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Transcript of the Meeting of the
CHARTER REVISION COMMISSION
held on Wednesday, May 25, 2005
22 Reade Street, Spector Hall
Borough of MANHATTAN

TANKOOS REPORTING COMPANY, INC.	
305 Madison Avenue	142 Willis Avenue
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1 Meeting convened at 7:30 p.m.

2 P R E S E N T

3 DR. ESTER FUCHS, Chair

4 DALL FORSYTHE, Vice Chair

5 STEPHEN FIALA, Secretary

6 COMMISSIONERS:

7 ROBERT ABRAMS

8 CURTIS ARCHER

9 ANTHONY CROWELL

10 STEPHANIE PALMER

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1 CHAIRPERSON FUCHS: Good evening, everyone.
2 It's my pleasure to call this New York City Charter
3 Commission into session. Thank you all for attending.
4 This is a public meeting, not a public hearing, which
5 means that the public can observe but not testify. The
6 members of the Commission, of course, will be invited to
7 discuss the issues that we bring before them today.
8 We will actually continue to welcome comments from the
9 public and you can contact us at 212-676-2060. You can
10 write us at 2 Lafayette Street, the 14th floor, New
11 York, New York 10007, or you can go on line and e-mail
12 us at www.NYC.gov/charter and you don't have to send any
13 money and it's not an infomercial.

14 If anyone is interested in a copy of the
15 summary of issues under consideration for the Charter
16 revision or any of our newsletters, you can find them in
17 the back of the room. You can also sign up on our
18 mailing list if you would like to receive mailings of
19 the next set of meetings and hearings. Let me announce
20 our future meetings.

21 On June 6th we will have another public
22 meeting at 22 Reade Street. On June 9th, we have
23 tentatively scheduled a public meeting if we need that
24 at 110 William Street. We will be having a public
25 hearing and a public meeting on June 15th at NYU at

1 Washington Square. We will have a public hearing and a
2 public meeting on June 20th at the Queens borough public
3 library in Flushing, and on June 22nd we have a public
4 hearing and a public meeting scheduled at Brooklyn law
5 school. For the exact locations and directions, please
6 check our website, and this information should be up
7 tomorrow morning on the website.

8 For those of you who have not been to any of
9 our public meetings or public hearings, let me introduce
10 to you the members of the Commission. I am Ester Fuchs,
11 Chair of the Charter Revision Commission. To my left is
12 the Honorable Robert Abrams, currently a partner at
13 Stroock & Stroock, and of course a former Borough
14 President of the Bronx, a former member of the New York
15 State Assembly and formerly the New York State Attorney
16 General.

17 On my left is Dr. Dall Forsythe, who is the
18 Vice Chair of the Charter Commission. He is currently
19 the chief administrative officer of the Episcopal
20 Diocese of New York, former budget director of New York
21 State and former budget director of the New York City
22 Board of Education.

23 On my right is the Secretary of the
24 Commission Stephen Fiala, currently our County Clerk in
25 the Borough of Richmond and the Commissioner of Jurors

1 for Richmond County as well. He is a former member of
2 the New York City Council.

3 Next to Stephen Fiala is -- just a second.
4 Anthony Crowell. Anthony, who is a special counsel to
5 the Mayor, Michael Bloomberg -- I didn't really forget
6 Anthony, that's really my way of pretending I don't know
7 you. It's been a wonderful week. It's always a
8 wonderful week with Anthony.

9 Anthony Crowell is a special counsel to
10 Mayor Bloomberg and former Executive Director and
11 general counsel to several previous Charter Commissions.
12 Anthony is also an adjunct professor at Brooklyn and New
13 York law schools and is a stalwart member of this
14 Commission and is a very valued colleague and advisor,
15 to make that clear.

16 COMM. CROWELL: And he promises even better
17 times to come.

18 CHAIRPERSON FUCHS: I know. I'm confident
19 of that.

20 Next to Anthony is Stephanie Palmer, the
21 Executive Director of the New York City Mission Society
22 size and former Executive Director of the Human Services
23 Council of New York, another valued provider and
24 advocate in the City of New York for human services.

25 Next to Stephanie -- we do have a quorum

1 tonight so I'm just making sure that we have seven
2 people here -- is Curtis Archer, who as you know is
3 Executive Director of the Rockaway Development
4 Corporation and before that he worked in the Office of
5 the Borough President of Queens.

6 We are expecting a couple of more members of
7 the Commission and when they arrive, I will certainly
8 remember to introduce them.

9 So we actually have a very, I think densely
10 packed schedule for this evening, and I'm looking
11 forward to the discussion that we have.

12 The first area that I want to bring our
13 attention to and we'll move backwards, in a sense, is we
14 started the Charter Revision Commission with a
15 discussion of the issues of fiscal stability and on May
16 3rd the Executive Director, Terri Matthews, presented a
17 summary of the testimony that we heard from the fiscal
18 stability experts and the staff recommendations and you
19 may remember before that our Budget Director, Mark Page,
20 also testified before the Commission. What we
21 determined at that point in time, that after discussing
22 this broadly with a number of experts in the field, as
23 well as with the members of the Commission, that we
24 develop consensus around importing into the Charter four
25 aspects of the State Financial Control Act and you

1 received a memo from the staff of the Commission on this
2 issue.

3 The first was to require the City at the end
4 of each fiscal year to balance -- achieve a GAAP
5 balanced budget.

6 The second is to require the City to
7 continue the preparation of the four-year financial plan
8 documents with quarterly modifications during the year.

9 The third is to require the City to produce
10 and make available to the public on a regular basis
11 financial plan statements showing updated actual
12 financial information compared to projections, which
13 will enable public assessment of the progress the City
14 is making towards achieving end of year budget balance,
15 and finally, to require the City to continue the
16 stricter limits on short-term indebtedness.

17 Before I ask us to discuss this, what I'd
18 like to do now is ask Abbe Gluck and Spencer Fisher from
19 our legal department to present to the Commission draft
20 recommendations. With them is Scott Ulrey, counsel to
21 OMB. Will you please step forward, thank you, and join
22 us at the table.

23 MS. GLUCK: Good evening, everyone. I'm
24 Abbe Gluck, Deputy Counsel to the Commission, and I am
25 going to take you through the proposed draft language on

1 fiscal stability which was e-mailed to you guys last
2 night.

3 What we've done is proposed to incorporate
4 into the Charter those provisions of the State Financial
5 Emergency Act that the Chair and Commission staff
6 recommended be imported into the Charter,
7 recommendations that were presented to and discussed by
8 you, the Commissioners, several public meetings ago, as
9 the Chair just stated. To facilitate this discussion of
10 the draft language, which can be very dense, we have
11 also prepared a summary of the proposed language that
12 was e-mailed to you this morning and I have additional
13 copies of that summary.

14 Does anyone not have that summary?

15 CHAIRPERSON FUCHS: It would be good just to
16 hand that out. That would be great. Don't ask if they
17 don't have it.

18 MS. GLUCK: We can pass them out here for
19 those of you who don't have them.

20 Okay, so you should have in front of you the
21 draft text and the summary and we can begin at the
22 beginning with Section 1 our proposed amendments.

23 That section would repeal current Charter
24 Section 258, which is entitled "Financial Plan" and
25 currently just concerns updates to that plan and reenact

1 that section to incorporate into the Charter the
2 requirements, standards and procedures for the four year
3 financial planning process set forth in the FEA.

4 Most of the new language comes directly from
5 the FEA, but we've had to make some adjustments where
6 appropriate. For example, we did not import into the
7 new Charter language the references to the Financial
8 Control Board or to control periods.

9 The first subdivision on the page 258-A,
10 would incorporate into the Charter the FEA's year-end
11 balanced budget requirement. Unlike the FEA, however,
12 the draft language does not provide for a limited
13 operating budget deficit of 100 million. One policy
14 reason behind this change is that the \$100 million
15 figure is currently tied to the imposition of a control
16 period, which is a drastic remedy, and given that
17 drastic remedy, allowing the City a cushion, the
18 \$100 million dollar operating deficit, before such a remedy
19 would be imposed is sensible. Our proposed language,
20 however, does not incorporate the control period concept,
21 and so because the proposed statutory scheme lacks that
22 drastic remedy, there was a feeling there was no reason not
23 to require the City to seek to achieve actual balance
24 rather than deficit at the end of the fiscal year.
25 This subdivision also places responsibility for the

1 City's year-end results on the Executive branch, requiring
2 the Mayor to ensure the City is in compliance with the year-
3 end balance requirement.

4 The next subdivision, subdivision 258-B,
5 would incorporate into the Charter the standards set
6 forth in the FEA for the four-year financial plan and
7 financial plan modifications. Those standards include,
8 among other things, requirements that the City's expense
9 budget be prepared and balanced so that the results not
10 show a deficit when reported in accordance with GAAP; that
11 the City not issue obligations inconsistent with the
12 financial plan; that provision be made for the payment
13 in full of debt service on all bonds and notes of the
14 City; that projections of revenues, expenditures and
15 cash flow be based on reasonable and appropriate
16 assumptions; that a general reserve of at least \$100
17 million be provided for each fiscal year to cover
18 potential reductions in revenue or increases in
19 projected expenditures.

20 Finally, there's the requirement that in the
21 event the City ends a fiscal year in deficit, the four-
22 year financial plan provide for repayment of that deficit
23 in the first fiscal year.

24 The next subdivision, C, outlines the
25 procedures through which the financial plan is to be

1 developed and modified. The plan is to be developed and
2 modified as it currently is, in conjunction with the
3 already existing budget process described in the
4 Charter; specifically, that the Mayor be required to prepare
5 the four-year financial plan in conjunction with the
6 preliminary budget, and to reexamine at least quarterly
7 and modify as necessary the projections and estimates
8 contained in the plan. An update of the plan be issued
9 with the budget message, then again after the budget is
10 adopted and then again during the second quarter of the
11 City's fiscal year, and as additionally necessary as the
12 Mayor deems appropriate.

13 The draft language also provides that the
14 adopted budget be consistent with standards applicable
15 to the financial plan.

16 Next subdivision, D, concerns the actual
17 contents of the four-year financial plan and imports
18 from of the FEA, among other things, requirements that
19 the plan include projections of all revenues,
20 expenditures and cash flows and a schedule of the City's
21 projected capital commitments.

22 The following subdivision, E, codifies in
23 the Charter the City's current practice of issuing
24 monthly financial plan statements. This practice is not
25 actually codified in the FEA itself, but it has grown

1 out of the monitoring regime established by the FEA and
2 there appears to be substantial agreement as to the
3 benefits of continuing to issue such monthly statements.

4 The final subdivision of proposed Section 258,
5 258-F clarifies that these amendments are intended to
6 codify in the Charter the City's current financial
7 planning practices which have developed under the FEA
8 and that they should be construed as subject to the
9 requirements of the FEA as long as the FEA remains in
10 effect.

11 Moving on to Section 2 of the proposed draft
12 language which appears in the middle of page 3 on the
13 draft language, not on the summary. That section would
14 import into the FEA language concerning the annual
15 audit, into the existing Charter section, Section 95,
16 that already addresses the annual audit.

17 I should note that the current Charter
18 language on the annual audit would be substantially
19 preserved, just moved to a new subdivision B with the
20 exception of a deletion of an antiquated provision that
21 waived the requirement of an annual audit in the event
22 the audit was performed by the State Comptroller.

23 I'll only discuss very briefly the next four
24 sections of the proposed draft language, that's Sections
25 3 through 6, which appear in pages 4 through 5 of the

1 draft language handout. Those sections would make minor
2 changes to current Charter sections on the preliminary
3 expense and capital budgets, the Comptroller's report on
4 the state of the City's finances and the budget message,
5 in order to provide cross references to the new
6 financial plan section, Section 258, which we just
7 discussed and to make other minor conforming changes
8 consistent with the new 258.

9 Finally, the very last section, Section 7
10 beginning on page 5 would import into the Charter the
11 FEA's restriction on short-term debt. As you know, the
12 Charter currently contains in Charter Section 266
13 current restrictions on short-term debt. The proposed
14 language would retain all of the Charter's current
15 restrictions, but would also add on top of those
16 restrictions the more stringent limits on short-term
17 debt found in the FEA.

18 Madam Chair, that concludes my summary. I
19 hope it was helpful.

20 CHAIRPERSON FUCHS: Okay. Do we have any
21 questions for counsel or general discussion now on the
22 proposed Charter language?

23 Commissioner Forsythe.

24 COMM. FORSYTHE: I don't know that I have
25 questions, I have some comments. There are some

1 sections of this that I'd like to comment on and a
2 couple of places where I'm concerned. The comments, the
3 four main points that are being imported, I think that
4 the idea that the City should be held to a standard of
5 GAAP balance has become an article of faith. I think
6 it's difficult to replace articles of faith without
7 other articles of faith and I don't think we have
8 anything to replace it with.

9 I do think that there are certain
10 distortions created by this requirement, but I also
11 think there are disciplines created by it and from that
12 point of view I think it's something that we ought to
13 do.

14 I think that the restrictions on debt, both
15 in 258-B and later, are unexceptionable and make
16 perfectly good sense.

17 I had forgotten that the FEA requires that
18 if the City ends the fiscal year in deficit that it's
19 supposed to repay that deficit the next year and for
20 those who think that there would be no penalty or stick
21 involved in GAAP balance, if you assume that the City
22 would only run a GAAP deficit under extraordinary and
23 extraordinarily difficult circumstances, since it's
24 managed in the mind of mortal man to balance its budget
25 within \$5 million for as long as I can remember, then

1 this actually turns out to be a very tough provision and
2 the idea of, for example, after some sort of an
3 emergency event that required substantial GAAP deficit,
4 if requiring the repayment of that the next year of a
5 billion dollar deficit of the size that the State runs
6 on a regular basis, for example, would be very
7 burdensome and very onerous.

8 This is an interesting provision and one
9 that might indeed provide significant incentives.

10 I'm very concerned about 258-E, which indeed
11 codifies a part of the current practice of issuing
12 information, but not all of it. City OMB provides a lot
13 more information than simply monthly variance statements
14 and financial plan statements and the monitoring
15 community, such as it is, the two Comptrollers, the IBO,
16 the FCB, which may some day no longer exist, have come
17 to depend on that information to do their work and
18 provide the public with analysis and information.

19 So I don't think this goes far enough, and I
20 do not know the right way to guarantee the provision of
21 those additional kinds of information, but I do know
22 that I think this is inadequate.

23 And that's it for now.

24 CHAIRPERSON FUCHS: Do you have any
25 suggestions that might improve the language there?

1 COMM. FORSYTHE: Yes, I think you could, to
2 the extent that you're suggesting the current practice
3 continue, that you could do that more broadly than
4 simply requiring the continuation of the monthly
5 variance reports. I think that there are ways to
6 broaden that language that would give some comfort and
7 standing to monitors if they saw what they considered to
8 be important pieces of information dropping away because
9 of what I considered being -- you've heard me talk about
10 this before, the natural proclivity of budget officers
11 to withhold information.

12 This is, I do not say this -- I say this
13 from a position of knowing other budget officers that do
14 this much more than New York City, because New York City
15 has been under these restrictions for a long time, but
16 it would be a shame to see New York City revert to the
17 practices that other budget offices accept and expect as
18 their natural right. So I think, again, some broader
19 statement of the maintenance of current practices and
20 the maintenance of information would be a good start, I
21 think.

22 I think that it's difficult to -- you could
23 imagine very complicated requirements where -- that you
24 had certain groups that would get together and talk
25 about what they needed and make presentations to the

1 City Council or something like that, that may go beyond
2 what's necessary. You could imagine asking the Mayor in
3 a budget bill to detail the reports that will be
4 provided so that would then be an opportunity for debate
5 by the City Council and by the financial community and
6 monitoring community. I mean, there are possibilities
7 and options, I'm not sure how they would feel about it.

8 What I heard last -- I just don't know. In
9 fact, we have --

10 MS. GLUCK: We have Scott Ulrey, who could
11 perhaps respond to some of this.

12 COMM. FORSYTHE: Pleasure to meet you, sir.

13 MR. ULREY: Happy to respond. I think OMB
14 could make available the budget, the financial plan, the
15 quarterly modifications of the financial plan and the
16 monthly financial plan statements, which are a pretty
17 detailed elaboration of what's going on with the budget
18 and where we currently stand. Those are the most
19 important documents that we use in our office, to report
20 what's going on.

21 COMM. FORSYTHE: But that would be a
22 significant cutback from the information that's now made
23 available to the monitoring community, as I understand
24 it.

25 MR. ULREY: What other documents are you

1 thinking of?

2 COMM. FORSYTHE: I know there are PEG
3 monitoring documents, I know there are other -- I don't
4 have a list. I do know when I talk to the people who do
5 this kind of work, that they have a long list and
6 serious concerns about this.

7 We could probably come up with a list if the
8 staff asked the Comptrollers and IBO and FCB of what
9 they believe an appropriate set of materials right now
10 would be. The difficulty, of course, is those materials
11 might change over time. You hope not to try to codify
12 them --

13 CHAIRPERSON FUCHS: Right, right.

14 COMM. FORSYTHE: -- so narrowly that we end
15 up in the situation we're in with other types of
16 reports, create a report that's no longer required.

17 CHAIRPERSON FUCHS: I think we could work
18 with you, actually, to find out what this list might
19 look like, but I also have reservations of codification
20 of particular documents, as more importantly would be
21 the type of information that we want to make available
22 to people, rather than the particular documents
23 themselves as we realized the value of documents
24 actually change over time. So maybe we can work with
25 OMB on this to get a sense of this and reach out to our

1 colleagues in the monitoring community to find out what
2 their expectations are on this issue.

3 COMM. FORSYTHE: I think that would be
4 helpful.

5 CHAIRPERSON FUCHS: Were there any other
6 comments? I think somebody else did have a comment.

7 MS. GLUCK: I would just add that the FEA
8 does not currently codify the provision of the documents
9 to which you're referring and perhaps you're concerned
10 that mentioning some here rather than others perhaps
11 should indicate not all should be provided. We've
12 actually started the codification process, where there
13 was nothing prior to this.

14 COMM. FORSYTHE: I know, but as I said, I
15 think the codification, the single set of reports that
16 you've codified is only a small part of what's now
17 currently proposed, and once the FCB disappears, if
18 that's the implication of this legislation, then there
19 is no, the FCB has the ability under the Financial
20 Emergency Act to require the provision of information
21 and no one else does. So, again, budget officers in
22 their natural state do not provide information readily
23 and happily. And -- but I understand you started and
24 I'm trying to push it further.

25 CHAIRPERSON FUCHS: Commissioner Palmer.

1 COMM. PALMER: I just wanted to say that I
2 like the idea of reaching out to our colleagues in the
3 monitoring community about making sure we're on the same
4 page about what those statements are that would
5 basically provide that information. I think it's a
6 great idea.

7 CHAIRPERSON FUCHS: Well, this has been
8 extremely helpful. I think we have significant
9 consensus about the direction we want to move here, with
10 one caveat. I think we need to firm up the reporting
11 requirements here and we'll work with OMB and the
12 monitoring community to come up with something that
13 guarantees that the information is made available to the
14 public. I would just, again, express my reservation
15 about codifying particular documents insofar as it's
16 more important to know what types of information we want
17 available. So we'll come back and see if we can get
18 that part of this proposal clarified.

19 In terms of the rest of the proposal, I
20 think we're ready to move forward in requesting that we
21 -- that counsel actually begin developing some language
22 for a proposition as it relates to importing these
23 requirements from the FEA into the City Charter. Do I
24 have a sense of that from this group?

25 COMM. FORSYTHE: I'm fine with that, but I

1 do have I guess a sort of amendment or addition to my
2 previous suggestion that we reach out. I'm particularly
3 interested in the reaction of the Comptrollers to these
4 proposals in general, and it might be that as part of
5 that outreach we may try to solicit their opinion of the
6 proposals, again, not in --

7 CHAIRPERSON FUCHS: We actually, we have
8 done that.

9 COMM. FORSYTHE: I'm not so interested in
10 incredible detail as just the thought of how they're
11 going to respond more broadly to this.

12 CHAIRPERSON FUCHS: Staff has been
13 communicating with staff of actually the monitoring
14 community as well as the Comptrollers.

15 COMM. FORSYTHE: I've heard the Comptrollers
16 express concern about the possibility that the FCB or
17 control period might disappear. That's a question
18 that's really beyond this Charter Commission.

19 CHAIRPERSON FUCHS: Correct.

20 COMM. FORSYTHE: It's a question that sort
21 of goes to State law and State requirements. We can't
22 create an FCB that includes the Governor through the
23 City Charter. I know they're concerned about that, but
24 I'd like to know how they're going to react to the rest
25 of it just in terms of the public perception of this.

1 CHAIRPERSON FUCHS: We've actually had some
2 conversations, but we actually brought this to the
3 Commission first, before we --

4 COMM. FORSYTHE: No, no, I understand that,
5 I'm trying to figure out what an appropriate way to get
6 some of that feedback might be and don't have a clue.

7 CHAIRPERSON FUCHS: I think what we've done
8 with staff, is staff has been talking to staff and
9 that's I think a very useful way of getting information
10 from the Comptroller's office as well as both the civic
11 community and the monitoring community here, so we've
12 gotten some important suggestions from them, which we
13 have already incorporated and this particular provision
14 on information reporting was really taken from your
15 suggestions. So it's important that it work in a way
16 that both the monitoring community as well as you find
17 appropriate and comfortable, because I think the
18 intention here of the staff was to reflect in this
19 language a reporting requirement that worked and had
20 teeth and that would be useful for the communities that
21 need this information to hold Government accountable and
22 responsible.

23 COMM. FORSYTHE: I appreciate that.

24 CHAIRPERSON FUCHS: So we value this
25 suggestion and we will sort of go back to the drawing

1 board a little bit on this to make sure that we include
2 in this enough information so that people are
3 comfortable that we're requiring the information that's
4 really needed by the public.

5 COMM. FORSYTHE: Thank you.

6 CHAIRPERSON FUCHS: As it's reflected both
7 in the monitoring community as well as the public more
8 broadly, because that is the purpose of that
9 particular--

10 COMM. FORSYTHE: I understand and I
11 appreciate the start and I'm simply trying to push it
12 another few steps down the road.

13 CHAIRPERSON FUCHS: Yes, Commissioner
14 Palmer.

15 COMM. PALMER: Madam Chair, I had a question
16 for clarity, addressing the concern that Commissioner
17 Forsythe had with the fifth point here and it had to do
18 with the repayment of the deficit in the first year.

19 COMM. FORSYTHE: As I said, this is somewhat
20 of an abstract question. As I said, OMB has proven its
21 ability to balance the budget on GAAP year after year
22 after year, even in extraordinarily difficult financial
23 circumstances and GAAP has proven remarkably
24 accommodating for the purposes. So that after September
25 11th, when revenues dropped sharply and the City had to

1 borrow to cover operating expenses, once again the City
2 managed to present financial statements with a
3 \$5 million GAAP surplus. One hopes that there will
4 never be a circumstance more difficult for financial
5 management than fiscal year 2002 or 2003 and to the
6 extent that that's the case, the City is well able to
7 hit this mark, able to hit it without the hundred
8 million dollars exclusion that you've eliminated from
9 this and been able to do so, apparently, year after year
10 after year.

11 If something happened that blew through that
12 and created a very large deficit, it might turn out that
13 the City might find it very, very difficult to repay a
14 substantial deficit in the next fiscal year where some
15 of those same fiscal pressures might exist. My guess
16 would be that it City would do as it did in fiscal 2002
17 and ask the State Legislature to create some sort of
18 borrowing mechanism that would manage to find its way,
19 manage to find funding for the City outside of the GAAP
20 restrictions and allow them to push off those expenses
21 over a longer period of time and again technically meet
22 the requirement. That's what I would anticipate they
23 would do. That's what I would if I were in those
24 circumstances.

25 So I don't think this is going to end up

1 being terribly burdensome, but it is interesting that
2 when people say there would be no consequences if the
3 City ran a GAAP deficit, the fact it turns out there are
4 consequences and the consequences would be substantial.
5 It would be like if you were in a personal financial
6 hole and had to borrow and then had to pay it back the
7 very next year, no matter what the circumstances were
8 when you still might have been in that hole.

9 So I just noted that because I thought it is
10 interesting that I had not remembered that there are
11 consequences even without a control period inherent in
12 the law the way it's written now, so --

13 COMM. PALMER: Thank you.

14 CHAIRPERSON FUCHS: Thank you. Is there any
15 other discussion on the issue of Financial Control Act?
16 Thank you very much. That was extremely helpful.

17 What we're going to do is move on to the
18 last area that we began discussing in the last meeting,
19 which was agency efficiency, effectiveness and
20 accountability, and we had I think a very interesting
21 and open exchange.

22 Thank you very much, sorry. We appreciate
23 specifically, especially you, for taking your time to be
24 here from OMB, and of course I know you have to leave
25 now, so thanks to Scott Ulrey for coming and being here

1 for the Commission to represent OMB at the proceedings.

2 Special counsel will remain at the table to
3 continue. Thank you.

4 MR. ULREY: My pleasure.

5 CHAIRPERSON FUCHS: So just to refresh
6 everybody's memory, what we were talking about agency
7 effectiveness, efficiency and accountability and we had
8 a pretty far-reaching and open discussion about the
9 possibility of addressing the issue of reporting in a
10 responsible and accountable way. Somebody said to me
11 that this is sort of being accountable about
12 accountability, which I thought was an interesting way
13 to think about the idea of actually reviewing reports to
14 see whether or not they're doing what we thought they
15 would do.

16 So what I've -- before we proceed with our
17 discussion on this, several questions came up that the
18 Commission asked staff to address and we have Spencer
19 Fisher here and Abbe Gluck to present to us some of the
20 thinking now coming from the staff about how we could
21 consider creating a Commission that could be responsible
22 about addressing the needs of reporting requirements as
23 well as making them less onerous and more effective and
24 more useful, frankly, both to agencies and to the
25 public.

1 MR. FISHER: Good evening. I think because
2 this issue was a bit more fluid at the last meeting, we
3 have not presented you with actual draft text on this
4 issue, but with a series of bullet points that I will
5 sort of go through briefly as to what a proposed new
6 body might look like, what its functions might be.

7 I would guess that the -- I guess what Brian
8 is distributing, some of these, copies of the bullet
9 points for those who may not have that.

10 The name of the Commission is probably the
11 least important issue, obviously, and it can be changed,
12 but essentially, I mean, we called it the Commission on
13 Public Reporting and Data Access. That may not lead to
14 a very good acronym. CPRDA, I don't know. And its
15 composition obviously is subject to discussion. We have
16 proposed here that it include six ex officio members.
17 The members would include the City Council Speaker, the
18 Public Advocate, the Comptroller, the Corporation
19 Counsel, the director of the Office of Operations and
20 the director of OMB. The appointed members -- there
21 would also be three appointed members, I should note,
22 that would be appointed by the Mayor and serve for terms
23 coterminous with that of each Mayor.

24 The appointed members would include an
25 individual with experience in the field of public

1 communications, an officer, director or employee of a
2 civic or public interest organization active in the City
3 and essentially an academic member of a graduate school
4 of public administration or public affairs or public
5 policy located in the City.

6 These criteria were vaguely modelled after
7 IBO, but somewhat expanded because, as one of the
8 Commissioners pointed out, the criteria of IBO could be
9 construed as somewhat narrow, and that means you don't
10 have to serve on this one.

11 COMM. FORSYTHE: Thank you, I appreciate it.
12 Put Anthony's zip code in it.

13 MR. FISHER: Essentially, the general
14 jurisdiction of the Commission would consist of two
15 components, and they are often related. The first, and
16 one we've talked about before, would be that the
17 Commission would review reports that are required to be
18 issued locally by the Charter Administrative Code or
19 other Local Law, that are required either periodically
20 or otherwise on more than one occasion and we would
21 make, obviously, exceptions for certain key documents
22 that would not go away, including budget documents. The
23 MMR, for example, and presumably documents that may be
24 put in as a result of our earlier discussion this
25 evening, would be exempted from being waived by this

1 Commission, I would imagine.

2 The Commission would also look at advisory
3 bodies that are often associated with reporting
4 requirements, and exercise no sovereign power, and that
5 are often created by Local Law. As many of you know, in
6 recent years there have been a proliferation of both
7 reports, some of them are old, some new by this time,
8 but reports and advisory bodies and task forces and what
9 have you in the Charter Administrative Code. The
10 process of this Commission would be that it would review
11 existing reporting requirements and advisory bodies at
12 least every five years on a cycle and determine whether
13 they should be waived or dissolved in whole or in part.
14 If the Commission determines to waive a report or
15 dissolve an advisory body, it would forward this
16 determination to the Council and the Mayor and the
17 Council could then disapprove by resolution within
18 ninety days subject to a subsequent Mayoral veto and
19 Council override within short periods thereafter.

