

CHARTER REVIEW

October 2005

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NEW YORK CITY charter REVISION COMMISSION

MESSAGE FROM THE CHAIR



When New Yorkers step into the voting booths on November 8, they'll be asked to make a series of decisions about the City's future, ranging from electing the next Mayor to determining whether the Charter ought to be amended.

Our Commission was appointed more than a year ago by Mayor Michael R. Bloomberg to examine several specific issues, among them administrative judicial reform and fiscal stability. And I am delighted to report to you that, in the course of reviewing the Charter, we indeed examined those issues in detail and ultimately made proposals on both of them, unanimously approving on August 2 the two ballot questions that voters will be asked to consider on Election Day.

It took 23 public meetings, hearings and forums in all five boroughs as well as a lot of hard work to arrive at our final recommendations, and I am truly proud not only of our product, but of how we went about the entire process. This massive public outreach effort drew testimony and comments from experts, elected officials and the public. It also generated quite a few lively, informative discussions that helped us arrive at a consensus about which changes could strengthen the City's municipal operations. These proposals will appear on the ballot as Questions 3 and 4.

This fifth and final edition of the Charter Review provides an explanation of each question as well as some of the highlights of the past year. As we said in our final report: "The Commission believes that key fiscal practices required by [State law] have served the City well," and should be codified in the Charter. The Commission also intends that its proposal on judicial ethics would help "to ensure that the [City's Administrative] tribunals have credibility and that the public perceives them to resolve their disputes in a fair manner."

It was an honor to work with such an extraordinary group of New Yorkers who have a genuine commitment to improving City government by reforming the Charter. This year has been truly remarkable for me personally and professionally, and I thank all who took time out of their very busy lives to participate in this important civic exercise.

Ester Fuchs, Ph.D.
Chair

The **CHARTER REVIEW** is intended to educate New York voters about the Commission's work. The **CHARTER REVIEW** has been published periodically by the 2004-2005 New York City Charter Revision Commission, which has its offices at 2 Lafayette St., 14th floor, New York, New York 10007 (212-676-2060). Transcripts of the Commission's public meetings, hearings and forums and copies of its reports are available online at www.nyc.gov/charter.

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MORE INFORMATION

The Commission web site contains information on the charter revision process. There are transcripts of public hearings, the Commission's preliminary report, and reports of previous charter Commissions. All may be downloaded. You can also send us email. The address is: www.nyc.gov/charter. You can also reach the Commission by telephone: 212-676-2060 and by fax: 212-676-2069. Our postal address is: NYC Charter Revision Commission, 2 Lafayette Street 14th floor, New York, NY 10007.

CHARTER REVIEW

COMMISSION HAS “AYES” FOR NOVEMBER BALLOT PROPOSITIONS

The New York City Charter Revision Commission voted unanimously on August 2 to adopt two referendum questions for voter approval on Election Day, capping a year of public deliberation and debate about the City’s financial future and ethics in government.

At the Commission’s final meeting at 110 William Street in Manhattan, the Commission adopted what will appear on the November 8, 2005 ballot as Questions 3 and 4 and approved its final report: “Advancing Accountability: Balanced

Budgets and Administrative Ethics.” “We had serious work to do, and we did it over the course of the past 11 months, and I know we can be proud of the work we did,” Chairwoman Ester R. Fuchs said. “It is substantive and it is important and it’s something that needed to be done for the future functioning of the City of New York.”

She also thanked each member of the Commission and praised them for their service to the City. “I feel very fortunate that I managed to serve on a Commission

with some extraordinary, extraordinary New Yorkers,” she said.

Other Commissioners also said they were grateful for having received the opportunity to serve on the panel. “We don’t know what the scholars will say, but we know we did important work,” said Commissioner and Secretary Stephen J. Fiala. “We dealt with those non-sexxy issues that will insure continuing fiscal stability and improving judicial ethics at the administrative level, and that’s important work... I will miss this.”

