voter participation and reflect the Charter Revision Commission's determination to implement the value of representative democracy.

Voter Assistance Commission

Coordinator of Voter Assistance

CAMPAIGN FINANCE

To encourage participation by candidates and small contributors and, at the same time, to increase public confidence in the electoral process, the Charter Revision Commission and its staff devoted a great deal of attention to the issue of campaign finance reform. While the commission was deliberating, the mayor and Council, in February 1988, enacted Local Law 8, a set of reforms designed to reduce campaign spending, limit the size of contributions, and open up city elections to a broader range of candidates. Although good government groups supported the passage of Local Law 8, they criticized some of its provisions, particularly those on loans and corporate campaign contributions. Staff to the Charter Revision Commission prepared a report which also pointed out flaws in the law and suggested improvements in several sections.

After months of reviewing and debating these issues, the commission decided that it should not presume to propose changes to an extremely recent enactment of the city's duly elected legislative body. Instead, the commission decided to propose that uncertainties about the administration of Local Law 8 for the 1989 city elections be clarified and that a governmental structure to implement and monitor any voluntary system of campaign finance established by local law be included in the charter. By putting the issue on the ballot, the commission believed that the voters' affirmation of the principles of campaign finance reform would encourage the Council and the Campaign Finance Board to close loopholes in the law.

Public Funding for the 1989 Election

The new charter provisions mandate full funding for the campaign finance program before the 1989 city elections. Although Local Law 8 included a provision that no more than \$28 million would be appropriated for public campaign financing during fiscal 1989, this \$28 million appropriation was cut from the city's budget during last-minute negotiations. In a joint statement issued after the 1989 budget was adopted, the mayor, comptroller, Council president and Council majority leader pledged full funding for the program in the 1990 budget. Many potential candidates for the 1989 elections, however, may be concerned about the availability of the money. The deadline for adopting the 1990 budget is July 1, 1989 - only a few weeks before the first public campaign funds for the 1989

elections are to be paid out. There are always eleventh-hour cuts in the budget before it is adopted and candidates may well fear that campaign financing will not stand up to the last minute competition for funds.

The revised charter ensures that sufficient funds will be available for the 1989 elections to implement any local law establishing a voluntary system of campaign finance reform. Candidates who abide by the requirements of the law will receive the matching funds they earn under its formulas. This charter requirement will dispel uncertainties and encourage candidates to agree to the law's limitations on contributions and spending.

The revised charter establishes a Campaign Finance Board in the Department of Campaign Finance and Voter Assistance. The board consists of five members: two appointed by the mayor (no more than one of whom may be enrolled in any one political party), two members appointed by the vice-chairman of the Council (no more than one of whom may be enrolled in any one political party), and a chairperson to be appointed by the mayor in consultation with the Council vice-chairman. The initial appointments are for staggered terms of one to five years and all future terms are for five years. Members of the board, who must be city residents and registered voters, must agree not to make campaign contributions in excess of the limits established by any local law establishing a voluntary system of campaign finance reform. Officers of political parties, candidates for any city office, any person participating in any capacity in any campaign for any city office, officers or employees of the city, and registered lobbyists are all ineligible to serve as board members.

The board is charged with administering any voluntary system of campaign finance reform established by local law. It is assigned broad powers to carry out the purposes of the law, including publicizing the names of candidates violating its provisions. The board is also required to establish and maintain a computer data base, to include information on campaign contributions and expenditures and to make such data accessible to the public.

Campaign Finance Board

Voters' Guide

The board is required to take such actions as it deems necessary to foster an informed electorate, including the publication of a nonpartisan, impartial voters' guide providing information on candidates, proposals, and referenda in all city elections. This guide must be distributed to all households in the city in which there is at least one registered voter and must be available in English, Spanish and other languages deemed by the board to be appropriate.

Richard Ravitch, chair, has also chaired the Bowery Savings Bank, the New York Metropolitan Transportation Authority, the New York State Urban Development Corporation and the New York State Economic Development Board. A member of the New York bar, he was engaged in the real estate development and construction industry in New York City for approximately 20 years.