20 The idea here is not that the Commission
21 would impose its will on the Mayor and Council, but that
22 the Commission would be the space or the place for a
23 considered review of these reports and advisory bodies;
24 that if there is political disagreement with the
25 Commission's determination, it could be overturned by

1 the elected officials without probably too much trouble,
2 it appears. And this process is modelled after a number
3 of other processes in the Charter that have similar
4 Council override and Mayoral veto and subsequent
5 override provisions.

6 The Commission's determination could go into
7 effect if the Council has not acted or if the Council
8 approves of the Commission's determination and in that
9 event the report would not need to be prepared or the
10 advisory body would be deemed dissolved. Further, the
11 Commission could also make recommendations to the Mayor,
12 Council and relevant agencies for new or modified
13 reports where appropriate and it would also be required
14 to hold at least one annual public hearing.

15 At least one or more Commissioners expressed
16 concern about the Commission's outreach and we would
17 require under this framework that the Commission consult
18 with persons and entities affected by any requirement
19 under review prior to reaching its determination or at
20 least with representatives of those persons or entities.

21 The criteria the Commission would consider
22 would include, would be similar in the case of both
23 reports and bodies. The Commission would consider the
24 usefulness of information for evaluating programs and
25 resource management the potential duplication of the

1 reports and whether the benefits outweigh the public
2 resources to produce the report. Similarly, in the
3 case of an advisory body, the Commission would consider
4 potential duplication, whether the body produces a
5 report that's been waived, obviously. If the body's
6 primary function is to produce a report that's been
7 waived, the body might not be very useful, and also in
8 general whether the cost of supporting the public body
9 outweighs the benefits of it.

10 The stress here in terms of the bodies,
11 we're only talking about purely advisory bodies that
12 lack sovereign power. We're not talking about a
13 Commission that's going to sit around and dissolve
14 sovereign agencies that have sovereign powers in the
15 City. That determination, too, by the way, would be
16 subject to the same Council override and Mayoral review.

17 So that's sort of a brief summary, I think,
18 for the Chair to sort of open a discussion as to whether
19 that works for you.

20 CHAIRPERSON FUCHS: That was extremely
21 helpful. Thank you very much.

22 Does anybody have any comments on this?
23 Commissioner Fiala.

24 COMM. FIALA: Thank you, Madam Chair. Just
25 to follow up on my comments of last week, and thank you

1 for the briefing paper and fleshing out the idea of this
2 Commission, I've given it a little bit more thought
3 since our last session and in particular, was reflecting
4 on what Commissioner Raab had articulated and she
5 essentially asked the question, is this the right
6 mechanism, do we need another commission.

7 You may recall that I had questioned what
8 role this commission would play juxtaposed to the
9 Commission on Public Information and Communication,
10 which does nothing. I don't think it's ever operated.
11 But having said that, were a new Commission that might
12 share, and I don't know that it does, I'm trying to get
13 a sense of that, but if this commission might share some
14 of the responsibilities that are the mission of an
15 existing commission, does that not set up an inherent
16 conflict and does it not beg the question do we need the
17 former and should we be talking about the relevancy of
18 the former commission?

19 I don't know the answers. I'm asking
20 staff's opinions on it, and aside from that aspect of
21 it, you fleshed out some structure and I was just
22 wondering if you'd given any thought to staffing, such
23 as an Executive Director and a budget for this
24 commission, I would imagine two very important
25 components to any successful commission.

1 MR. FISHER: You won't find a proposed
2 budget for the commission in your package, but we have
3 thought about staffing. There are models elsewhere in
4 the Charter. I think the initial model that we were
5 going to propose was a fairly flexible one. If you look
6 at other Commissions in the Charter, such as BIC, the
7 Business Integrity Commission, which was developed under
8 another name by the 2001 Charter Commission --

9 COMM. CROWELL: That was the Organized Crime
10 Control Commission.

11 MR. FISHER: Organized Crime Control
12 Commission, which evolved out of the Trade Waste
13 Commission, but its jurisdiction was expanded by the
14 Charter Commission and it was codified in the City
15 Charter at that time.

16 The provisions for what's now known as BIC
17 allow it to employ some staff or to draw upon the staff
18 of the agencies that are represented on it. That sort
19 of model seemed to be useful here.

20 Assuming you would create a commission like
21 this, you would have several ex officios who all could
22 call upon talented staff of their own, and I think there
23 should be policy decisions as to whether they should do
24 that or have a core staff available to them or both, as
25 I think BIC does. That was the sort of model we were

1 considering drawing upon.

2 CHAIRPERSON FUCHS: I would just add to that
3 for a moment that the flexible model really makes a lot
4 of sense. If you look historically at which Commissions
5 have been able to fulfill their mandates effectively,
6 which is what you were getting at in your point, too,
7 which is very important. The membership of this
8 Commission is intentional, so that there would be
9 stakeholders here who would actually want to get this
10 work done, and it would be important to them to get it
11 done, and so that they would be able to bring their
12 staff to bear on the issues that would have to be
13 addressed in this Commission.

14 At the same time, the flexibility that
15 Spencer was pointing to would allow for additional staff
16 if it was necessary. But it actually, in our
17 discussions, we realized that the key to making sure
18 that these Commissions were really empowered to get the
19 work done was that that stakeholders would have a stake
20 in making sure that happened and that's what we tried to
21 structure over here.

22 So you're sort of getting at the heart of
23 this, I think, in a fundamental way, and by proposing
24 this specific group of ex officio members, we believe
25 we're really covering that entire community of

1 stakeholders and that at the same time also asking,
2 requiring, consultation, we particularly wanted to
3 address the issues I think that were brought up by
4 several of the Commissioners at the last public meeting
5 to make sure that something wouldn't be, there wouldn't
6 be a proposal to eliminate something without having the
7 particular groups and organizations that were impacted
8 in some way by a report, not give them an opportunity to
9 be part of the process.

10 So this is, there is a method here that
11 needs to be probably articulated more clearly, but I
12 think that there's an inherent answer to your question
13 in the actual structure of the Commission itself.

14 COMM. FIALA: Could I just have one
15 followup?

16 CHAIRPERSON FUCHS: Yes.

17 COMM. FIALA: Since you raised the issue of
18 stakeholders. I noted last week, and I'm not suggesting
19 this, but I'm looking for some thoughts on this. You've
20 done a very good job, staff has done a very good job in
21 bringing together all of those City officials so that no
22 one feels left out, but as you recall, I pointed out,
23 there was one group that has felt left out, quite
24 frankly, since 1989, and that's the Borough Presidents,
25 and again, I'm not suggesting that they need to be

1 there, but I'd like further discussion and debate on
2 this in the future, because for better or worse, we kept
3 those positions intact, we stripped them of much of
4 their power, but I went back early today and was looking
5 at the Charter as relates to their role and there are
6 many points in there which suggests that they have
7 advisory roles relative to statistics relating to
8 everything from health care to traffic and whatnot, so
9 we may want to look at insuring that there is borough
10 representation since we continue to have these titular
11 heads of boroughs.

12 MR. FISHER: That's obviously a policy
13 determination I would defer to the Commission.

14 CHAIRPERSON FUCHS: Right, and just to point
15 out, there has been discussion about that and that's
16 still an open question. But one of the balances we
17 tried to create here was the size of this commission
18 versus its ability to be effective, and there is one
19 theory in public administration which probably has been
20 proved over and over again empirically, which is the
21 larger you make these commissions the less likely
22 they're going to be able to do anything they're supposed
23 to do.

24 So we were very cognizant of trying to make
25 a functioning commission representing stakeholders, but

1 not make it too big, frankly, that it would no longer be
2 able to really do much of anything.

3 So the question remains open, obviously, but
4 there was a balance that we tried to strike here.

5 Commissioner Forsythe, please.

6 COMM. FORSYTHE: I have a very modest
7 thought, which I think when we talked about this last
8 time, I wondered whether the IBO, on whose advisory
9 board I serve, might play some useful role here and I
10 think the membership is already large. The sort of very
11 modest suggestion might be that where it says if the
12 commission determines to waive a report or dissolve an
13 advisory body it could forward this determination to the
14 Council and the Mayor, simply to add the idea there of a
15 recipient of any proposals.

16 The IBO is involved with many advocacy
17 groups, some of whom might have points of view about the
18 reports that are being eliminated. It might be just
19 nice to make sure that they get notice of such proposals
20 so they could comment to the City Council or call to
21 their attention any concerns that they might have. It's
22 nothing more than really a CC, but I think it might be
23 helpful.

24 CHAIRPERSON FUCHS: Could we do that with
25 the Borough Presidents as well as a possibility or would

1 that not work?

2 COMM. FIALA: I'll buy that. There, we've
3 solved that issue.

4 CHAIRPERSON FUCHS: Just making a suggestion
5 that we have to think about.

6 MR. FISHER: We could think about it. I
7 mean no disrespect to IBO, I would be a little concerned
8 about singling out IBO for the notice. It's likely when
9 the determination is forwarded to the Council a lot of
10 people are going to find out, but we could figure out
11 the best way to publicize it. There would be a lot of
12 people who would be interested -- IBO would be
13 interested in one category of documents, there's a very
14 broad of category of documents that might be reviewed
15 for this Commission. I would just be concerned about
16 singling out IBO for this notification. They'll find
17 out, obviously, but we need to find the best way to
18 publicize it.

19 CHAIRPERSON FUCHS: I think that would be
20 the best way, to do public notice.

21 COMM. FORSYTHE: That CC is too burdensome?

22 MR. FISHER: I don't think it's burdensome
23 in practice. It might look like an oddity in the
24 Charter to single out one entity when a lot of entities
25 are interested. That's my concern.

1 CHAIRPERSON FUCHS: That's a legitimate
2 point, because I think it goes out to Commissioner
3 Betanzos's point that there are a whole range of groups
4 that have a particularistic interest in one report each,
5 so I think how to get them engaged and make sure they're
6 informed I think is the really larger issue.

7 Any other comments here?

8 This has been I think extremely helpful and
9 I'm pleased that staff has really been able to put
10 together the outlines of a proposal and a way of
11 implementing this idea of getting a handle on how to do
12 reporting effectively and responsibly, and I think that
13 what we'll do is move forward with the suggestions that
14 have come out of the discussion today and see if we can
15 now put together a more, a document which now reflects
16 what some Charter language might look like over here.

17 There is now one other area on this issue of
18 agency efficiency and effectiveness that was brought to
19 the attention of staff and we hadn't, it was in your
20 earlier memo, No. 3, but we haven't discussed this at
21 all yet and I wanted to bring this to the attention of
22 the Commission for discussion today.

23 It's not a big proposal, but it's one of
24 those things that came to us from so many agency heads
25 and staff that we thought it might be interesting as

1 something we might be able to do in this Charter
2 Revision Commission. It doesn't have the weight of the
3 financial control issues and of the administrative
4 judicial reform issues or even this set of reporting
5 issues, but one of the things we said that we would do
6 when we talk to agency heads is help them, if we could,
7 look at the Charter in areas in which the Charter
8 actually gets in their way in being efficient, and so
9 the idea that came up is that in several areas in the
10 Charter, agencies are limited to the number of deputies
11 a Commissioner may appoint and they are also
12 additionally limited in the requirement that deputies be
13 ranked in relation to each other, and what we discovered
14 is that this doesn't really reflect anymore any true
15 management structure of any agency.

16 It's an anachronism and which, by the way,
17 historically staff tried to get to the bottom of the
18 anachronism and apparently a lot of these deputy
19 requirements were put into the Charter in the golden
20 days of patronage when a particular borough -- County
21 organization basically was guaranteed a deputy, an
22 appointment of a deputy in a particular agency. That
23 rang to me like an interesting reason to have deputies,
24 but not particularly relevant any more in the modern
25 day, hopefully, of responsible Government.

1 And so given that this structure wasn't
2 particularly reflective of anybody's true management
3 structures, several agency heads suggested that we
4 eliminate specific references to the number and
5 designation of Deputy Commissioners and allow agency
6 heads to structure operations as they see fit, subject
7 to Mayoral oversight.

8 So it's been suggested that such a proposal
9 could make a related change to the Charter for boards
10 and commissions to insure that these entities could
11 delegate functions to chairs or executive directors who
12 sometimes act in a role similar to deputies of agencies.

13 So in our effort to review the entire
14 Charter, this issue emerged as something that
15 essentially could just help agency heads manage better,
16 and so we're bringing it to you for discussion. We
17 realize it's not one of those issues that anybody
18 probably other than us will think about or even care
19 about, for that matter, but if we do have the
20 opportunity, it's something that we thought might be
21 useful, frankly, to just add on in a proposition.
22 Obviously, if it was a stand-alone proposition, we
23 really wouldn't want to take it to the voters, but as
24 part of a package of propositions related to efficiency
25 and accountability, we might be able to just add it in

1 as a cleanup. This is sort of what we've been calling
2 Charter cleanup issues.

3 So I'm putting that open for discussion to
4 see if anybody has any opinions one way or another about
5 the idea of doing something like this if it so merits.

6 Yes, Commissioner Fiala.

7 COMM. FIALA: I do, and I sympathize with
8 the Commissioners. I run an agency and have
9 flexibility, and I think that when I heard of this issue
10 and you step back and you say that there are real
11 inequities and inconsistencies across the spectrum, that
12 some Commissioners theoretically have the power to
13 appoint at will and remove at will while others have
14 this imposed figure of you must appoint two and still
15 others have you must appoint two, at least one must be
16 designated as such.

17 So I went in the Charter, and this is a
18 question for staff to go back at, recognizing that these
19 alleged inconsistencies and inequities exist across the
20 spectrum, I found it very interesting that strict
21 adherence to Charter language does not appear to be in
22 practice, and this is a question that I have. The
23 Police Department specifies that you may appoint and at
24 pleasure remove seven deputies, but there are fifteen.
25 I think there are some flexibilities that exist, and I'm

1 sure that's throughout. So I would recommend
2 approaching this with an idea of giving the level of
3 flexibility that you talk about and removing the strict
4 language, because there are somewhere, "may appoint
5 one," "must appoint two," "may appoint as many as you
6 deem necessary within appropriations," then there are
7 some others that are more restrictive.

8 But there's no question -- this is not a
9 sexy issue as far as the voters are concerned, but it's
10 very important to the CEO of an agency to be able to
11 manage. And to be stuck in a position that because
12 you're managing an agency that may be older than OEM,
13 for example, you're living under a very stringent
14 requirement with respect to deputies.

15 So I do think staff, I'd like to see staff
16 draw a matrix, because this is a big issue for
17 Commissioners, it gets to Commissioner flexibility and
18 Commissioners shouldn't have to beg for assistant
19 Commissionerships, assistant Commissionerships as
20 opposed to deputies and whatnot.

21 There are ways to get around everything, but
22 it's not the proper way to manage in the 21st century,
23 so I think it's an important enough issue, if not a sexy
24 enough issue, to be sure there's a uniform standard to
25 provide for maximum flexibility, because ultimately the

1 Commissioners are accountable to the Mayor. I would
2 urge we take this up and clean it up. As I said,
3 there's a lot of language in there, it's all over the
4 place and it's kind of the luck of the draw. I get this
5 agency to run, I have maximum flexibility. If I get the
6 other agency, I get two and I must appoint one to this
7 position. That might not fit into my philosophy, so
8 yes, I do believe we should take this up and clean it up
9 for the sake of future accountability.

10 MR. FISHER: Madam Chair, I would note one
11 caveat. I can't speak to every role of the deputies in
12 the Police Department. There is a historic distinction
13 where agencies appoint people with deputy titles, I know
14 this is confusing, that may not have the role of what is
15 known as Charter deputies.

16 COMM FIALA: That's my point.

17 MR. FISHER: The Police Department are not
18 necessarily violating the Charter provisions --

19 CHAIRPERSON FUCHS: That's a good point.

20 COMM. FIALA: Let me make this point. As I
21 tried to wrap it up in my final statement, you shouldn't
22 have a situation where Commissioners are locked into
23 rigid requirements and other Commissioners have a
24 greater degree of flexibility. We should clean it up,
25 because the "may appoint," "can appoint," "must

1 appoint," that's language I think is unfair.

2 If there are two of us sitting here, we're
3 both Commissioners, we should have the same level of
4 flexibility, we're both accountable to the Mayor. You
5 make appointments throughout a system for good reasons,
6 but the language here is all over the place, there's no
7 question about it. It's all over the place.

8 CHAIRPERSON FUCHS: Are there any other
9 comments on this issue? I think Commissioner Fiala
10 expressed an important point over here. It's not a sexy
11 issue, but it's an issue that speaks to Commissioners'
12 ability to manage and it's an artifact, it's a
13 historical artifact, frankly, and if we do have the
14 opportunity to do something in this area, we may want
15 to--

16 MS. GLUCK: Madam Chair, we might want to
17 pause until Commissioner Palmer returns.

18 CHAIRPERSON FUCHS: We need to have a
19 quorum. Excuse me. Thank you, thank you.

20 (Commissioner Palmer returns to the room.)

21 CHAIRPERSON FUCHS: Are there any other
22 comments on this issue? Commissioner Crowell.

23 COMM. CROWELL: A couple of things. While
24 it may be, there may appear to be some inconsistencies
25 in the Charter, this is an area that I actually have a

1 good deal of personal experience in my work life as the
2 Mayor's point person in vetting and helping agency heads
3 put top appointments in place, and I have not seen where
4 this is actually managerially difficult to function.
5 Deputy Commissioners are appointed all the time.
6 They're done consistent with the Charter, there can be
7 managerial deputies, statutory deputies and the system
8 works.

9 I'm not exactly sure where the issue -- the
10 context in which the issue was raised, maybe Chair Fuchs
11 can explain that, but one of the issues I have is that
12 when you start talking about each agency that has Deputy
13 Commissioners, those agencies are currently functioning
14 and those agencies have people in place and I think it's
15 sort of hard to open up this can without people
16 wondering how it will affect them in their current place
17 and whereas, you know, it's my belief that the things
18 are functioning fine and everything is done perfectly
19 lawfully.

20 So it seems like it may be an issue, but
21 it's not a problem.

22 CHAIRPERSON FUCHS: I think that there isn't
23 really dramatic disagreement here. It's an issue, I
24 think you've articulated that well, but it is an
25 opportunity to do a Charter cleanup that was requested

1 by several agency heads who believed that it constrains
2 them in particular ways. Obviously, I think people are
3 effective and they're operating within the law.
4 Nevertheless, it makes it more difficult for them. So
5 one of the things that we had in mind when we reviewed
6 the Charter, it's part of the way the mandate was
7 articulated when we brought in agency heads, at the
8 request, actually, of Commissioner Abrams who said we
9 should speak to agency heads.

10 Next week we'll go through all of their
11 proposals, but this was one proposal that emerged in
12 probably five or six meetings that we had and while they
13 all agree with you that they manage, everybody has
14 managed, they felt that it was time consuming. It was
15 an inefficient way for them to have to spend their time
16 to figure out how to structure their agencies
17 essentially around the Charter requirements when we
18 could do a cleanup, as Commissioner Fiala is suggesting,
19 that would give them as much flexibility as later
20 agencies have.

21 It's simply an anachronism that there were
22 earlier chartered agencies in which these requirements
23 were put in really not for management reasons, but for
24 political reasons. They're no longer politicized, but
25 they do impact an agency head's ability to manage. It's

1 just something you have to manage around and anybody
2 who's managed knows that if they -- it would just make
3 things easier, you could focus your energy on other
4 things if you didn't have something in particular to
5 manage around.

6 It's not complicated and I agree with you,
7 Commissioner Crowell, that agencies have been very
8 effective and they've done this, and if we don't do this
9 in this Charter Commission I'm sure that most of the
10 world will not worry about it.

11 COMM. CROWELL: Right.

12 CHAIRPERSON FUCHS: And the City will
13 function as effectively and all these Commissioners will
14 continue to do their job. So this is not earth
15 shattering in this regard. But it may be something as
16 we put together this set of proposals around agency
17 efficiency and effectiveness if we can do a cleanup as
18 articulated by Commissioner Fiala, it may be worth
19 doing.

20 I think we should bring it back to staff
21 would be my suggestion at this point and have some
22 internal conversations with staff about which direction
23 we should go on this, actually, depending upon what else
24 we do in this area of agency efficiency. I don't think
25 it's a stand-alone proposal. I think that would be

1 ridiculous, but I do think that it may be worth doing as
2 part of a package, particularly because so many agency
3 heads brought this to our attention, and that's really
4 in keeping with the request of the Commissioners and
5 listening to agency heads, I felt it was important to
6 acknowledge something like this, that really came up in
7 multiple, multiple meetings.

8 COMM. CROWELL: One of the things, when I
9 was staff to many Charter Commissions, I agree, this
10 issue came up, and I kind of identified the issue as
11 coming up because when you asked a Commissioner to come
12 in to talk about their Charter section, they didn't have
13 a whole lot to talk about. And I suspect this is
14 something that sort of falls into that category of well,
15 if we were to fix the Charter you could do that. I
16 never heard that it's a hot, burning issue.

17 Charter revision is like a special moment
18 and perhaps you're saying if we bundle this with an
19 issue it could be reviewed, but I think that it's an
20 issue that is difficult to do in a referendum and I
21 would ask staff, is this something that is needed, do
22 you need to accomplish this only through a referendum?

23 MR. FISHER: Probably not. These
24 requirements could probably be loosened by Local Law.

25 CHAIRPERSON FUCHS: I think we have to get

1 an opinion on that, if this could be done through Local
2 Law if that's an easier way to move this forward we
3 should do that. On the other hand, it hasn't been moved
4 forward, that's why it's come forward to this
5 Commission.

6 I agree with you Commissioner Crowell, this
7 is not a burning issue, I think that's been stated
8 several times, so I don't really believe this is a
9 stand-alone issue.

10 I would repeat, however, this is an issue
11 that many Commissioners brought before us, and as such
12 we felt it was important to bring it forward to this
13 Commission. Do I think that we should, if this was the
14 only issue on our plate right now, we would not be
15 making any proposals for a proposition. So I could say
16 that to you firmly.

17 COMM. CROWELL: That's fine, I would agree
18 with you.

19 CHAIRPERSON FUCHS: I think everybody would
20 be in agreement on that. So this is a question of it's
21 something we can do easily and add to something else
22 that's important, there may be no reason not to do it.

23 One of the things I realize looking
24 backwards at many of these Charter Commissions, is that
25 many interesting issues emerge and they fall off the

1 plate because they're not earth shattering and so they
2 never get done. So while I think we have actually a
3 couple of quite important issues that we've discussed,
4 it sort of behooves us to take one of these other issues
5 that never happens.

6 COMM. CROWELL: All right. I have a
7 request. If that happens I would really love to hear
8 testimony from one or two of the Commissioners as to how
9 difficult it is to manage around this.

10 CHAIRPERSON FUCHS: The issue of difficulty
11 is not the issue. We've already ceded that point. They
12 manage, they do it, they're responsible and professional
13 Commissioners. No one came in and said they can't do
14 it. All they did is come in and said it takes up their
15 time and it wastes their time and it's not fair because
16 other Commissioners don't have that burden, so it's not
17 that complicated.

18 COMM. CROWELL: Okay.

19 CHAIRPERSON FUCHS: So we either will do it
20 or we won't do it, but it's certainly I think worthy of
21 a discussion.

22 I think the two points of view have been
23 very well articulated by Commissioner Fiala and
24 Commissioner Crowell and I think we'll take it back to
25 staff and determine whether we have enough to put into

1 an agency efficiency and accountability proposition and
2 we'll come back to the Commission with a full report on
3 that.

4 Did anybody want to add something to this?
5 Commissioner Palmer.

6 COMM. PALMER: Just a question about whether
7 or not there was a down side to this from a personal
8 standpoint that we're not aware of? And that would be
9 at least something I'd want to know about as we move
10 forward with discussion.

11 CHAIRPERSON FUCHS: Right, and I think we'll
12 leave that question for staff to report back to us in
13 the next Commission meeting and at this point, given the
14 research everybody's done, there was no down side, but
15 we will go back and look for the down sides in case
16 there might be some, but that issue did come up, because
17 obviously you don't want to break it if it's not broken.

18 COMM. PALMER: For example, if it's pushed
19 back, if we get some pushback, where would that come
20 from? Maybe I shouldn't say a down side.

21 CHAIRPERSON FUCHS: That's a good point. If
22 this somehow is going to produce some negative backlash
23 that could impact the rest of the propositions we would
24 put on the ballot, I think that certainly wouldn't be
25 worth it. I think that's an important point.

1 Commissioner Forsythe?

2 COMM. FORSYTHE: Along the same lines, if
3 the staff is going to do further work on this, I've been
4 assuming, perhaps you could let me know whether I've
5 been right or not, I've been assuming that in the budget
6 and in Local Law and whatever law it is that establishes
7 the details of the agencies that the City Council and
8 Mayor can put whatever restrictions and whatever shape
9 on the organization they want to --

10 CHAIRPERSON FUCHS: That's right.

11 COMM. FORSYTHE: Below the level of the
12 Charter, and it would not restrict the ability of
13 anybody to shape an agency more narrowly, it would
14 simply make sure that it wasn't done in the Charter in
15 language that would last much longer than most people,
16 many people might want it to.

17 Do I have that right, sort of?

18 MR. FISHER: Yes. Obviously, no one would
19 be forced to appoint a certain number of deputies under
20 the scheme. It would be left to managerial decisions of
21 the City Government subject to appropriation.

22 COMM. FORSYTHE: Managerial and legislative.

23 MR. FISHER: Legislative in that it would be
24 subject to appropriation. I suppose if the Council
25 wanted to impose new limits, we could look at whether

1 they could subsequently do that. But the idea would be
2 that each agency would have a personnel budget and the
3 Commissioner would determine under the proposal the
4 number of Deputy Commissioners that are appropriate
5 within that budget.

6 CHAIRPERSON FUCHS: Thank you. Any other
7 questions or comments on this issue? It's interesting,
8 something so unimportant created so much discussion.

9 COMM. CROWELL: Or any discussion.

10 CHAIRPERSON FUCHS: So you're not going to
11 let me have the last word.

12 COMM. CROWELL: I promised you it would be
13 fun. We really do love working together, but this is
14 something we haven't agreed on.

15 CHAIRPERSON FUCHS: This is only for TV.

16 COMM. CROWELL: Yes, only for TV.

17 CHAIRPERSON FUCHS: Otherwise, we would be
18 such a boring Commission.

19 COMM. PALMER: It keeps you exciting.

20 CHAIRPERSON FUCHS: That's right, you never
21 know what's going to happen if you're watching Charter
22 Revision Commission TV.

23 Okay. I actually think we did come up with
24 some consensus here on the important issues we tried to
25 bring up, which is on fiscal accountability and the

1 issue around a Commission proposal to review reporting.
2 So what I would like to do at this point is ask the
3 staff to begin preparing our preliminary report on
4 agreed upon proposals and for next meeting, for the next
5 Commission meeting I'm going to ask our Executive
6 Director, Terri Matthews, and the staff to prepare to
7 brief the Commission on other proposals we have received
8 and provide recommendations, because we have received
9 other proposals from agency heads, from letters and the
10 Commissioners will be receiving, or already have
11 received, a summary of those proposals, and so we
12 continue to remain open as a Commission for suggestions,
13 proposals and modifications to the current proposal.

14 And if we feel we need more time to
15 deliberate and discuss these issues, we will be doing
16 that next week again.

17 Is there any new business that anybody needs
18 to bring up this evening? If not, can I ask --

19 COMM. FORSYTHE: So moved.

20 CHAIRPERSON FUCHS: Anybody second?

21 COMM. PALMER: Second.

22 CHAIRPERSON FUCHS: Thank you, I call this
23 Charter Revision Commission meeting to a close.

24 (Time noted: 8:47 p.m.)

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

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

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

LINDA FISHER,
Shorthand Reporter