WHAT YOU WILL SEE ON THE BALLOT*

BELOW ARE THE LOCAL PROPOSALS THAT VOTERS WILL FACE ON NOVEMBER 8, 2005

QUESTION 3

These changes to the City Charter, as proposed by the New York City Charter

Revision Commission, would require the Mayor and the Chief Administrative Law Judge of the Office of Administrative Trials and Hearings (OATH) to jointly issue rules establishing a code or codes of

professional conduct for the administrative law judges and hearing officers in the City’s administrative tribunals.

Shall the proposed changes be adopted?

QUESTION 4

These changes to the City Charter, as proposed by the New York City Charter Revision Commission, would establish as Charter requirements the following fiscal mandates that, in general, now apply to the City through a State law enacted in response to the City’s 1975 fiscal crisis. The changes would add these mandates to the City Charter so that they would continue to apply after the State law expires. The changes would:

- Require that the City annually prepare a budget balanced in accordance with generally accepted accounting

principles (GAAP), and end each year not showing a deficit in accordance with those principles;

- Require that the Mayor annually prepare a four-year City financial plan, to be based on reasonable assumptions and modified on at least a quarterly basis, and that the plan provide for payment of the City’s debts and a general reserve of at least \$100 million to cover shortfalls;

- Impose additional conditions on the Charter’s current restrictions on short-term debt (which may be issued by the City to fund a projected deficit or in anticipation of the receipt of funds from taxes, revenues, and bonds).

These conditions generally limit the duration and amount of the short-term debt; and

- Impose additional conditions on the annual audit of the City’s accounts. These conditions relate to application of generally accepted auditing standards and access by auditors to records so that the audit may be issued within four months after the close of the City fiscal year.

Shall the proposed changes be adopted?

* Ballot Questions 1 and 2 are statewide referendum questions.

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WHY THESE TWO PROPOSALS?

QUESTION 3

The City's administrative tribunals are among the few places where New Yorkers come into contact with City government. The ALJs and hearing officers who oversee these court-like proceedings represent the face of justice in the City, settling such matters as parking violations, municipal employee discipline, dirty sidewalks, building and fire codes and illegal dumping.

Hundreds of thousands of City residents often form their opinions of their government based on their experiences with these tribunals. It's critical, therefore, that New Yorkers perceive the proceedings and those who oversee them as fair and ethical.

"It's critical... that New Yorkers perceive the proceedings and those who oversee them as fair and ethical."

Although they're required to follow citywide rules on conflicts of interest, ALJs and hearing officers are not bound by any code or codes of professional conduct that address the quasi-judicial nature of their work. Subjecting them to a uniform code of conduct or ethics is intended to enhance accountability and instill confidence in the public that it's being treated ethically and fairly. Question 3 would require the Mayor and the Chief Administrative Law Judge of the Office of Administrative Trials and Hearings to jointly issue rules establishing such a code or codes.

QUESTION 4

Prior to 1975, the City regularly issued large amounts of short-term debt to pay for expenses it couldn't afford and failed to adequately report and account for revenue and spending. Banks and other financial institutions lost confidence in the City's ability to pay its debts and shut off access to credit markets, precipitating a major financial crisis. To help the City restore fiscal stability, the State Legislature enacted the Financial Emergency Act (FEA).

Among other things, the FEA essentially required the City to prepare a four-year financial plan each year; adopt a balanced budget, end the fiscal year without a deficit of more than \$100 million, conduct an annual audit according to generally accepted accounting principles, and imposed strict limits on short-term indebtedness. Some of the FEA's provisions are set to expire in 2008, while others will expire at a later date.

"The City has a responsibility to import those provisions of the FEA that all agree are positive financial planning and man-

agement tools directly into the Charter now," the Commission said in its final report. The Commission has proposed making these practices permanent in the Charter—with appropriate modifications—with the intention of demonstrating the City's commitment to sound financial practice in advance of the State discussion about appropriate State oversight of the City's finances that will likely take place when certain FEA provisions expire in 2008.