Harriet Michel, vice-chair, is president of the National Minority Supplier Development Council, Inc. and has been president and chief executive officer of the New York Urban League; director of the Office of Community Youth Employment Offices/CETA for the U.S. Department of Labor; consultant to the U.S. Department of Housing and Urban Development; and assistant to Mayor John V. Lindsay.

Nathan Leventhal, secretary, is president of the Lincoln Center for the Performing Arts and has been New York City's deputy mayor for operations; commissioner of Rent and Housing Maintenance; and commissioner of the Department of Housing Preservation and Development.

Aida Alvarez is vice president for Municipal Finance at the First Boston Corporation and has been vice president in the public finance department for Bear Stearns & Co., Inc.; and vice president for public affairs and special projects for the New York City Health and Hospitals Corporation. She has also had a distinguished career in print and broadcast journalism and has been nominated for an Emmy award for her reports on guerilla warfare in El Salvador.

Amalia V. Betanzos is president of the Wildcat Corporation, a non-profit employment program, and a member of the New York City Board of Education. She has formerly chaired the city's Rent Guidelines Board, been commissioner of Youth Services, executive director of the Puerto Rican Community Development Project, and president of the National Association for Puerto Rican Civil Rights.

Fred W. Friendly is Edward R. Murrow Professor Emeritus at the Columbia University Graduate School of Journalism. He was also the originator and producer of the public television series, "The Constitution: That Deli-

**APPENDIX A:
NEW YORK CITY
CHARTER REVISION
COMMISSION MEMBERS**

cate Balance." A former president of CBS News, he was the originator of "CBS Reports" and executive producer of the "See It Now" documentary series with Edward R. Murrow. He has overseen grants to public broadcasting and other communications activities for the Ford Foundation, and authored four books as well as co-authored a fifth.

Judah Gribetz is a partner in the New York City law firm of Mudge, Rose, Guthrie, Alexander & Feldon. He has been counsel to Governor Hugh Carey, deputy mayor for government operations, chairman for Conciliation and Appeals for the city's Rent Stabilization Board, and regional administrator for the U.S. Department of Housing and Urban Development.

Frank J. Macchiarola is president and executive director of the Academy of Political Science and a member of the New York City Campaign Finance Board. He has been chancellor of the New York City public school system, and president of the New York City Partnership. He is the author of books on business law and education policy.

Therese M. Molloy has been vice-president and Manhattan region executive of the Chase Manhattan Bank, N. A. She serves on the board of directors of the Greater Jamaica Development Corporation and was formerly its chair. She is vice-president of the Fifth Avenue Association and a member of the Cardinal's Committee of the Laity for the Eighties of the Archdiocese of New York.

Patrick J. Murphy is vice president for Worldwide Security of Merrill Lynch & Co. and has been chief of operations and first deputy commissioner for the New York City Police Department.

Archibald R. Murray is executive director and attorney-in-chief of the Legal Aid Society and has been commissioner of the New York State Department of Criminal Justice Services. He was an assistant counsel to Governor Nelson Rockefeller, a member of the Commission on Revision of the State Penal Law and of the 1985-86 State-City Commission on Integrity in Government. He is a former chairman of the executive committee of the Association of the Bar of the City of New York.

Joseph A. O'Hare, S.J. is the president of Fordham University, chairman of New York City's Campaign Finance Board, a member of the Mayor's Advisory Task Force on the Homeless and of the Mayor's Committee on Appointments. He has been a teacher and a journalist in the United States and the Philippines. He was editor-in-chief of *America*, the weekly journal of opinion of the Jesuits of the U.S. and Canada.

W. Bernard Richland is an adjunct professor of local government law at New York Law School and is of counsel to the law firm of Botein, Hays & Sklar. He has been corporation counsel for the City of New York, general counsel to the State Charter Revision Commission for New York City from 1973 to 1975, and has lectured, litigated and written extensively on New York City government and related subjects.

