

Transcript of the Meeting of the
CHARTER REVISION COMMISSION
held on Thursday, June 9, 2005
110 William Street
Borough of Manhattan

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Meeting convened at 7:10 p.m.

P R E S E N T

DR. ESTER FUCHS, Chair

DALL FORSYTHE, Vice Chair

STEPHEN FIALA, Secretary

COMMISSIONERS:

JENNIFER RAAB

ROBERT ABRAMS

CURTIS ARCHER

LILLIAM BARRIOS-PAOLI

STANLEY GRAYSON

DAVID CHEN

ANTHONY CROWELL

MARY McCORMICK

Also Present:

TERRI MATTHEWS, Executive Director

BRIAN GELLER, Analyst

ABBE GLUCK, ESQ.

SPENCER FISHER, ESQ.

CHAIRPERSON FUCHS: I'd like to call this session of the New York City Charter Revision Commission into session. Good evening. I'm Ester Fuchs and I want to thank everybody for attending. I want to especially thank the Commissioners who arrived early today. We do have a quorum and we are delighted that everybody could come. I want to apologize for causing you to arrive early when you could have been a little bit later. I hope that as a result of this we'll get out in a timely fashion this evening.

I want to thank the public for coming. This is a public meeting, not a public hearing, and many of you have heard me say this before. At public meetings the public can observe but not testify. We will be having public hearings very shortly, but tonight is a public meeting.

I'd just like to briefly introduce everybody this evening to the members of the Commission. On my left is the Vice Chair of the Commission, Dr. Dall Forsythe who is the chief administrative officer of the Episcopal Diocese of New York and state budget director.

On my right is Steven Fiala, who is the secretary of the Commission, and County Clerk and Commissioner of Jurors for Richmond county. He is also a former member of the New York City City Council.

Next to Dall is Robert Abrams, a current partner at Stroock, Stroock and Lavan and of course was a former Attorney General and served as Borough President of the Bronx and a former member of the New York State Assembly.

Next to him is Curtis Archer. Curtis is the Executive Director of the Rockaway Revitalization and Development Corporation and Director of Development for the Upper Manhattan Empowerment Zone.

Next to Curtis is David Chen. David is the Executive Director of the of Chinese American Planning Council and is the founding chair of the board of directors of the Chung Pac Local Development Corporation.

On the other side of the table is Stan Grayson. Stan Grayson is the president and chief operating officer of MR Beal & Company. He was the former managing director and director of Prudential securities public finance department. Prior to his career in investment banking, Mr. Grayson was in several senior positions in New York City Government, including Deputy Mayor for Finance and Economic Development and Finance Commissioner and chief executive officer of the New York City Industrial Development Agency.

Next to Stan Grayson is Dr. Mary McCormick.

Dr. McCormick is president of the Fund for the City of New York. She is a former special assistant to New York City's Deputy Mayor for Labor Relations and Personnel and a professor at Columbia University.

Next to Mary is Lillian Barrios-Paoli.

Dr. Paoli is currently the chief executive officer of Safe Space. Formerly she was working for United Way as their senior vice president and before that she spent many, many years in City Government, probably too many years, huh? Not from the perspective of City Government, but rather from her own personal life's history. I don't know how you did it. I'm in awe of you.

Dr. Barrios-Paoli served as Commissioner for the New York City Human Resources Administration Commissioner of the Department of Housing, Preservation and Development, Commissioner of the Department of Personnel and Commissioner of the Department of Employment. I think that's an all-time record.

Next to Dr. Paoli is Jennifer Raab.

Jennifer Raab is the president of Hunter College and she too served in Government before she became president of Hunter College as the Chair of the New York City

Landmarks Preservation Commission. Now that's probably combat pay for that position, but I think everybody here

has both an illustrious career in public service as well as work in the not-for-profit and private sector and I'm particularly pleased to be serving as Chair of this Commission.

I think everybody's worked very hard and we're sort of coming to the point in this process now in which we're going to be making some significant decisions about how we move forward.

Before we go into the substance of our meeting tonight, I just want to remind everybody that they can contact the Commission by calling (212) 676-2060. They can visit us at 2 Lafayette Street on the 14th floor, or they can log on to our website at www.nyc.gov/charter. In the back of the room you can sign up for our mailing list and you can find a copy of our first report, "Summary of Issues Under Consideration For Charter Revision."