(More about the proposed changes for Questions 3 and 4 is available in the Commission's 2005 Abstracts, on the CRC Web site, www.nyc.gov/charter.)

TIMING OF THE CHANGES

As a technical matter, both proposals would become effective immediately upon adoption by a majority of the voters. As a practical matter, though, should the voters approve either or both of these proposals, the changes could become apparent at different times as described below.

QUESTION 3

If the voters approve Question 3, the Mayor and the Administrative Law Judge of OATH will be required to consult with

various agencies to develop a code or codes of professional conduct for ALJs and hearing officers. A consultative drafting process usually takes time to do well. The result(s) of the drafting process will then be subject to the City Administrative

Procedure Act, which involves a public notice and comment period. Thus, though an affirmative vote would immediately authorize a process to develop the new code or codes, the process itself will not conclude immediately.

QUESTION 4

If voters approve Question 4, all provisions added to the Charter are effective immediately. But the provisions would still

be subject to the Financial Emergency Act for as long as it remains in effect.

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THE YEAR IN REVIEW

Below is a timeline of the Commission's major milestones since it was formed last August.

August 19, 2004

Mayor Michael R. Bloomberg appoints the 13-member Commission. Ester R. Fuchs is named Chair.

August 26, 2004

First public meeting held in Lower Manhattan.

November 3, 2004

Second public meeting in Lower Manhattan. Commission briefed on procurement proposal and asks staff to explore ways to offset the budgetary impact of adopting local laws during the fiscal year.

December 8, 2004

Third public meeting in Lower Manhattan. Focus shifts to topic of fiscal stability to establish a "baseline" understanding of this topic.

January 19, 2005

Fourth public meeting in Lower Manhattan. Continuation of "baseline" understanding of topics, this time focusing on administrative judicial reform. Law Department attorneys also made a presentation on the history and structure of the Charter to facilitate the Commission's review of the entire Charter.

February 9, 2005

Fifth public meeting in Lower Manhattan. Continuation of "baseline" understanding of topics, this time focusing on agency efficiency, effectiveness and accountability.

March 4, 2005

Chairwoman Fuchs releases to the public a "Summary of Issues under Consideration," to be used as a guide for five public hearings in each borough. It outlined the areas on which the Commission had been focusing and sought public comment on the Commission's initial ideas, as presented by the Chair, for Charter revision in those areas.

March 7, 2005

Public hearing in Queens, preceded by expert forum on administrative judicial reform.

March 16, 2005

Public hearing in the Bronx.

March 23, 2005

Public hearing in Brooklyn, preceded by expert forum on fiscal stability.

March 30, 2005

Public hearing on Staten Island.

April 4, 2005

Public hearing in Manhattan, preceded by an expert forum on agency efficiency, effectiveness and accountability.

May 3, 2005, May 16, 2005 and May 25, 2005

Series of public meetings to discuss testimony received during the public hearings and to hear staff recommendations for possible ballot proposals and consider them in light of the earlier public hearings and expert forums.

June 9, 2005

Commission votes to adopt a report entitled "Preliminary Recommendations for Charter Revision" for consideration and discussion by the public.

June 10, 2005

Commission publicly releases the "Preliminary Recommendations."

June 15, 2005, June 22, 2005 and June 27, 2005

Public hearings in Manhattan and Brooklyn to hear public comment on Commission's preliminary recommendations.

July 5, 2005

Public meeting in Washington Heights to discuss the public comments and revise the preliminary recommendations to reflect certain of such comments.

August 1, 2005

Public meeting at which the Commission discussed the final report and proposed ballot questions and voted to defer, for future consideration, a third proposal to create a commission on reporting requirements.

August 2, 2005

Public meeting at which the Commission voted to recommend the two remaining proposals for inclusion on the ballot and approve its final report, "Advancing Accountability: Balanced Budgets and Administrative Ethics."

August 3, 2005

Commission files proposed Charter amendments with the City Clerk.