David G. Trager is dean of the Brooklyn Law School, chair of the Temporary New York State Commission on Investigation and chair of the Mayor's Committee on the Judiciary. He is also president of the Federal Bar Council and has been the U. S. attorney for the Eastern District of New York and chief of the appeals division of that office.

Robert F. Wagner was mayor of New York City for three terms from 1954 until 1965. Prior to that, he was a member of the New York State Assembly and the New York Tax Commission, chair of the New York City Planning Commission and the borough president of Manhattan. He is also a former U.S. ambassador to Spain and was President Jimmy Carter's personal envoy to the Vatican. Mr. Wagner is a vice-chair of the Port Authority of New York and New Jersey and an advisor to Home Group, Inc., an umbrella organization of insurance concerns.

APPENDIX B:
NEW YORK CITY
CHARTER REVISION
COMMISSION BY-LAWS
Adopted February 24, 1987

- 1.) The chair shall preside at meetings of the Commission. In the absence of the chair, the vice-chair shall preside. In the absence of the chair and vice-chair, a member designated by the chair shall preside. Robert's Rules of Order, insofar as they are reasonably applicable, shall govern the order of the meeting.
- 2.) Eight Commission members actually present shall constitute a quorum, but a least eight affirmative votes of members actually present shall be necessary for the approval of a proposal to be filed with the City Clerk pursuant to section 36 of the Municipal Home Rule Law. The member presiding shall be counted as part of the quorum and shall be permitted to vote on all matters. Voting by proxy shall not be permitted. The chair shall have the authority to call meetings of the Commission on such notice as is reasonable under the circumstances. A meeting at which a proposal to be filed with the City Clerk is approved shall be held on not less than five days notice.
- 3.) The Secretary shall maintain minutes of regular and special meetings of the Commission.
- 4.) Commission records shall be maintained at the Commission offices.
- 5.) In order to most effectively utilize the services of the members of the Commission and to increase the number of hearings which can be held by the Commission, hearings may be conducted by subcommittees of four or more members designated by the chair to conduct a hearing. The chair shall designate who shall preside at public and private hearings, and any Commission member, whether or not a member of a subcommittee, may attend a public or private hearing. The chair shall have the authority in appropriate circumstances to authorize a hearing when less than four members are present.
- 6.) Subpoenas shall be issued on behalf of the Commission on the approval of a majority of the Commission which shall include the affirmative vote of the chair.
- 7.) The chair shall have the authority to request such aid from government agencies as is authorized under section 36 of the Municipal Home Rule law, and subject to the ap-

proval or ratification by the Commission, to retain consultants and to retain a general counsel who, subject to the chair, and the approval or ratification of the Commission with respect to hirings, shall have general responsibility for the work of the Commission, the preparation of studies, reports and proposals, the hiring of employees, the preparation of agenda and questions for public and private hearings, and the performance of such other tasks and duties which the chair or Commission shall designate.

8.) Each member shall provide the Secretary with a mailing address to which all notices and other mailings shall be sent by the Commission.

PRIVATE MEETINGS

January 15, 1987
April 16, 1987
June 15, 1987
February 4, 1988
March 3, 1988
March 10, 1988

PUBLIC MEETINGS

February 24, 1987
June 23, 1987
October 28, 1987
December 8, 1987
February 11, 1988
February 25, 1988
March 17, 1988
March 28, 1988
April 4, 1988
April 14, 1988
April 21, 1988
May 9, 1988
May 18, 1988
June 3, 1988
June 13, 1988
July 26, 1988
August 10, 1988
August 23, 1988
September 20, 1988

APPENDIX C: **NEW YORK CITY CHARTER REVISION COMMISSION ACTIVITIES**

PRIVATE HEARINGS

Powell Pierpoint and Kenneth Conboy, September 22, 1987
Edward V. Regan and Larry Ethridge, October 15, 1987
Herbert Alexander, October 20, 1987
Andrew Stein, October 27, 1987
Harrison Goldin, Frank J. Mauro and Charles Brady, November 10, 1987
Claire Shulman and Fernando Ferrer, November 17, 1987
Ralph Lamberti, November 24, 1987
Howard Golden, December 8, 1987
David Dinkins, January 14, 1988
David Gelfand, January 28, 1988

SEMINARS

Land Use, Steve Spinola, June 10, 1987
Historical and Political Context, Martin Shefter, June 30, 1987
Municipal Home Rule Law, Richard Briffault, Mark Glaser, Stephen McQuide, July 14, 1987
Project on the Year 2000, Robert F. Wagner, Jr., July 28, 1987
Citizens Budget Commission, Raymond Horton, Patricia Frye, August 11, 1987
Federal Government's Contract Notification Procedure, Anthony Steinhauer, September 15, 1987
Political Clubs and Municipal Unions, Norman Adler, September 29, 1987
Weighted Voting, Joe Lyons, March 15, 1988
Weighted Voting, Dr. Lee Papayanopoulos, March 25, 1988

1987 PUBLIC HEARINGS

Staten Island, April 22, 1987
Brooklyn, April 23, 1987
Queens, April 28, 1987
Bronx, April 29, 1987
Manhattan, April 30, 1987
Citywide, May 7, 1987

1988 PUBLIC HEARINGS

Staten Island, June 27, 1988

Bronx, June 28, 1988

Queens, June 29, 1988

Manhattan, June 30, 1988

Brooklyn, June 30, 1988

JOINT MEETINGS

February 3, 1988

Chairman Ravitch with members of the Board of Estimate on Voting Rights Act.

Footnotes

1 See Appendix A for brief biographies of the commissioners.

2 See Appendix B for a copy of the by-laws.

3 See Appendix C for complete list of commission activities.

4 The commission has published these proposals in two of its compilations of "Public Papers": "Major Functions of the Board of Estimate" and "The Organization and Powers of the Council."

5 Neither the previous nor the revised charter could define the full scope of ethical behavior for public servants. Rather, they identify a crucial subset of that behavior - actions which conflict with a public servant's official duties. For this reason, the new chapter, agency and code are entitled "Conflicts of Interest" rather than the historical "Ethics."

6 The four circumstances in which individuals may request an exception from the board are: (1) when they are entering public service; (2) when they learn that a firm in which they have an interest is engaged in business dealings with the city; (3) when a firm in which they have an interest is planning to engage in business dealings with the city; and (4) when they acquire the interest by inheritance or other operation of law.

7 The act includes procedures for subsequent publication and enforcement of rules inadvertently omitted.

8 Property tax appeals are heard by the city's Tax Commission. Personal income and other tax appeals are heard by the New York States Tax Appeals Tribunal.

9 State legislation must be enacted before the unincorporated business income tax and the general, financial and transportation corporation taxes can be included under the new system.

10 If a vacancy occurred late in the term - on or after September 20 in the third year - the person chosen by the temporary process served until the end of the term.

11 If a vacancy occurs late in a term, the winner of the specially called election serves for the remainder of the term.

Additional reports and compilations of papers available on request:

THE REPORT: Volume One

THE REPORT: Volume Two: *Section by Section Analysis of Proposals*

PUBLIC PAPERS: Campaign Finance Reform

PUBLIC PAPERS: Community Governance and Decentralization of Service Delivery

PUBLIC PAPERS: Government Ethics

PUBLIC PAPERS: Internal Controls

PUBLIC PAPERS: Major Functions of the Board of Estimate

PUBLIC PAPERS: Mayoral Inability

PUBLIC PAPERS: Non-Property Tax Appeals

PUBLIC PAPERS: The Organization of the Executive Branch

PUBLIC PAPERS: The Organization and Powers of the Council

PUBLIC PAPERS: The Organization and Operation of the Commission

PUBLIC PAPERS: Public Information

PUBLIC PAPERS: Special Elections

PUBLIC PAPERS: The Voting Rights Act and the Board of Estimate



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