The schedule for our future meetings are as follows: June 15, we'll be holding another public hearing and meeting at New York University, 44 West 4th

Street.

COMM. ABRAMS: At what time, Madam Chair?

CHAIRPERSON FUCHS: I don't know. 6?

All the meetings we will have, public hearings and meetings will start at 6:00. Because this

was a public meeting we decided to start later. So there was a logic, some of us just missed it.

Okay, June 20th, public hearing and meeting at the Queens Public Library in Flushing at 41-17 Main Street between 41st Avenue and 41st Road in Flushing.

June 22nd, we will have a public hearing and a meeting at the Brooklyn Law School, 250 -- how do you say that -- Joralemon Street between Court Street and Boerum Place in Brooklyn Heights. You can see I grew up in Queens not in Brooklyn. We don't actually have names like that, we have 200th Street and 300th Street.

COMM. ABRAMS: Well I was Borough President of the Bronx.

CHAIRPERSON FUCHS: Nevertheless were you in a statewide office and visited Brooklyn many, many more times than I have.

June 27th, a public meeting, not a public hearing, but a public meeting, that's for the

Commission, though the public is invited to attend, at 110 William Street, this very building.

June 30th we have scheduled another public meeting if we feel we need that, 22 Reade Street.

So we're sort of in the home stretch now of the work of the Commission and we're as I said hoping to move forward during the course of the month of June. If

you need any directions please call or check the website.

At tonight's public meeting we're asking the Commission to discuss the proposals recommended to the Commission during the May public meetings and summarized in what is a draft preliminary proposals for Charter revision document. What I'm going to do this evening is ask staff to present some of the preliminary findings from this preliminary draft report -- did I get all of those correct? And just to reiterate, on June 15th we begin our round of public hearings, and this is the important public conversation about whether or not we put anything on the ballot for the November election, do we feel that we have propositions that we want to see on the ballot and so this will be the opportunity for the

Commission to listen to what the public thinks about what we've been discussing for the last nine months.

I want to reiterate to everybody that this is preliminary and draft, which means that there's still time to refine, revise and reconsider any of these proposals we are discussing this evening. So this evening is really a discussion and we expect to either refine or revise or even reconsider. I'm saying that again, anything that's on the table this evening --

COMM. RAAB: Excuse me, what is the time

frame for something getting on the ballot? What is the cutoff date?

CHAIRPERSON FUCHS: We could actually go through the summer. So we don't have to finish up in June and if the Commission believes that we need more time, we will take more time. We're putting ourselves on this time frame to wrap up by the end of June, since we would have to do several more public hearings and the public tends not to be that engaged in the summer, it's much harder to get a quorum and so we've really packed in June, and I'm hoping, I really thank the Commission again for their indulgence in this, I know everybody's schedule in June is quite difficult, we've done very

well with that.

As you can see from the documents we've seen tonight and the documents we will share with you, we have three public proposals to consider. Everything has been part of an earlier discussion, so we're in the process of refining this as we move forward to determine whether there's consensus with the Commission to move forward with any of these three or all of these three propositions for a ballot initiative.

What we need to do obviously is once we adopt a preliminary report, we need to engage the public to see whether or not they're on board with us in terms

of the direction we want to take it, and at that time we can continue to revise these propositions.

Then finally we hope by the end of June we will have a final decision by the Commission on whether or not to move forward on any or all of the propositions that are on the table now, or if anything new emerges between now and June, we can still consider some of those other issues.

And we are certainly willing to do that.

So the way we structured the meeting

tonight, actually, it is really pretty jam packed, as one of your kids might tell you or one of your nieces or your nephews. We have a lot to talk about, but a lot of this is review for us, but this is part of getting us back on track in terms of this conversation.

So what I've asked staff to do is go through a variety of things. First I'm going to ask our Executive Director, Terri Matthews, to discuss other significant proposals that have come before the Commission and just update you on that, and at this point, as she'll explain to you, we are relegating them to what we're calling the back of the book, but if there's any interest by Commissioners to resuscitate any of this, we will consider that, seriously.

I will also be asking Terri to talk through

the preliminary report with us tonight, then we'll go into specific substantive discussion and review of the three main areas of consideration; fiscal stability, administrative law reform and agency efficiency and effectiveness.

Then we expect to be able to take a vote on this preliminary report this evening in some way, shape or form, and that we will have to see after we completed

the discussion what we want to do as a commission. So we would like to put forth a preliminary report by the end of this meeting, but we're really still open to possibilities of even changing the preliminary report.

Once we get the preliminary report approved, then it goes out to the public and the public discussion begins. So the thing that I wanted to reiterate this evening, approving the preliminary report is just approving a report for the purposes of discussion with the public and it is still open for revision and for any kinds of changes and it's not the last word on this by any stretch of the imagination here.

So we've been, I think, a fairly open Commission and we've tried to engage, all of us, in a discussion in these three areas. I think we've come up with three interesting ideas and part of it is really a question of whether or not they're ballot worthy at this

point and if we have some consensus on the execution side of whether it makes sense for us to consider putting on the ballot. So we still have some discussion to have, frankly, and that's I think how a Commission should be engaged.

So everything is not done. I know that made some people nervous, not among my Commissioners, but in the world. Everything is not done and we expect to have hopefully a substantive, and I'm sure we will, a substantive discussion this evening.

So what I'd like to do at this point is ask our Executive Director, Terri Matthews, to simply go through quickly and highlight for us, and everybody has a draft next to them of this report, and she can even refer to pages where she's talking about to make it easier for people to follow.

This is a lot of material, but it's things that we just felt compelled to bring to everyone's attention. The staff obviously has made recommendations about much of this material already. So Terri, if you could just walk us through this part, that would be very helpful.

MS. MATTHEWS: Okay. Good evening. Is this on?

CHAIRPERSON FUCHS: I like to just, he in

some way disappeared, another member of the Commission just arrived, Anthony Crowell. So we have his place card, but he will be returning in a moment.

MS. MATTHEWS: Okay, well, I'm going to begin with a discussion, a brief discussion of the section entitled "other significant proposals" and that begins on page 62 of the draft document that you have.

In the course of your review of the entire Charter, the Commission has received and considered other proposals, in addition to the preliminary proposals than the three that we're focusing on and discussing tonight. These proposals come from a variety of sources. Some of them have come to the Commission from the public and elected officials during the hearings held in March and April, as well as from correspondence to the Commission. Some of these proposals from the public have come to the Commission as a result of meetings that arose out of our outreach process and others have come to the Commission from City Agency heads as a result of our solicitation last fall for their suggestions for changes to the Charter.

We, the Chair and the staff had met with the heads of any agencies about their proposals.

We have reviewed and analyzed all proposals and we've supplemented the proposals with additional

research when necessary. The vast majority of the proposals summarized in the following charts which is at the end of this section concern important City Government issues.

As a matter of law, a Charter Revision Commission established pursuant to the Municipal Home Rule Law is able to propose referenda on any matter within the jurisdiction of local Government to enact. As a matter of public policy, however, this Commission has articulated a preference for focusing on broad structural issues concerning the operation and administration of the entire City Government, issues like fiscal stability, citywide tribunal operations and reporting requirements that affect a wide variety of users and agencies and about which there's a general consensus.

A number of the proposals, many of which could be enacted by Local Law, have limited or particular effect on the single agency or small group of the stakeholders. This Commission believes as a matter of policy that before it would propose any narrow, non-systemic or non structural proposal for a referendum, a case should be made that it addresses a very significant need or that a proposal could be addressed by local law without referendum and it will be

presented to the Council and rejected or evidently be rejected by the Council.

I will briefly review with you the charts. It is our recommendation that the Commission not recommend these proposals to amend the Charter by referendum. For each of the proposals listed below, we've identified some tentative reasons for not recommending at this time said proposal's inclusion on the ballot this year. It is important to emphasize that notwithstanding these tentative determinations, at least some of these proposals may well be worthy of ultimate adoption by the Council, the State Legislature or a future Charter Revision Commission. We respectfully recommend that the Commission thus far tentatively determine that these proposals do not comport with the present Commission's priorities and criteria. Of course the Commission will consider public testimony on these proposals and will consider new proposals from the public during the next series of public hearings before you finalize your work.

So there is an openness, as Ester mentioned. This is not the end of the discussion, it's the beginning of the discussion. So I'm just going to go quickly through the charts. Someone suggested I treat it like a greatest hits.

The first chart, which is on your page 65 are significant proposals that came out of the public hearings, and we've organized them by general sort of policy recommendations, but some of them have much more specific. So they're a group of proposals that we think would be appropriately deferred to a future Charter Revision Commission, and in that category were the Borough Presidents requests for hard lining their budgets. That's a big issue that perhaps should be considered looking at the whole structure of Government from 1989 when the Charter Revision Commission put it in.

Then there were proposals that came, that are related to the area of administrative judicial reform that we think should be deferred to the review by the administrative judicial coordinator that we propose we recommend the Mayor create by Executive Order. A noteworthy public comment on that topic came in the Bronx and we also have a letter from, this was Burt Ivans.

Then there was a group of proposals that we think in whole or in part are beyond the Commission's scope, there are a whole category of those.

Proposals related to the area of fiscal

stability that we think should be deferred to local

legislation or future Charter Commissions once we tackle the area of fiscal stability, then there's the area of miscellaneous proposals. Then I wanted to as part of the greatest hits, proposals related to the area of fiscal stability. The Human Services Council sent us, they testified, they sent us a letter and we met with them. They're very serious and interesting proposals that we just think need to be deferred to a later time, but they're very good.

The next chart are significant proposals for correspondents. Again they're proposals deferred to future Charter Revision Commissions in this category like the Borough President would be a proposal to hard wire the Public Advocate's budget, that came from the Public Advocate.

Then there are proposals in whole or in part beyond the Commission's scope that came to us from correspondence. Proposals related to the area of administrative judicial reform that we think should be deferred to the review of the administrative judicial coordinator, a set of proposals related to the area of

fiscal stability that again should be deferred to later, future Charter Commissions or local legislation and then miscellaneous.

The third chart which you don't have, you

had when we sent out the e-mail to you, the three charts, but not this one. This is proposals that came from the outreach meetings and they're not so much proposals but they're more like ideas. Very interesting ideas that people raised, but we put it here because in the life of Charter Revision Commissions, ideas that come to Commissions, they go in the back, we call it the back of the book and they have a life. I mean, they continue percolating. There's a real value to this section, and so, they're all very interesting, but we don't think they're ready for prime time.

CHAIRPERSON FUCHS: And if they weren't that interesting, staff managed to make them interesting, so I thank you all for that.

MS. MATTHEWS: And then the final chart contains significant agency head proposals, and we've got categories for these. Proposals that we recommend deferring to the administration's local or state legislative agendas or to future Charter Revision

Commissions and the greatest hits, some that I'd just like to mention.

We learned in our meetings with agency heads that there are vestigial remains of functions of the Borough Presidents concerning addresses and the City map which probably does warrant an investigation, but that

would be part of an overall looking at the functions of Borough Presidents at some time when everybody's ready for that.

Another idea is the Department of Transportation, and the Taxi and Limousine Commission are two areas that cover a single area of policy and as in the Health Department where the Health Department provides the staff to the Board of Health, some people have suggested that we follow that model with the TLC and not have the TLC have its own independent staff. That is a significant change from the current structure and this would be -- but it's in the back of the book because we did some research and it wasn't clear that by looking at what goes on in the rest of the country that our model is the most effective way to do this kind of administrative regulation.

The proposal that was discussed at the last meeting on agency heads we deferred to future actions, and another interesting idea that we recommend deferring to either administrative or legislative action is dealing with the waterfront. In 1990, I believe it was, the ports and terminals department was eliminated and all of its functions were scattered; Department of Buildings, City planning, DEP and we heard perhaps there's a good opportunity to look at it again, but we

didn't feel this was the right time for this and the right place.

So that is -- do you have any questions?

CHAIRPERSON FUCHS: I think that's it, right? So right, does anybody have any questions? Before we have questions, I just wanted to recognize that Anthony Crowell has joined us. Before I recognized you, you weren't actually sitting in the chair. Now that you're here, I want to welcome you, but I also on a more serious note wanted to mention that one of our Commissioners is not with us tonight, Amalia Betanzos, because her husband is having surgery. She has been a stalwart in our Commission and I certainly wouldn't want to give the public the impression that she wasn't here

and joining us this evening for this important conversation that we're having, so we wish her well and we wish her husband a speedy, speedy recovery.

So having interrupted you with that little note it gives the Commissioners a chance to digest a lot of material. We felt it was just important to update everybody on what's been brought to us in other contexts. In the next meeting that we have, this will probably give you more time to digest this if you haven't yet digested it. If anybody has any comments they want to make now, this is a good moment. If not,

certainly we'll be able to talk about some of these proposals in the future.

Commissioner Fiala.

COMM. FIALA: Thank you, Madam Chair. Just in an effort to set the stage for the public hearings and I think it's important, let me commend you and the staff for putting together this briefing paper and offering your suggestions on every specific recommendation that was advanced outside of the normal process, I think it's important that we talk about them, because a Charter Commission has a responsibility to the

citizens of New York. I've looked at all of them and I've honed in on a few of them, and I'm not expressing an opinion one way or another, but I think at some point as we wrap up the dialogue on the three core issues that we have been discussing now for ten months, it might be beneficial for us to spend a part of a meeting talking about some of the specifics, because they've been advanced by those that are elected by the citizens to represent them.

And I think many of them are worthy of debate.

I am particularly interested in those that relate to the how. The Charter, one thing that I found is that everybody and their brother seems to have an

idea of what we should take up and what we shouldn't. The Charter is our Constitution. The question I always ask when someone presents an idea to me is what specifically are you suggesting we change about the Charter. We're not here to offer public opinion polls on stadiums or teachers or anything like that, that to me is silly, that's an abdication of duties elsewhere. But we are addressing specific requests related to Charter language.

And when Borough Presidents speak and I have spoken as a City Councilman and as a citizen at a number of hearings previously, as to the failure of the 1989 Charter as to borough representation, it left a gaping hole and at some point a future Commission should look at it. I think it's worthy they all get lumped together as the how. The role of the Public Advocate has been debated ad nauseam but it should be looked at again at a future Commission, the Borough Presidents, and one I feel obligated to talk about, he copied me in a letter and referenced me in a letter, that's Walter McCaffery. I find myself agreeing with Walter 's conclusions, not necessarily fully agreeing with his recommendation at this stage and I'd like to throw it out here, maybe at a future meeting we can have a discussion.

Essentially Walter challenges, and this is

important, because this gets to the how. The Charter tells us how we govern. The Charter spells out the Mayor does this, the Council does that, et cetera, et cetera. Walter and many of us believe that sometimes we go outside the boundaries of our Constitution, our Charter. He's suggesting that we look at lulus. Lulus

are the slang we use for stipends. This has been discussed in many academic forums, Madam Chairman.

If the federal government doesn't have it, many state governments don't have it, I'm not certain if councils or the majority of state governments have it. I'd be interested, this is directed to the Executive Director, I don't want to give the staff too much homework but I'd be interested in getting some kind of analysis on the big ones; Philadelphia, Los Angeles, Chicago, Washington, D.C., San Francisco, L.A., what do their counsels do? Are they given lulus? Are they given stipends?

Because, I'm going to -- he's far more articulate than I am -- "the purpose of lulus is undeniable," says Walter McCaffery. "They're used by the leader of the legislative body to reward allies and enforce discipline."

That is a serious charge and I happen to believe there's some merit to that charge. I'm not sure

how we solve it, but I believe there's merit to it. Our Founding Fathers didn't contemplate stipends for Congressmen. Our Charter didn't contemplate lulus for elected officials. My feeling was when I was in the

Council if I could be a Chair of a committee, I couldn't because I was in the minority I'd happily do it because I'd be chairing something and have an opportunity to weigh in as an expert and listen to experts. I didn't have to be paid 10 or \$20,000 because your hands are tied.

There's a reason they don't do it in Congress and there's a reason they don't do it, I suspect, don't hold me to it, in the majority of State legislatures. I'd be curious to know what Los Angeles does. Los Angeles pays their Council Members more but they're full time and I don't believe they have lulus and they get along just fine.

So Walter's letter is worthy of all our review and hopefully Madam Chair, I don't want to take up important time on the other areas, but these areas, I talked about the how, we shouldn't lump them all together and recommend that a future Charter -- because I, we're going to be in business for over a year. I'm not sure given all that we put on our plate with some very serious issues we're going to really have the time

to get into this, but these were serious proposals

worthy of serious attention and if nothing else, we should issue a serious response in our final report to the people and the Mayor saying that we recommend that a future Charter Commission really explore the how, because Terri, you're right, you said there's really value to this section and these things have a life beyond us.

The Charter is a living document that we can amend. I maintain, I voted against the '89 Charter for reasons I articulated in our very first meeting. There are things in it as to the how that need to be reformed, so our next Charter revision should look at reforming the '89 reforms. I hope maybe at a future meeting someone will have an opinion, because I'm not sure what solution I would offer to Mr. McCaffery's diagnosed problem, but I agree that there is a problem.

CHAIRPERSON FUCHS: Commissioner, I think your point is extremely well taken. I think it's an important issue, and I will instruct our staff to look at other cities so that even if we have to defer this to another Charter Revision Commission, which in all likelihood we will, because I think it is serious and it needs more time for review, we can make some observations that will help them look at this in the

next round of Charter revision, but I think it's important that you brought it up.

Are there any other comments related to these proposals? What I would suggest also is that when we convene next time, anybody who has any other comments about these particular suggestions that Terri and the staff has compiled that hopefully in advance of the meeting you can bring them up to us so we can make sure they get a sufficient amount of time on the agenda for discussion and that if some of you feel very strongly about our discussion in some areas, it would be helpful to know in advance so we can instruct the rest of the Commissioners to pay special attention to those issues.

Because it's obviously far too many issues for us to discuss in any serious way, and so if there's some consensus that there's a couple of these issues that we want to talk about more, I would like to alert all the members of the Commission to be prepared for that discussion.

Commissioner Raab?

COMM. RAAB: I'm sorry, the elimination of the Deputy Commissioner, you put that in the "how" category?

MS. MATTHEWS: It's deferring to future legislative action. It's a recommendation.

COMM. RAAB: You have it in the "how?"

MS. MATTHEWS: That's Commissioner Fiala's category. We just defer it to future legislative action or future Charter Revision Commissions.

COMM. CROWELL: So that's a "whether."

MS. MATTHEWS: That's a "whether." Because I was in California, well, during the last meeting, I'm sorry, I missed it, but you can bring it back. This is all fluid.

CHAIRPERSON FUCHS: This is an issue we can continue discussing. Part of it is to make a ballot proposition work, you need a significant number of -- you need a significant articulation of an agenda, and to have that as a stand alone just didn't seem like anybody would really focus on it in a way, in a serious way. So what I was advised by counsel is that this could be accomplished legislatively, which seemed, again, to be one of those areas in which we should just take this to the City Council and get it done.

COMM. RAAB: That's what I was saying, you said there were good ideas they could be accomplished legislatively, I think that's something else we should follow up on, clearly it's a preferable route and it's another way to respond to public and other agency proposals.

CHAIRPERSON FUCHS: I think what we can do in the next version of this report we can clarify that.

COMM. RAAB: I think that would be helpful.

CHAIRPERSON FUCHS: -- after the Commission has had its discussion on what recommendations we would like to make. For example what we did in writing to the Mayor for an Executive Order on administrative judicial reform I think was very helpful and the Mayor will be following up on that.

So to the extent there's consensus on other issues and that we want to make recommendations to other branches of Government and we have a consensus on that, I think that should be reflected in the final report.

MS. MATTHEWS: So when you have time, because the print is really small. We started creating banners, sort of deferring to this, deferring to that and one of them is deferring to the City Council. So we can slice and dice these ideas and start putting categories, and they don't all then have to be by correspondence, by public meetings. They could start becoming organic things.

This is a very important section of the

book. Just being staff, and looking at the reports from past Charter Revision Commissions, this is where ideas that need a little time to incubate sort of incubate and

get hatched for later.

CHAIRPERSON FUCHS: Thank you.

MS. MATTHEWS: So, anything else? Because I have another section to do.

CHAIRPERSON FUCHS: Okay. Before we move on to the next section, I think that this was a very helpful discussion and I want to make sure that everybody feels comfortable about bringing up any issues in the next meeting when I know you'll have more time to look at this, and I think we can do as Commissioner Raab suggested, which is make specific recommendations where we have a consensus, and also I think that addresses Commissioner Fiala's issue, too. If we have a consensus on the Commission, we can reflect that in the report, and I think it will go a long way to doing what Terri has suggested and incubating ideas for the future.

I'm going to ask Terri Matthews to continue now and just summarize as rapidly as she can the preliminary report and then we will break it out, frankly, to the three areas that we spent most of our

time focusing on.

MS. MATTHEWS: Okay. And if it's a little longer than you like, it's the Law Department thinks I should read and get a lot of stuff into the record. I'm going to talk as briefly and as fast and articulately as

we can about the structure of this document that we e-mailed to you, but we have changed it since over the weekend and you have a clean copy and then you have a set of changes. We only gave you the pages so you can see the changes from the weekend to now, and then I'll do a brief -- so it's the structure and a little bit of the substance and the Law Department will go into more detail.

I just want to reiterate this is the beginning of a process, not the end, but I don't have to say any more.

The document begins with an executive summary as most documents these days do. What is important to know about this executive summary is that we will be translating it into the four languages we have been translating our newsletters into; Spanish, Russian, Chinese and Korean, and this is as part of our

outreach to New Yorkers who do not speak English. We've included copies of our newsletters which became apparent we hadn't sent out, but then you have it.

CHAIRPERSON FUCHS: To the Commissioners?

MS. MATTHEWS: Yes. The executive summary provides a brief history of the Charter Commission, a brief summary of the three topics and proposals, a schedule of upcoming public hearings follows, along with

a section entitled "About the Commission." This section basically updates the same section that was in the earlier report but it's updated.

The next three sections of the three topics have identical format. They begin with an explanation of the issue, which you've seen before in the various staff memos we sent to you. They follow with a reiteration of the issues set forth, a consideration by the public in the March summary document, they summarize the testimony from the expert forums leading into the staff recommendations to you with respect to the proposals and recommendations are based on memos sent to you and presentations I made to you during the main meetings, but reflect comments you have made during the meetings. It is hoped that these proposals closely

reflect your expressed concerns.

Immediately following the recommendations is the actual statutory text.

In the fiscal stability and agency efficiency section the law department provided some additional explanatory text, because they are complex, and in the explanatory text proposed additions to the existing Charter text are indicated by the underlined and the deletions are indicated by the brackets.

The last section is the other significant

proposals that I just summarized, and I will briefly present a summary of the substance of the three proposals. Fiscal stability: 475 -- are you okay?

CHAIRPERSON FUCHS: No, I thought we were going to do each one of those separately.

MS. MATTHEWS: The thing is, we can do it together, as I go through.

CHAIRPERSON FUCHS: Why don't we do that, we can save time that way.

MS. MATTHEWS: I'll do a little thing then you do your part.

CHAIRPERSON FUCHS: Why don't we do each

section one at a time. Why don't you come up, Abbe, we're inviting Abbe Gluck to come up, so we'll direct your attention and everything will be apparent to all of them. I'm also inviting Spencer Fisher to come up that will be helping us out here.

COMM. ABRAMS: Madam Chair, there are just a few typos, I don't know if you want to do that now?

CHAIRPERSON FUCHS: We don't have to do that now, but we will take any suggestions back to staff and that will be helpful. What we're going to start with now is the issue of fiscal stability. I'll open that up for everybody and then we'll go into the details of how we would draft this for the purposes of the ballot.

As probably you might remember at our last meeting we discussed our proposal to codify key elements of the Fiscal Emergency Act into the Charter and one particular concern was brought up by Vice Chair Forsythe so we've actually made a change in that area to address that specific concern. And I want to just remind everyone that the four components of the FEA that we're proposing to codify in the Charter are the following:

First, to require that the City end each fiscal year with a GAAP balanced budget. Second, to

require the City to continue preparation of the four-year financial plan documents with quarterly modifications during the year. Third, to require the City to produce and make available to the public on a regular basis financial plan statements showing updated actual financial information compared to projections which will enable public assessment of the progress the City is making towards achieving end of the year budget balance, and fourth, to require the City to continue the stricter limits on short-term indebtedness.

So those were the four specific elements of the Fiscal Emergency Act that we are proposing as a Commission to import into the Charter. I was going to ask Abbe Gluck to elaborate on this in terms of the legal language.

MS. MATTHEWS: Just one thing, because you covered almost everything I was going to say.

In your packet is a copy of the June 6th Daily News op ed piece from former Governor Hugh Carey and in it he recounted the past, I guess he was intimately involved with it, it was coterminous with his first term as governor.

CHAIRPERSON FUCHS: Not only was he intimately involved in it, he was the hero. I want to go on record as saying Governor Carey is one of the true heroes of that period.

MS. MATTHEWS: He was really modest when he wrote it.

CHAIRPERSON FUCHS: Having written a book mostly on that, and having studied that history myself for a very, very long period of time, he's one of the few people that come out being honorable and pretty brilliant, I have to say, in figuring out how to move this City out of what was really a crisis. Some of you were there and remember, and it was to both his leadership and his creativity that he managed to do that.

MS. MATTHEWS: But I just wanted to point out that he was encouraged specifically by us, the Charter Commission, you, he was encouraged that we were

looking at how the financial reforms of the 1970's could be made permanent in the City Charter so that's the only point I'd like to make now.

CHAIRPERSON FUCHS: That's very important, thanks.

MS. GLUCK: So I guess what the Executive Director will summarize the substance of the preliminary report on fiscal stability and I'm just going to make a quick addendum to our discussion last time. As you might remember last time we went through in excruciating detail on the proposed text on fiscal stability and I summarized all the provisions so I'm not going to do that again, all right?

What I am going to respond to is Vice Chair Forsythe raised a question concerning Section 258E and that language is on page 32 and 33 of the document that was handed out tonight. That part of our financial plan language and specifically the Vice Chair was concerned that our new subdivision E of that proposed text which would require the Mayor to issue public monthly financial plan sections, that that section did not go far enough in terms of specifying what financial information would be available to the monitoring community when the FEA expires. Specifically he mentioned the two Comptrollers' office and the

Independent Budget Office's interest in using that kind of information related to the budget and finances as

part of this work.

Just to recap, as I stated at the last meeting, the FEA doesn't actually codify any aspect of the current monitoring environment with respect to the issuing of information concerning budget or finances with the exception of allowing the Financial Control Board to ask for relevant information. We chose to codify the requirement that the Mayor issue monthly financial plan statements, not to limit any additional information to be issued, but rather to highlight this very useful piece of information and make it more publicly available.

We have, however, tried to address Commissioner Forsythe's concern by adding some new language that's at the end of 258 F at the end of page 37 to 38, there's a new last sentence that will specifically address this concern.

Specifically we've added a sentence to provide that nothing in this section will be construed to effect any existing power or duty of any state or local officer or agency, including but not limited to the Control Board, while it continues to exist, the two Comptrollers' offices, the Council or the IBO with

respect to requesting or obtaining from city officers or city agency information relating to finances.

This makes it clear we don't intend to limit the powers these groups currently have and use to obtain information on the budget and finances or to imply these monthly financial statements would be the only documents that will be used.

Just to reiterate, the idea is our new Section 258 will impose a floor on the information to be provided and not a ceiling, and this language will preserve any power of this monitoring community to obtain information that each of the specified members already is empowered to obtain.

On a separate note, additionally, we're working with the City's Comptrollers office to iron out some technical detail they raised with respect to our language, specifically the language on Section 95, found on page 33 concerning the annual audit which they're obviously interested in. For example, they asked us to cross reference the powers of the audit committee, where we describe the City's obligation to enable an independent certified public accounting firm to perform an annual audit and we added that, and we're going to continue to make technical changes of that nature as we continue our discussions with that.

So that's the update, and Terri can go through the substance of the report on fiscal stability.

MS. MATTHEWS: Ester did most of what I was going to say.

CHAIRPERSON FUCHS: Why don't we open it up to the Commission. Why don't we start with Commissioner Forsythe.

COMM. FORSYTHE: I want to thank the Law Department to clarify the impact of fiscal information and its provision and I very much look forward in the public hearings to hearing what monitors and other folks think about this.

I think right now what we should do is put it out and see how people react.

MS. GLUCK: Great.

CHAIRPERSON FUCHS: Any other comments on this section? