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NEW YORK CITY CHARTER REVISION COMMISSION

EXPERT FORUM

FISCAL STABILITY

Brooklyn Public Library
Brooklyn, New York

Wednesday,
March 23, 2005

5:00 p.m.

PANEL:

DR. ESTER R. FUCHS, Chair

DR. DALL FORSYTHE, Vice Chair

STEPHEN J. FIALA, Secretary

- 1 ALSO PRESENT:
- 2 ROBERT ABRAMS
- 3 AMALIA VICTORIA BETANZOS
- 4 STEPHANIE PALMER
- 5 CURTIS L. ARCHER
- 6 DR. LILLIAM BARRIOS-PAOLI
- 7 ANTHONY CROWELL
- 8 DAVID CHEN
- 9 DR. MARY McCORMICK
- 10 JENNIFER J. RAAB
- 11 STANLEY E. GRAYSON
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1 THE CHAIR: Good afternoon. I'd
2 like to welcome everybody to the expert forum
3 part of our Charter Revision Commission
4 meeting.

5 I want to welcome everybody to
6 Brooklyn and thank the Brooklyn Public
7 Library for allowing us to hold our Charter
8 Revision Committee meeting here and to follow
9 in this actually very lovely space.

10 This afternoon we will begin with
11 an expert forum on issues related to the
12 Financial Control Act and fiscal stability.

13 I am the chair of the Charter
14 Revision Commission. My name is Ester Fuchs,
15 and I'd like to briefly introduce you to the
16 members of the Charter Revision Commission
17 who are here today.

18 On my far left is Stephanie Palmer,
19 sitting over there. We want you to move in
20 closer to us, please. Stephanie is currently
21 the executive director of the Mission Society
22 and she is the former executive director of
23 the Human Services Council for New York
24 City.

25 On her right is Bob Abrams. Most

1 of you know that Bob Abrams was the State
2 Attorney General and he was the president of
3 that other wonderful borough of the Bronx.
4 Currently he is practicing law where he is a
5 partner at Stroock, Stroock & Levant.

6 Dall Forsythe on my left is the
7 vice chair of the Commission, and he is the
8 chief administrative officer of the Episcopal
9 Diocese of New York, and he's the former
10 budget director of New York State and the New
11 York City Board of Education.

12 On my right is Stephen Fiala, who
13 is the secretary of the Commission. He is
14 currently County Clerk and Commissioner of
15 Jurors for the wonderful borough of Richmond,
16 and he was a former member of the New York
17 City Council.

18 Next to Steve is Amalia Betanzos.
19 Amalia is the president of Wildcat Service
20 Corporation, which is a non-profit employment
21 program. She was also the commissioner of
22 the Department of Youth Services and
23 executive secretary to Mayor John Lindsay,
24 and has served on two previous Charter
25 Revision Commissions.

1 Next to her is Curtis Archer, who
2 is currently the executive director of the
3 Rockaway Development and Revitalization
4 Corporation, and he is former director of the
5 small business department for the Upper
6 Manhattan Empowerment Zone.

7 Joining us, I'm sure in a couple of
8 minutes, will be Anthony Crowell, who is the
9 special counsel to Mayor Michael Bloomberg
10 and the former executive director and general
11 counsel to previous Charter Revision
12 Commissions, and he is a resident of
13 Brooklyn, for those of you who are
14 wondering.

15 Dr. Lilliam Barrios-Paoli will be
16 joining us. She is currently president and
17 COE of Safe Space. She was previously senior
18 vice-president at the United Way and has
19 served as commissioner of New York City's
20 Human Resources Administration, the
21 Department of Housing Preservation and
22 Development, the Department of Personnel and
23 the Department of Employment.

24 And I think she gets the prize for
25 having been the commissioner of the most city

1 agencies.

2 David Chen will also be joining us.
3 He is currently executive director of the
4 Chinese American Planning Council and the
5 founding chair of the Board of Directors of
6 Chung Pak Development Corporation, and he,
7 too, is a resident of Brooklyn.

8 And Jennifer Raab will be
9 attending, she is the president of Hunter
10 College and former chair of the New York City
11 Landmark's Preservation Commission.

12 And finally, Stan Grayson, who is
13 the president and chief operating officer of
14 M.R. Beal & Company. He was a former
15 managing director at Prudential Securities.

16 Prior to that, he held several
17 senior positions in New York City government,
18 including deputy mayor for finance and
19 economic development, as well as finance
20 commissioner and chief executive officer of
21 the New York City Industrial Development
22 Agency.

23 So I want to thank all of the
24 commissioners for joining us on this very
25 rainy day. I know you'd prefer it to be

1 spring, but somebody else prefers it not to
2 be. And I want to welcome our expert panel
3 today.

4 What I'd like to do as we begin to
5 listen to you is introduce you to the members
6 of the Commission, as well as to our public
7 audience, to remind those who are attending
8 today that we're beginning with this expert
9 forum and the public hearing will begin at 6
10 p.m., when those of you in the audience will
11 have a chance to both testify and address the
12 Commission directly.

13 We will be having our next public
14 hearing on March 30th in Richmond County in
15 the Juror Assembly Center. Thank you to
16 Commissioner Fiala. That will be at 6 p.m.

17 And on April 4th, we will be having
18 a forum and a hearing at Hunter College, and
19 the topic for the experts there will be
20 operational efficiency and accountability.

21 For those of you who are interested
22 in the proceedings of the Charter Commission
23 and want more information, please go to our
24 web site at www.nyc.gov/charter or call
25 212-676-2060.

1 Our first report, "Summary of
2 Issues under Consideration for Charter
3 Revision" is available in the back of the
4 room, and if you want to sign up to be part
5 of our mailing list or our e-mail list, there
6 is a list in the back of the room and you can
7 just add yourself to that.

8 And if you want to sign up to
9 testify in our public hearing, please do that
10 now.

11 So I know that that's a lot of
12 business, but you'll bear with me because we
13 take the outreach part of the Charter's
14 mission very seriously and we want to make
15 sure everybody has a chance to come to these
16 meetings, attend and testify, if they
17 choose.

18 So I will briefly introduce all of
19 you, and then we can just start from left to
20 right.

21 What I'm going to suggest is that
22 we let all of our experts testify. I know
23 they've prepared testimony.

24 Then I will ask the commissioners
25 to address questions, either specifically to

1 a member of the expert panel or generally to
2 the expert panel. So I think that way
3 hopefully we will be more efficient.

4 First, it's my pleasure to
5 introduce Charles Brecher, who is a professor
6 of public and health administration at New
7 York University. He is the author of a very
8 widely read book, book that you have, that
9 I've used when I taught, and I recommend to
10 everybody in the room, it's called "Power
11 Failure, New York City Politics and Policies
12 since 1960."

13 He has done work on the
14 privatization of public hospitals recently,
15 and he also serves as a research director for
16 the Citizens Budget Commission, a
17 non-partisan civic organization devoted to
18 improving financial management and service by
19 the City and State of New York.

20 It is in that capacity that he's
21 testifying today. We're delighted to have
22 everyone here, but I know Chuck the longest,
23 so I'm personally delighted to welcome you
24 today.

25 I won't go back in time, but I do

1 remember, I do remember, and part of the
2 research effort and the 1975 fiscal crisis,
3 which Chuck and his colleague Ray Horton up
4 at Columbia, when they were at CBC, really
5 were instrumental in helping the City really
6 figure out how to get out of that crisis in
7 designing some of the structures that were
8 put into place that we're re-examining today,
9 but he and Ray were a major part of that
10 public discussion on how to get New York back
11 on track fiscally, and it looks like it
12 worked, too, which is pretty impressive.

13 Thanks for being here today.

14 Ronnie Lowenstein, I go back almost
15 as far with you, but not quite. We were
16 colleagues at Barnett College together, so
17 I'll give away your secrets.

18 Ronnie is currently the head of the
19 IBO and is testifying in that capacity.

20 Prior to IBO, she was a public
21 finance and regional economist in the
22 domestic research division at the Federal
23 Reserve Bank, and of course taught economics
24 at Barnett College.

25 I didn't mention everybody's

1 degrees, but you can be sure it's a fairly
2 impressive group over here.

3 And Ronnie has, I think, done a
4 pretty amazing job at the IBO. I know most
5 of us rely on them for information that we
6 don't really find any other place in the
7 city, and the quality of the work since
8 you've been there is very, very high and we
9 thank you for that, both as members of the
10 Charter Commission and citizens of the City
11 of New York.

12 It's important, the work you do is
13 extremely important.

14 James Parrott, who, since 1999, has
15 been the deputy director and chief economist
16 of the Fiscal Policy Institute, which is a
17 non-partisan public policy research
18 organization dealing with New York fiscal and
19 economic issues.

20 Under his direction, the FPI has
21 regularly analyzed New York City's budget and
22 tax issues, and city and state economies.

23 I think that prior to coming to
24 FPI, James was the chief economist and
25 director of the Bureau of Fiscal and Economic

1 Analysis at the Office of the State Deputy
2 Comptroller for New York State.

3 And prior to that, he was the chief
4 economist for the City of New York economic's
5 policy office under David Dinkins. He, too,
6 comes with an impressive list of degrees and
7 has dedicated himself to public service in
8 this field, and we want to welcome you,
9 too.

10 And finally, last but not least,
11 Marcia Van Wagner. Marcia's has had many
12 hats, right? And now she's, I think, in an
13 extremely important position here
14 representing the comptroller today.

15 Since February, she's been the
16 deputy comptroller for budget for city
17 comptroller Bill Thompson.

18 Previous to that, she was deputy
19 research director and chief economist on the
20 Citizens Budget Commission and also served as
21 chief economist and director of fiscal and
22 economic analysis at the Office of the State
23 Deputy Controller for New York City.

24 So if you're noticing that there's
25 a pattern in here, there are no accidents, of

1 course.

2 She was also vice-president for
3 economic analysis for the New York City
4 Economic Development Corporation and the
5 chief economist for the New York City
6 Economic Policy and Marketing Group.

7 And she, too, comes with an array
8 of degrees, but she can add to her resume the
9 fact that she is a resident of Brooklyn.

10 So welcome, everybody, and I'd like
11 to begin testimony with Professor Brecher.

12 MR. BRECHER: Thank you. Thank you
13 for the kind introduction and for the
14 opportunity to be here.

15 I'll start by saying I am here in
16 terms of my capacity with the Citizens Budget
17 Commission, but I am not here to present any
18 formal positions that have been taken by the
19 Commission's board.

20 The board has not taken up some of
21 the questions, at least yet, that I think you
22 have identified and are addressing.

23 So what I'm sharing is just some of
24 the staff's thoughts about some of the issues
25 and some suggestions about how to think about

1 these subjects.

2 I haven't prepared any formal
3 testimony. Having read Mark Page's
4 presentation, I thought that I'd follow that
5 model. It may not be as long.

6 It was interesting, my aspiration
7 is to be interesting like Mark. That was a
8 very important contribution.

9 So what I have is -- actually,
10 there are six topics that I wanted to have
11 some comment on that are, I think, relevant
12 to the issue that you have identified.

13 What I take to be the goal of the
14 Commission is as the sunset of the Emergency
15 Act approaches, to think about how the
16 benefits or the ways in which the City has
17 benefitted from some of those provisions can
18 be incorporated in the Charter or in other
19 ways, and the ways in which the practices
20 that we've established, the City has
21 established, that have served us very well,
22 might be even further improved upon, because
23 I think few would argue that they're
24 perfect, though I think they serve the city
25 very well.

1 The first of those is the
2 requirements for multi-year planning. As I
3 think you framed the issue really, is there
4 are things in state law now that are not
5 required in the Charter. Some of that has
6 been sorted through and the material has been
7 prepared for you.

8 I think the easy part of that is to
9 say let's embrace some of those requirements
10 in the Charter. And that would simply ensure
11 that those requirements continue once the Act
12 expires.

13 The harder questions, I think, are
14 that what having a state law has done is put
15 in place some mechanism to decide whether
16 those requirements aren't being met and some
17 clear sanction of what happens when they're
18 not met.

19 And if that state law didn't exist,
20 what would replace that. What would be, who
21 would decide that we didn't have a balanced
22 budget. How would that get triggered and
23 then what would the sanction be.

24 And I think if one wants to have
25 that, it's very hard to think about what that

1 mechanism would be entirely governed by the
2 City Charter or City officials in and of
3 themselves.

4 That's really what's existed, has
5 been the taking away of discretion and
6 authority from local officials, and I'm not
7 sure how you do that without it being in some
8 sort of state law and involving some state
9 officials.

10 So I think that's part of the
11 challenge or the paradox of trying to
12 deal with this in the context of Charter
13 reform.

14 But certainly, as I said, the
15 easier part of this is to maintain some of
16 the requirements that are not there, but are
17 in the state law in the Charter and have the
18 Charter cover down.

19 The second thing I wanted to get
20 to, and it's related to that, is that given
21 that we have had requirements that the City
22 budget be balanced and that there are
23 external sanctions that go with that, the
24 city has built up a record of generating
25 surpluses. It keeps its budget, I think, in

1 balance and has a surplus.

2 I think one of the ways in which we
3 could think about making this process work
4 better is to have some more rules about the
5 surplus.

6 The City has lived with generally
7 accepted accounting principles and has
8 learned how to conform to them, but also put
9 its surplus to some creative uses, though I
10 would argue not necessarily the best or
11 priority uses.

12 So the question is really whether
13 there ought to be some requirement in the
14 budget process in the Charter about how we
15 use surpluses.

16 The one use clearly is a rainy day
17 fund, and that comes back to the balanced
18 budget requirement, because again, if we had
19 a rainy day fund and it rained and we used
20 it, we would violate the requirement that we
21 had to have a balanced budget.

22 So I think some exception to the
23 balanced budget requirement where if you
24 could create a rainy day fund where you drew
25 down a rainy day fund when it was actually

1 raining -- and I think that's the point I
2 wanted to get at -- what we have now are
3 mechanisms that allow the City to use the
4 surplus, but it just gets rolled into the
5 next year and supports spending in the next
6 year.

7 In fact, when you compare what's
8 been rolled into one year and rolled out the
9 next year, sort of the drawdown on the
10 surplus has been greatest in years when the
11 City's economy was in the best shape.

12 And if we could think about some
13 mechanism that regulated that, that allowed
14 us to really put money away for a rainy day
15 and only let you use it on a rainy day and
16 then it didn't punish you if you used it on a
17 rainy day, I think it would help promote
18 fiscal stability.

19 I think that's a real challenge to
20 this day and how you set up the requirements
21 and when sanctions kick in.

22 The third topic I would raise is
23 really, what is it, when we say the City's
24 budget, what is the entity.

25 And again, there are generally

1 accepted accounting rules about this, but
2 they're not perfect.

3 And arguably, from the point of
4 view of citizens and the citizens who are
5 interested in what's happening with public
6 funds, there are now things off budget that
7 one ought to treat in the context of the
8 regular budget process.

9 There are now TFA, TSAC, other
10 entities that are not included in the budget
11 that probably ought to be.

12 And I think some way of having a
13 more comprehensive scope to what we define as
14 what part of the regular budget process would
15 be, would serve the goals of transparency and
16 building public faith on the part of the
17 citizenry.

18 So I guess that's the third.

19 The fourth one has to do with the
20 capital budget and capital planning.

21 To me, it's really interesting that
22 there has been, going back to the Charter of
23 1989, I remember, I think it was part of when
24 Dick Ravich was involved, the requirements
25 that are now there about having things that

1 are sort of the equivalent of depreciation,
2 and you know, saying what the requirements
3 are and maintain City facilities have been
4 built in, and they've been part of the
5 process for a long time.

6 They don't get the attention they
7 deserve, and we don't really acknowledge that
8 we are letting our assets deteriorate.

9 And I think some kind of
10 requirement to at least address and maybe
11 even do something about what is the
12 equivalent of depreciation in the public
13 sector would really put some parameters on
14 what the capital budget process ought to
15 do.

16 It would force us for a lot of
17 infrastructure assets to do what the MTA now
18 does in a more explicit way, to say what are
19 the things, what's the amount we need to
20 spend to keep things in a state of good
21 repair versus what are the things we're
22 spending to build new facilities, and you
23 know, can we be sure we'll be able to keep up
24 the new facilities.

25 So I think there's -- again, some

1 of the recent changes in generally accepted
2 accounting principles address some of this,
3 but again, they don't do it perfectly, and
4 some more attention to how well we're keeping
5 up our physical plant and viewing the
6 equivalent of depreciation in the public
7 sector as an operating expense when we look
8 at balance, would be an important
9 contribution.

10 The fifth one has to do with tax
11 expenditures. And I think generally the City
12 does a pretty good job about disclosing a lot
13 of this. There are required reports about
14 tax expenditures in the City's fiscal
15 document.

16 I just think we could do better in
17 the sense of what we do now is often post-op
18 reporting and reporting about what the future
19 commitments of the tax breaks have already
20 been given.

21 But we don't really have a good
22 concept of budgeting tax expenditures and
23 saying going forward in the next year, here's
24 what we think the limit ought to be on how
25 much we give away in the form of tax breaks,

1 and again, maybe setting some targets for
2 that, some process for saying how big it
3 should be would be helpful in the budget
4 process.

5 And then, last but not necessarily
6 the least, important on my list was the
7 linkages that should exist between the budget
8 process and the Mayor's management report and
9 performance reporting in general.

10 Again, I think one of the things
11 that hasn't happened that was intended to
12 happen from earlier Charter reforms is that
13 there be a strong alignment between the units
14 of appropriation that are used in the budget
15 and the units about which performance
16 measures are reported in the Mayor's
17 management report and the ability to
18 crosswalk between what's happening in terms
19 of results and categories we use to
20 appropriate money.

21 Some reaffirmation of that
22 requirement, some way of trying to say that
23 we really want to have information about what
24 each unit of appropriation is producing,
25 would, I think, engender more performance

1 management and maybe even some requirement
2 that some of those measures include unit
3 costs which are now not frequently found.

4 Therefore, there are a few entities
5 in the Mayor's management report, but I think
6 there would be more of them that would be a
7 lot more helpful and maybe even some
8 comparative benchmarking of looking at what
9 other large cities do and what units costs
10 there are as part of our performance
11 management standard.

12 So that's my list, again developed
13 with the help of my colleagues at the staff
14 of CBC about what some of the issues might
15 be and ways we could make this process
16 better.

17 THE CHAIR: Thank you.

18 Ronnie Lowenstein.

19 MS. LOWENSTEIN: Thank you for
20 inviting me to join you today in the
21 discussion of how the City Charter should
22 be changed in anticipation of the expiration
23 of the Financial Emergency Act, FEA, in
24 2008.

25 While there are many issues that

1 arise from the expiration of the Act, there
2 are two key matters I will focus on.

3 First, the critical nature of
4 maintaining a structure that fosters ongoing
5 budget management, and second, the importance
6 of access to budgetary information.

7 I'm taking a little bit of a
8 different tact than Chuck.

9 The budget process currently laid
10 out in great detail in the City Charter is
11 essentially focused on adopting a budget for
12 the coming fiscal year.

13 However, the Charter has much less
14 to say about what happens after that year's
15 budget is adopted.

16 As the Mayor's budget director,
17 Mark Page, observed in his testimony to the
18 Commission in December, the FEA created a
19 fiscal planning and management structure over
20 and above the budget process outline in the
21 City Charter -- a structure that's less
22 concerned with the essentially political act
23 of adopting a budget, and more with the
24 ongoing management of the city's financial
25 condition, both during the budget year and

1 with a longer-term planning horizon.

2 Many aspects of the FEA structure
3 have become firmly embedded in practice and
4 in the expectations of everyone with a stake
5 in the city's continued fiscal well-being.

6 It would serve the city well to
7 continue these practices by incorporating
8 them into the Charter.

9 I want to briefly highlight some of
10 what we think are the most important aspects
11 of the financial planning and oversight
12 functions created by the Financial Emergency
13 Act and by the Financial Control Board, both
14 in law and in practice.

15 The structure has several important
16 elements that Chuck has alluded.

17 First of all, a four-year financial
18 planning. This rolling four-year plan,
19 continuously updated, helps ensure that the
20 future fiscal consequences and decisions made
21 today are taken into account.

22 Second, quarterly modifications to
23 the financial plan. The quarterly mods --
24 which have become more or less integrated
25 with budget modifications approved by the

1 City Council -- help ensure that the city is
2 continually minding the store once the annual
3 budget is adopted, aligning expenditure needs
4 with available revenues.

5 Finally, a year-end balanced budget
6 test. The Charter only currently requires
7 that the budget be balanced in adoption.

8 Under the FEA, the city must show
9 that it has also finished the fiscal year
10 without a deficit of more than \$100 million
11 -- which is just 2/10 of a percent of the
12 city's roughly \$50 billion budget each year.

13 The benefits of the current
14 arrangement are widely recognized and agreed
15 upon. These provisions could be incorporated
16 into the Charter budget process to create a
17 comprehensive framework, not just for
18 adopting a budget, but also for managing the
19 city's fiscal condition on an ongoing basis
20 to ensure that we continue to live within our
21 fiscal means, as we have now for nearly a
22 quarter century.

23 That part, I think, is more what we
24 normally focus on. But then there is a whole
25 other set of issues that typically aren't

1 addressed.

2 Another element of the FEA
3 structure and process that has been at least
4 as important -- but less often recognized --
5 is the Financial Control Board's access to
6 the information necessary to carry out its
7 functions.

8 The Financial Emergency Act gives
9 the FCD broad access to financial
10 information, authorizing it to acquire
11 whatever records and reports from the city it
12 deems necessary or desirable to carry out its
13 functions; the information must be available
14 on a schedule that meets the FCB's needs.

15 The control board dictates the form
16 and the content of financial plans and
17 reporting. Moreover, this information is
18 made publicly available.

19 In effect, the Act makes the FCB
20 and its staff a partner on an equal footing
21 with the Mayor's office in oversight of the
22 city's financial condition.

23 A number of different practices
24 have grown up as a result of that, including
25 the institution of the quarterly PEG

1 monitoring meetings, and the probably far
2 more useful, Education Task Force meetings.

3 These meetings were created at the
4 request of FCB, and when one administration
5 tried to end the practice, the control board
6 insisted that the meetings continue.

7 The FCB has set the standard for
8 reporting and information on the city's
9 budget condition, on a more or less real-time
10 basis, and it is authorized under the act to
11 require the city to provide whatever
12 information it thinks it needs on whatever
13 schedule to perform its oversight functions.

14 I think we could argue that the
15 success of the FEA structure has been due at
16 least as much to the control board's access
17 to information as to the threat of
18 reimposition of a control period.

19 This access enables it and others
20 to form a sound, independent judgment about
21 the city's financial condition, which has
22 been crucial to maintaining the confidence of
23 investors, citizens and elected officials
24 alike.

25 Based on this experience, we feel

1 it will be vital to replicate on the local
2 level this strong right of access to
3 information after the expiration of the FEA.

4 It has been a crucial element in
5 the sound fiscal management the city has
6 exercised over the course of five different
7 mayors, one sweeping restructuring of city
8 government and multiple business cycles.

9 Whatever comes after the FEA
10 expires, it must be possible to ensure that
11 the standard set by the FCB for budgetary
12 information and reporting is upheld and
13 continued, and that the ability to undertake
14 an independent evaluation of the city's
15 finances is protected.

16 I think there are a whole host of
17 other important issues stemming from the
18 expiration of the Financial Emergency Act.
19 Each of these issues, such as city debt
20 practices, rainy day funds, budget
21 presentation are important and worth
22 considerable discussion as well, and I'll be
23 glad to answer questions on any and all of
24 them.

25 Thank you again.

1 THE CHAIR: Thank you very much.

2 James Parrott, please.

3 MR. PARROTT: Thank you. If I
4 could, I'd like to build upon the remarks
5 that have been made by Ronnie and Chuck, and
6 I'd like to, as I say, associate myself with
7 many of their remarks.

8 Over the past 30 years of the FEA,
9 close to the past 30 years, the FEA has been
10 very instrumental in achieving fiscal
11 balance, accountability, transparency and a
12 measure of stability in New York City's
13 budget. The taxpayers have benefitted,
14 bondholders have benefitted, and I think
15 state taxpayers have benefitted also.

16 The question is with the FEA
17 expiring, what, if anything, should take its
18 place.

19 I agree that many of the financial
20 planning and financial management provisions
21 of the FEA could and should be incorporated
22 into the City Charter, having to do with a
23 four-year financial planning process, the
24 requirements for ongoing budget balance,
25 restrictions on short-term debt and

1 establishment of a general debt service fund.

2 But I also think, and here I think
3 I'm going to go a little bit further than the
4 previous speakers have, I would think that
5 some variation of the Financial Control Board
6 and the company fiscal monitoring by the
7 state can't be established through a Charter
8 change, and that some variation of this needs
9 to continue.

10 It may not be a Financial Control
11 Board. It may be a Financial Review Board.

12 But I think it's important and
13 valuable to the city, as well as to the
14 state, for it to be comprised of the chief
15 executives and the comptrollers of the city
16 and the state.

17 I think there are two basic reasons
18 for this. Such a board gives the Governor a
19 direct interest and role in the city budget
20 and an ongoing capacity to understand the key
21 elements of the city budget.

22 In the absence of an ongoing board,
23 the Governor would be far less prepared
24 should the city experience a financial
25 emergency.

1 Secondly, involving the state
2 comptroller through the board provides an
3 important component of the multi-prong budget
4 monitoring process.

5 For all of the positive attributes,
6 neither the FEA nor the budget monitors can
7 prevent ill-advised budget actions that can
8 contribute significantly to budget crisis.

9 For example, during the late 1990s
10 period, when the Wall Street financial bubble
11 temporarily boosted city tax collections, the
12 City adopted several tax cuts that in the
13 aggregate just about matched the magnitude of
14 the tax increases the city was forced to
15 adopt in 2003 as the economy faltered.

16 Rigid statutory constraints that
17 try to avert bad fiscal practices often
18 amount to medicine that is worse than the
19 illness.

20 Perhaps the best approach is to
21 maintain a vigorous independent budget
22 monitoring apparatus that increases the
23 chances that such ill-timed and unwise fiscal
24 practices are identified and their risks
25 spelled out in a public manner as is done now

1 with the publication of the monitors' reports
2 from the city's four-year financial plan.

3 I'd like to address an issue
4 separate from the FEA that I think is also
5 important, and it goes to the issue of fiscal
6 stability and the Charter's handling the
7 separation of power between the Mayor and the
8 City Council.

9 This is the issue of the Council's
10 involvement in the consideration of
11 large-scale economic development projects.

12 Such projects have substantial
13 fiscal implications for the city and should
14 not be under the sole control of the Mayor,
15 or of entities such as the city's Industrial
16 Development Agency, whose board is comprised
17 solely of Mayoral appointees.

18 Our experience over the last
19 several years has been that accountability
20 and transparency have suffered greatly in
21 such large economics project and that the
22 fiscal stability of the city has been put at
23 risk.

24 For example, under the previous
25 Mayor, the city Industrial Development Agency

1 was considering a cash subsidy and financing
2 subsidy to the New York Stock Exchange, the
3 value of which was several hundred million
4 dollars.

5 The deal eventually did not happen.

6 And closer to home and in time when
7 one reviews the process that has been
8 followed over the past two years, as the Far
9 West Side proposals have been considered, it
10 becomes clear that the public review process
11 has been very flawed.

12 The Council's role has been
13 peripheral regarding important aspects that
14 carry substantial fiscal implications for the
15 city, and generally, there has been
16 insufficient public information made
17 available to carry on an informed debate.

18 This fundamentally flawed process
19 has been overshadowed in the media and in the
20 public eye by the polarization of public
21 opinion on the proposed West Side stadium.

22 I think the fiscal implications for
23 the city for the financing for the Far West
24 Side, complete and separate from the stadium,
25 are much more important to the long-term

1 fiscal health of the city and the stadium.

2 The scale and the scope of the
3 development of the Far West Side directly
4 affects the city budget and the future demand
5 for city services. The Mayor has proposed a
6 widespread use of property tax breaks with
7 implications for the commercial property tax
8 base for all of Manhattan.

9 It involves considerable public
10 borrowing by the city and by a newly created
11 Hudson Yards Infrastructure Corporation, and
12 calls into play the credit of the
13 Transitional Finance Authority.

14 This goes to the issue that Chuck
15 raised about the increasing use of mechanisms
16 that should be part of the regular and formal
17 budget, city budget process.

18 Despite all of this, the Council's
19 role has been marginal, and because the
20 Council role has been peripheral, there's
21 been a lack of essential information
22 regarding the financial aspects.

23 When the city operated under the
24 Board of Estimate, all important aspects of
25 such proposals, including the proposed

1 financing, would have been subject to
2 approval by the full board.

3 The essential details of the
4 proposed financing and the proposed use of
5 tax breaks would have been made public.

6 While State law and the City
7 Charter give the IDA the authority to
8 negotiate economic development projects, I
9 don't think the very large-scale projects
10 were envisioned at the time of the last major
11 Charter revision in 1989.

12 With respect to the Hudson Yards
13 redevelopment proposal, a complex project
14 involving the rezoning of 60 acres and the
15 financing for the \$3 billion in public
16 financing necessary to pay for the extension
17 of the number 7 subway line, the mid-block
18 boulevard between 10th and 11th Avenues, and
19 parks and other public amenities, the Charter
20 gave the Council a role in approving the land
21 use changes, but no formal role regarding the
22 financing.

23 This is obviously a sweeping
24 proposal that goes to the very heart of what
25 city fiscal management and stability is all

1 about.

2 On an ad hoc basis, the Council was
3 able to negotiate some changes in the
4 financing proposal at the last minute before
5 it approved the rezoning in mid-January, but
6 public discussion of the financing aspects
7 during the several months leading up to that
8 was limited and key aspects of the financing
9 details were not, and still have not, been
10 made public.

11 It is troubling that this project
12 has proceeded this far and is close to the
13 point at which the Hudson Yards
14 infrastructure corporation's bonds could be
15 sold, and there is still uncertainty as to
16 the role of widespread tax breaks in the
17 Hudson Yards redevelopment area.

18 On a related issue, the Hudson
19 Yards redevelopment has been touted as one
20 that will generate \$60-plus billion in city's
21 tax revenues over the next several decades.

22 If the city has not made public the
23 basis for this projection, and there has been
24 no review of such projections by the Council
25 or any of the budget monitors, I don't have a

1 specific proposal in mind about how to
2 redress this, but I urge the Commission to
3 consider this issue and explore whether or
4 not there is a better procedure for the city
5 to follow in developing, reviewing and
6 approving such large-scale economic
7 development projects that have such
8 significant fiscal implications.

9 The state law governing industrial
10 development agencies was really conceived
11 with an eye toward individual companies,
12 specific projects, not the sort of
13 far-reaching project as in the case of the
14 Far West Side redevelopment or even the
15 Brooklyn arena project right down Flatbush
16 Avenue from here.

17 One suggestion would be to have a
18 more structured, transparent and accountable
19 process for projects involving a combined
20 total city investment, including cash, the
21 value of the land involved, tax expenditures,
22 that exceed \$10 million.

23 Part of the solution might also be
24 to have a city IDA whose board members
25 reflect a better balance of appointments by

1 city officials. In the rest of the state,
2 it's interesting to note that the local
3 legislature appoints the members of the IDA.

4 We would be happy to work further
5 with the Commission on this issue should you
6 desire.

7 Thank you for the opportunity to
8 share our views this afternoon.

9 THE CHAIR: Thank you.

10 Marcia Van Wagner, please.

11 MS. VAN WAGNER: I want to start by
12 just thanking the Commission for having the
13 office representing this panel today, and I
14 also want to thank you for taking on fiscal
15 stability in this round of Charter Revision.

16 It's a critical issue, and I think
17 it's great. I think it's forward looking,
18 the expiration for another three years, and
19 it's definitely important that we all start
20 thinking about what mechanism is going to be
21 placed in the financial emergency structure
22 that was implemented now decades ago.

23 I'm going to take the Chuck Brecher
24 approach to the testimony in that I don't
25 have a written testimony to present to you

1 today, but I do have some remarks on a couple
2 of different aspects of this Charter revision
3 issue.

4 I also, you know, people have
5 brought up issues that I guess I want to, you
6 know, again, so I won't go into all the
7 detail that I have in my notes here because I
8 think I will just be redundant on a number of
9 these.

10 But I think it's important when
11 you're thinking about what to do in replacing
12 the Financial Emergency Act, is to keep in
13 mind the context of New York City which is a
14 different entity than most other
15 jurisdictions.

16 It's a very large and complex
17 economic entity. It's complex fiscally. The
18 city has one of the most complicated tax
19 revenue structures of any jurisdiction in the
20 country, and that includes many states.

21 There's a combination of factors
22 that make the city almost unique. It's
23 coterminous with county borders, so that the
24 city takes on not only just city functions,
25 but also county functions, and it's in a

1 state that pushes many responsibilities down
2 to the local level.

3 There are very onerous state
4 mandates in New York, particularly Medicaid
5 and some other expenses as well, that make
6 the challenges to local government more
7 complex than they are in many other states.

8 And this, of course, is also a
9 state that has probably one of the worst
10 financial management records in the country.

11 So, there's kind of a culture at
12 the state level of -- you know, I mean, it's
13 hard to find the words really to describe
14 what the state does. Fiscal management.

15 So you know, that's the context
16 that the city operates in, and I think it
17 does make it very unique in terms of what
18 other cities do or don't do in terms of, you
19 know, how they balance their budget and so
20 forth, aren't entirely on target because some
21 of some of the unique characteristics of New
22 York City.

23 The outcome of those
24 characteristics is if the city comes under
25 extraordinary pressure surveillance a great

1 deal of the time, and those pressures mean
2 that the people who are establishing a budget
3 really have to be very resolute and be able
4 to resist a lot of the demands being made
5 upon them, not only by citizens of the city,
6 but also by the state when the state has
7 tried on many occasions and often succeeded
8 in doing things that are detrimental to the
9 city.

10 The Financial Emergency Act imposes
11 a framework of fiscal discipline on the city;
12 that is, I think, a value in the city's
13 ability to navigate this very difficult
14 financial management challenge that it's
15 faced with, you know, on a day-to-day basis.

16 Those requirements, I think, have
17 served the city very well over the last
18 nearly 30 years. There are some of them that
19 may deserve tweaking, but I think, you know,
20 in over all the way we see it is if it ain't
21 broke, don't fix it -- or you can tinker with
22 it but don't do anything very drastic.

23 And when I say that, I don't mean
24 that the provisions shouldn't be brought into
25 the Charter. I think that that's a perfectly

1 legitimate approach to trying to
2 institutionalize in the City Charter many of
3 the financial management and planning
4 practices I think that Ronnie, you know,
5 spoke very clearly about.

6 The value of the transparency of
7 the availability of information. It makes it
8 a pleasure, really, in a way, to look at the
9 city's budget if you're in that position of
10 having to analyze the city's budget compared
11 to say, for example, the state budget.

12 But however the provisions are
13 arranged between the City Charter and state
14 law and what have you, I think it's important
15 to keep many of them intact.

16 So I just want to, I think, really
17 focus on just a couple of issues. I want to
18 add my voice, I think, to the issue of the
19 rainy day fund.

20 I think if there's one area that
21 really needs tweaking it is that issue, that
22 the city doesn't have a rainy day fund.

23 It treats this budget stabilization
24 account, which is sort of a fiction, as if it
25 were, it advertises it as a rainy day fund,

1 but of course it doesn't function that way
2 because there's absolutely no restrictions on
3 how that's used.

4 We've seen, you know, many years
5 how, again, that that surplus has been used
6 when there hasn't been, where it hasn't been
7 raining. The city sort of turned on the
8 sprinkler, you know.

9 The worst, I think, is you know
10 that the end of, I guess, 2000 and 2001, 2002
11 when the city had built up a huge surplus and
12 spent it, planned to spend it in a year where
13 there was no planned problem in the economy,
14 and that then left nothing in the coffers to
15 deal with the developments that then came to
16 fruition with the downturn and with the pass
17 of 9/11.

18 So in the end, the city ended up
19 borrowing for operating purposes rather than
20 using a surplus it had developed to actually
21 deal with its fiscal problems.

22 And so now we're, you know, for the
23 next however many years, going to be paying
24 interest on that, on that borrowing.

25 If we had had a rainy day fund and

1 had triggers and rules on how to use that
2 funding, we would have been able to manage
3 that situation, I think, in a much better way
4 for the long-term fiscal health of the city.

5 So that's one area where I think
6 that it's very important that the Charter
7 provisions make an adjustment to the
8 requirement for GAAP balance to accommodate
9 the rainy day fund.

10 The other issue I want to address
11 is the issue of a Financial Control Board.
12 The comptroller's office doesn't have an
13 official position on this at this point, but
14 I think that we do think that there needs to
15 be some kind of hard consequence for the
16 failure to balance the budget.

17 As James was saying, it's very
18 difficult to conceive of what that
19 consequence would be without involving the
20 state in some fashion.

21 The Mayor and the Council can
22 conspire to violate the Charter without any
23 particular dire consequences. It requires
24 some kind of state intervention to impose a
25 degree of consequence on the city that I

1 think would be a deterrent to mismanagement
2 of the budget.

3 So I think that, again, is
4 something that can't be handled in the
5 Charter. Obviously it has to be handled in
6 state law.

7 But I think it would be good to
8 keep in mind that as you address the Charter
9 issues, that there should be some kind of
10 attempt to think through what this kind of
11 state level constraint on the city would be
12 as an accompaniment to the Charter revision.

13 And finally, I do want to also
14 express my concern about this growing off
15 budget world. We've seen it at the state
16 level, of course, it's rampant, and over the
17 last few years in the city there seems to be
18 the kind of creeping murkiness in fiscal
19 management through the creation of these, or
20 the increasing use of off budget entities to
21 accomplish things.

22 Of course, the issue of the day I
23 think is the PILOT payment, you know, the
24 Mayor is claiming that his ability to
25 redirect PILOT payments for uses that he's

1 decided are a priority, and that seems like
2 bad fiscal management and a bad precedent to
3 set for the future use of the city's
4 revenues.

5 And that's I guess all I have to
6 say.

7 Thank you.

8 THE CHAIR: Thank you very much.

9 Questions from the commissioners?

10 Commissioner Forsythe?

11 THE VICE CHAIR: I've got several,
12 actually.

13 My first question is really more of
14 a suggestion, and that would be for Marcia
15 and Chuck, you both suggested a rainy day
16 fund. There have been days when I suggested
17 that that would be a good idea, too, and my
18 suggestion usually crashed on the rocks of
19 trying to figure out what appropriate
20 triggers would be.

21 So I would welcome your specific
22 suggestions, specific suggestions about the
23 structure under which you would propose a
24 rainy day fund might appropriately be drawn
25 down, whether those be economic triggers or

1 changes in the budget after adoption or
2 whatever.

3 As I said, I think it's an
4 important issue, but it's one that the closer
5 you get to the reality of it, the harder it
6 is to deal with it.

7 If you want to comment now, that's
8 fine.

9 If you don't, I just want to sort
10 of send out any suggestions you have. That
11 would be very helpful.

12 Second question, in response to one
13 of Chuck's comments, which is you said that
14 you're worried about perhaps trying to budget
15 depreciation, or at least include some
16 reference to that, and I thought that one of
17 the kind of nice things, I guess, that's not
18 specific about depreciation, but the nice
19 things about governmental budgeting is that
20 you're forced to budget the principal
21 payments on debt.

22 And to the extent that the city
23 pays off a decent chunk of principal on its
24 debt every year, its implicitly presumably
25 included in its budget some provision for

1 replenishment of hard capital.

2 So whether that's sufficient or
3 not, I don't know, but I offer that just as a
4 thought.

5 A second thought, and again the
6 question of budgeting before, tax
7 expenditures.

8 I think that, at least implicitly,
9 the city does budget for tax expenditures.
10 It presumably makes a gross estimate when it
11 does its revenue as to what those taxes would
12 yield without tax expenditures and then nets
13 those out.

14 The difficulty is, of course,
15 that's not lined out, I guess ahead of time.

16 And then I actually have a real
17 question instead of a comment. And then
18 maybe one other question or comment.

19 The real question is, Ronnie, would
20 you speak a little bit, Jim's point about the
21 difficulty of getting information about the
22 large projects and their financing and
23 budgeting, I've read a number of your reports
24 on this topic and I found it very
25 informative, but I don't know how hard you

1 have to suffer.

2 MS. LOWENSTEIN: I'm very much in
3 the same. We testified before the City
4 Council yesterday on it. We had been trying
5 for months to determine the level of
6 payments, the level of PILOT payments, the
7 total PILOT payments that IDA had available
8 as opposed to what they had agreed to remit
9 to the city budget in the four-year financial
10 plan.

11 Each year, for the next several
12 years at least, they will be providing on
13 average \$40 million a year, and we were
14 trying to go back through the information
15 that was available, which in this case is the
16 City's Local Law 69, which is the EDC
17 reporting requirements, to try to get some
18 handle on how much do we think they had.

19 We were forced to do that, because
20 if you look at the IDA financial statements,
21 none of that information is available. It's
22 just not there.

23 There's a little bit of information
24 on what they're spending the money, the
25 surplus, if you wish on, you know, 300,000

1 for a study here, and \$10,000 for a study
2 there. But at no point can you see what the
3 total of money that's flowing in to them is.

4 We requested it from them, didn't
5 get anyplace, and then went to the City's
6 Local Law 69 reports, which we've done other
7 work on, which, you know, is a long-standing
8 failure in terms of city reporting
9 requirements, to try to get some handle on
10 it.

11 Most critically for our purposes
12 yesterday, those Local Law 69 reports only
13 report the PILOT payments for a total of
14 seven years from the day that the agreement
15 is linked, but the PILOT payments exist for
16 years and years so they just get arbitrarily
17 chopped off.

18 Even taking that into account,
19 though it was clear that there was a lot more
20 than in many years \$40 million or so in those
21 accounts going back. But we don't know how
22 much more.

23 So that's a problem just in terms
24 of openness and transparency we just don't
25 know, and then there's the whole series of

1 problems associated with whether or not the
2 administration has the ability to divert
3 those funds before they get to the general
4 fund without in any way bringing the counsel
5 into the question.

6 Did I answer your question?

7 THE VICE CHAIR: You did. Thank
8 you very much.

9 My last question, and again, this
10 may be a question for Marcia and Chuck
11 perhaps, you both mentioned the importance of
12 GAAP balance and the consideration presumably
13 of some sanctions if the city doesn't or
14 isn't able to balance its budget on GAAP.

15 You also pointed out that over the
16 past 25 years or 24 years, whatever it's
17 been, 23 years, the city has managed the GAAP
18 balance every year in good times and bad
19 through, richer or through poorer, and I
20 wonder why you emphasize that as a
21 requirement, when it seems the city has
22 demonstrated its capability to meet that
23 requirement in almost any circumstances, why
24 do you consider it so important that somehow
25 some structure continue for sanctions against

1 GAAP balances.

2 MS. VAN WAGNER: So I guess I would
3 argue so that they would continue to meet the
4 standard. They're clearly capable of it.

5 I think that one could argue that
6 there's a certain artificiality to the GAAP
7 requirement every year, that O and B figures
8 out how to get the numbers to come out at the
9 end of the day, you know, as a \$5 million
10 surplus that they show every year.

11 So it's not that the GAAP balance
12 requirement can't be manipulated.

13 However, I think it's an important
14 discipline on the city to have to meet that
15 at the end of every year.

16 The fact that they're capable of it
17 doesn't mean we shouldn't require them to
18 continue to do it. I wouldn't just want to
19 put things in here that I didn't think they
20 were capable of doing.

21 MR. BRECHER: Again, I think the
22 reference to sanctions has maybe two
23 dimensions to it.

24 Bring it up, yes, I think Marcia's
25 point is right, that it's very hard to

1 measure the deterrent impact of anything. So
2 to the extent you think it's been effective
3 because it's been there even though it's
4 never had to be used, you might want to have
5 it around.

6 But I brought it up initially
7 because I guess I think what the point I was
8 trying to make was simply that if what we're
9 thinking about is how to keep the good
10 consequences of the system that has been
11 around, the system that has been around is,
12 has included sanctions, and the point I was
13 trying to make is only that the creation of
14 the sanction is very difficult in the context
15 of a Charter and self government, and it
16 really is something that is most effective
17 when it's embraced in state law.

18 And if you think that a sanction is
19 an essential in the existing system, I'm not
20 sure how you call can accomplish that within
21 any context.

22 THE VICE CHAIR: If you're not sure
23 that a sanction is necessary, then the issue
24 of whether the state is involved in the same
25 way is one that retreats --

1 MR. BRECHER: I just wanted to back
2 up and also to answer your question, because
3 you say they weren't questions, they were
4 comments, but commenting on your comments,
5 with respect to the point about principal and
6 depreciation, I think that only works if the
7 amount you have spent is equivalent to the
8 replacement need and you've paid for it in
9 borrowing, and you set up a repayment
10 schedule for the reborrowing that is spread
11 over the useful life of the asset.

12 And I think while we get close to
13 the latter part of it, that is the way we
14 repay things, we borrow for the capital
15 spending, but the capital spending can vary,
16 very widely, as to whether in fact it equals
17 what the replacement needs are.

18 So that's why I was suggesting some
19 capital budget format that uses the concept
20 of normal replacement and depreciation as a
21 way of saying here's what the need is and
22 here's what we're planning to, helpful in
23 keeping our public assets intact.

24 On the tax expenditures, you're
25 quite right that in what is now reported,

1 there are estimates of what the tax
2 expenditures will be under current law. And
3 that works fine, you know, in things like the
4 sales tax, where you're counting the
5 exemptions as a tax expenditure.

6 What I was getting at is the
7 increment that we don't budget for. So where
8 there is discretionary authority to give tax
9 exemptions, those people don't have guidances
10 as to what the given cap is during a given
11 year.

12 The government has gone on interest
13 subsidiaries and tax free bonds for private
14 purposes to set caps on that, and the states
15 can allocate them and so on. We might want
16 to think about somehow capping the increment,
17 the tax breaks that were given in any year
18 and essentially budget for that.

19 MR. PARROTT: I'm going to have to
20 excuse myself. I'm also a resident of
21 Brooklyn, and I have to dash across the park
22 to pick up my kid. So thank you very much
23 for inviting me.

24 THE CHAIR: We have a question from
25 Commissioner --

1 MS. LOWENSTEIN: Can I just add on,
2 IBO internally has been debating for a very
3 long period of time now exactly what role the
4 sanctions have had in the current financial
5 management scheme.

6 We don't have definitive answers on
7 this anymore than anyone else on the panel,
8 but we look around and we see every other
9 major city in the country relying upon not
10 some gigantic problem, you know, issue of
11 state sanctions, but rather governing
12 generally a fair amount of fiscal prudence
13 and good management without necessarily the
14 nuclear deterrent, which is what we call the
15 threat of a control period.

16 You know, we liken it in some way
17 to a nuclear deterrent during the cold war.
18 Exactly what impact it had, we don't know,
19 but we look around and we see a lot of other
20 places that over time have come to budget
21 quite responsibly without that kind of state
22 sanction in place.

23 The one place where we're, I think,
24 absolutely firm is that if you were to devise
25 a system without the state sanction and just

1 try to replicate it in City Charter, you
2 would still need to come up with some new
3 structures that guarantees the information
4 flow that would indeed allow the markets to
5 do their thing.

6 Yes, we will rely on the discipline
7 of the markets, in other words, but without
8 considerably greater guarantees of good
9 information and information as needed on a
10 real-time basis, then I think that that
11 effort would be doomed to failure.

12 THE CHAIR: Thank you.

13 Commissioner Fiali.

14 MR. FIALI: That's essentially an
15 excellent segue for me. If I could start
16 with this, I just want to preface my question
17 with some comments and follow-up on the vice
18 chairman's remarks.

19 I won't put any of you on the spot,
20 and I thank all of you with the informative
21 testimony.

22 With respect to the rainy day fund,
23 this is something I spent four years in the
24 Council trying to fight and we couldn't
25 create it, and I was told it was partly a

1 function of the state and we had the
2 stabilization account and we all know what we
3 did with the monies, and I was part of that.

4 What I'd be interested in knowing,
5 if any of you do take the vice chairman up on
6 the offer and provide us with some
7 information, if you've done any comparative
8 analyses with other large municipalities,
9 Chicago, L.A., do they have rainy day funds,
10 and if so, how are they devised and what type
11 of triggers do they have?

12 Anyone that wants to speak to it is
13 free to tonight, but I don't want to put you
14 on the spot.

15 To follow-up on your point, which
16 is an important one, we all agree that FEA
17 provided an essential framework, a needed
18 framework to ensure budget stability, and you
19 know, the integrity of the budgetary process
20 following fiscal meltdown, so to speak, of
21 the city.

22 But if you could, since we're
23 talking about extending or incorporating the
24 Charter's permanent language, why stop there?

25 Are there specific things that you

1 would do to enhance those aspects of the Act
2 that would make it an even better program?

3 MS. LOWENSTEIN: I think a rainy
4 day fund would be a good place to start. You
5 could also expand upon that by looking at the
6 possibility of requiring some amount of
7 paying capital financing. That would be
8 another one. Or even at times when you've
9 more than satisfied your rainy day
10 requirements, perhaps even paying down debt.

11 That would be another one.

12 I think that in terms of debt
13 practices now that I'm there, the short-term
14 debt practices that the city follows now are
15 actually more stringent than what's required
16 either under state law or under the Charter,
17 and those could be codified in the Charter,
18 if we wished.

19 Those are the ones that immediately
20 jump to mind. But there are places where you
21 can make it more, you know, more fiscally
22 conservative in a sense than you've got now.

23 But again, our big issue would
24 probably be find a way to guarantee the
25 information and the information flow, knowing

1 that in the future the information isn't
2 going to be like the information we've got
3 now.

4 The financial systems change, the
5 needs change. It's just the way you transmit
6 data changes, and to have some entity that's
7 on top of that and has the cloud to engage in
8 that conversation as an equal partner with an
9 administration we think is critical, and we
10 also think it's critical that ability has to
11 be lodged someplace else than within the
12 administration, of course.

13 The administration could be part of
14 it, but it certainly couldn't dominate it
15 because it couldn't be an ongoing discussion.

16 MR. FIALI: Could you conceive of
17 such a partner? You know, that FCB and the
18 staff were basically on equal footing.

19 Could you conceive of this type of
20 formula? How would we go about ensuring
21 since we're looking at this? Can you
22 conceive of a way that we could ensure the
23 flow of information?

24 MS. LOWENSTEIN: Yeah. I mean, I
25 I'm not sitting here with here's how to do

1 it. Whether it would be a broad
2 representative group, whether it would be
3 spearheaded with the comptroller, but, you
4 know, there are ways to write into law
5 something that in a sense is a counter bill
6 and power that has the clout to do the
7 ongoing fiscal monitoring that will provide
8 the information to allow market to keep us on
9 the straight and narrow.

10 MR. FIALI: Thank you.

11 THE CHAIR: Commissioner Abrams.

12 MR. ABRAMS: I'd like to thank and
13 congratulate the panel for coming and making
14 the presentations. We are fortunate to be
15 able to reach into such a specialized
16 community and have you give thought to these
17 issues and come and make such cogent comments
18 especially with the independence that each of
19 you brings in terms of your own
20 professionalism and the organizations that
21 you represent. So I think it's been very
22 helpful.

23 I think, and I only speak for
24 myself, I have no idea how the other
25 commissioners feel, that I would be benefited

1 if, in the course of our deliberations over
2 the next few months, you could submit some
3 precise language.

4 You gave us some conceptual notions
5 here today. And if some of that could be
6 formulated into some proposed language for a
7 new Charter, something that would be
8 presented to the voters to vote up or down, I
9 know that would be concretely very helpful to
10 me in thinking through issues relating to
11 these questions that are before us now.

12 THE CHAIR: Any other questions
13 from the commissioners?

14 I have a question. I'm very
15 compelled by the arguments that have been put
16 forward today on the issue of importing some
17 of the financial practices that are outlined
18 in the FEA and putting them into the Charter.

19 I think that there's broad base
20 consensus on that, and that we have to
21 determine how we're going to do that as we
22 move forward.

23 But that I think there's consensus
24 among the experts and clearly some consensus
25 coming out of Mark Page's own testimony

1 himself.

2 The issue that some of you have
3 already addressed, but I'm just going to put
4 back on the table one more time, is the city
5 has been through 30 years of a control
6 period, or almost 30 years of a control
7 period, which was designed for extraordinary
8 circumstances, as some of you have alluded
9 to, and some of our commissioners have
10 alluded to.

11 I'm really -- I'm looking around
12 the room here and I'm seeing actually two
13 financial monitors at this table, one from
14 the city comptroller's office and one from
15 the IBO, and we have a third one in the state
16 comptroller's office that has a full-time
17 office monitoring the finances of the City of
18 New York, and then we add to that the
19 informal monitoring that's done through the
20 bond market, and the bond rating agencies.

21 I'm hard-pressed to see any other
22 jurisdiction in the nation, probably in the
23 world, that has that level of financial
24 monitoring in place already.

25 And when we look historically, you

1 know, it's hard to disprove the hypothesis
2 that it was all because of the Financial
3 Control Board, but I actually believe that
4 the city comptroller has done an amazing job
5 in this period, and that the state
6 comptroller's office, some of you came from
7 those offices, and the IBO all have done a
8 very exceptional job in this period of
9 monitoring city finances, not to mention our
10 own Office of Management and Budget and the
11 role of the City Council even in monitoring
12 finances.

13 So there is a legislative role
14 there, also.

15 So I don't know if we have to
16 address this issue directly. I know we're
17 not prepared to do that yet either, and I'm
18 not going to put anybody on the spot on this
19 issue.

20 Ronnie spoke to the debate that's
21 going on in the IBO.

22 I hope that all of you continue
23 that debate, I guess, to think this through
24 carefully, that there's an issue of home rule
25 here, and what makes sense for a municipality

1 in terms of having some authority over its
2 finances and what the role of monitors should
3 be over the long-term.

4 So I'm just, you know, I spend a
5 lot of time also thinking about these issues
6 before I entered city government, and
7 historically I've looked at fiscal crisis
8 over a 50-year period and have looked at
9 other cities as well.

10 Nobody, there isn't one city that's
11 been through the extraordinary monitoring
12 phase that New York City has been through.

13 It's just not obvious to me why we
14 need, particularly at this point, anymore a
15 Financial Control Board, per se, run out of
16 the state to do what it seems to me is being
17 done by both the responsible O and B, which I
18 know we can never count on over time, but by
19 a series of other monitors that are already
20 out there.

21 So I think, you know, part of it is
22 what's just and fair. It is sanctions, it
23 was put in as a sanction and a punishment.

24 When does that end? When does the
25 city, after what Dall said, 23 years, 24

1 years of balance, GAAP balance budgets, when
2 does it, when that is finished, this period
3 and demonstrated that it's capable of
4 managing from at least that perspective its
5 own finances?

6 And having said that, I think we
7 strongly agree that some of the financial
8 management pieces of the legislation that
9 Ronnie alluded to, I think we're going to
10 develop consensus to it and import that into
11 the Charter.

12 But the monitoring piece just seems
13 like cruel and unusual punishment at this
14 point.

15 I do agree with Ronnie, this is my
16 own personal view now, we have to be vigilant
17 on this guarantee of information flow, and we
18 have to think that through, and how we make
19 sure that the transparency, that I think that
20 we all pride ourselves in, continues, is
21 maintained.

22 MS. LOWENSTEIN: And strengthened.

23 THE CHAIR: And absolutely
24 strengthened.

25 So I don't know if that's a

1 question either, Dall, but in Dall's spirit,
2 maybe that's a comment.

3 I don't know if anybody wants to
4 comment on that.

5 MS. VAN WAGNER: You know, I can
6 understand the sentiment behind that point of
7 view. I think that, you know, everybody
8 feels that the City's been doing good to have
9 this parental constriction lifted.

10 I take the view, I guess, that when
11 you talk about punishment, I don't really see
12 there being very much punishment involved at
13 the moment with the Financial Control Board,
14 unless one counts going to the annual
15 meetings.

16 THE CHAIR: Maybe we should ask the
17 people who have to go.

18 MS. VAN WAGNER: I think, you know,
19 it's in a way fairly costless to the City to
20 have this structure, you know, in terms of
21 the practical day-to-day running of the
22 City's finances and I think it provides some
23 comfort to investors, and I think that it
24 also, I don't remember if it was Chuck or
25 James who was talking about maintaining the

1 involvement of the Governor in the City's
2 finances, that he can't distance himself in
3 quite the same way, given the politics of the
4 state, you know, with the existence of the
5 Financial Control Board.

6 So I think there are benefits to
7 the City for having this structure.

8 Whether you need to have a control
9 board per se, whether the sanctions
10 necessarily need to be a control period, you
11 know, to be identical with what the current
12 structure is, I think that that, you know, I
13 think that that's probably debatable and up
14 for discussion.

15 But I really do think that having
16 there be consequences -- and you know, one of
17 the reasons when I started my comments, I was
18 careful to say that I think the City is
19 unique, and so, you know, Ronnie has been
20 talking about what other jurisdictions are
21 able to balance, you know, manage their
22 finances prudently and so forth.

23 So very few of them are subject to
24 the same kinds of stresses that New York City
25 is.

1 If you look around New York State,
2 however, you see that there are many
3 jurisdictions that are financially stressed
4 and many of them overseen by control boards.

5 I don't think that it's, you know,
6 necessarily a reflection on those
7 jurisdictions. So maybe it's a reflection on
8 New York State and the relationships between
9 the state and the municipalities in the
10 state.

11 But nonetheless, I think that we
12 are in a state where localities become
13 fiscally stressed probably -- now this is, I
14 don't have empirical evidence in front of me,
15 probably at a much higher rate than other
16 states have.

17 But that situation can't be changed
18 in the Charter, but I think that it's a fact
19 of life in New York.

20 THE VICE CHAIR: Can I make a
21 comment, which I think is only slightly
22 demagogic, which is my church is very
23 interested in anti-hunger programs, feeding
24 programs.

25 There is a problem, something like

1 \$11 million -- I don't know how much it costs
2 the City of New York every year to maintain
3 the Financial Control Board, its share of and
4 its portion of MAC, but I would dearly love
5 to see the program increased by the funds
6 available.

7 I don't really believe that this
8 is costless. I think there is a very
9 specific cost associated with it, and I
10 think those funds could be used for something
11 else.

12 Again, that's not a specific
13 proposal. I underline the word demagogic.

14 MS. VAN WAGNER: I hear what you're
15 saying, Dall, but I don't think it's more
16 than \$10 million, which would obviously
17 double the program you're interested in.

18 THE CHAIR: It is. It's like over
19 \$20 million.

20 THE VICE CHAIR: It's about \$10
21 million.

22 MS. VAN WAGNER: What are the costs
23 potentially of higher borrowing costs on
24 rather large debt, and you know, the
25 possibility that the City would have to buy

1 bond insurance, which a lot of other
2 jurisdictions do?

3 THE VICE CHAIR: They buy bonds all
4 the time.

5 MS. VAN WAGNER: You know, I'm
6 throwing this notion out there, that there
7 are costs to it, I understand that, but I
8 think there are also benefits and I think
9 that on net, it's a very low cost, low cost
10 structure.

11 THE CHAIR: I won't belabor this
12 point, but I think that if you did the
13 comparative analysis, which we're working on
14 right now, it would really be hard to
15 disaggregate the benefits that we get from
16 having a strong city comptroller or a strong
17 state comptroller with a New York City office
18 and an IBO versus sort of the added value
19 from the Financial Control Board in this
20 monitoring process.

21 If we didn't have these three
22 agencies operating here already in New York,
23 I think, you know, the argument would be
24 interesting.

25 But it's not at all clear to me,

1 and we're meeting with some of the bond
2 underwriters and we'll get a better sense of
3 what they think now, but it's not clear to me
4 that they don't already have sufficient faith
5 in the city comptroller's ability to do this,
6 in the state comptroller's ability to do this
7 and in the IBO's ability to do this, and in
8 their own institutional abilities.

9 So it's not, it's an argument
10 without any empirical data in the way. It's
11 sort of like it's been interesting and it's
12 been out there, and I should say maybe the
13 word punishment was just a strong word and I
14 shouldn't have used that word, but it's
15 certainly out of the ordinary from the
16 perspective of home rule, I would say.

17 And so why we should continue with
18 that kind of state oversight when it isn't
19 the case that other jurisdictions require it,
20 and they seem to manage quite well, and
21 they're probably not as well managed as we
22 are right now, that we would have to deal
23 with that, because I agree with Dall, it's
24 not cost-free at all, and there's a sort of
25 principled issue here from the perspective of

1 the city managing its own affairs.

2 At what point are they once again
3 considered responsible, or we once again
4 considered responsible adults, you know, it
5 is in that regard.

6 You know, in many instances, I
7 personally would do away with the state role
8 in many areas. This is probably one of the
9 less destructive areas, and I think you're
10 right in that regard, but we don't, you
11 know -- unfortunately, legal, the nature
12 of federalism doesn't allow us to do
13 that.

14 I'm not convinced yet at this
15 point. I mean, we're all open for the
16 conversation obviously, and we appreciate
17 everybody's perspective here, and I think,
18 you know, there is a sort of knee-jerk
19 approach to the more oversight, the
20 better.

21 But I think it's diminishing
22 returns, frankly, after a certain point when
23 you sort of add up all of the oversight
24 here.

25 I deal with colleagues, I've dealt

1 in the past with who do this kind of
2 analysis, and it's kind of like we're a
3 little bit of a laugh joke that we still have
4 a Financial Control Board watching our
5 finances, when if you would look at other
6 jurisdictions, we are far better managed in
7 New York City than they are, and I'm talking
8 the other, if you look at the other ten
9 larger cities --

10 So I don't know about your point
11 about New York State in general and we'll
12 have to do some research on that.

13 In any event, we probably have gone
14 overtime and kept our experts longer than
15 they intended to stay, and I want to thank
16 them on behalf of the Charter Commission for
17 this very informative presentation and a
18 lively discussion, and we expect to be in
19 continued contact with them.

20 If there are formal proposals
21 that you want to put to us, we're very
22 happy to receive those and we hope to see you
23 again once we come up with some set of
24 proposals here and to get your comments on
25 that.

1 So thank you very much.

2 We will take a break very briefly
3 before we start the public hearing phase of
4 our session tonight.

5 (Matter concluded.)

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9 I, JOAN URZIA, do hereby certify
10 that the foregoing is a true and accurate
11 transcript of my stenographic notes.

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JOAN URZIA

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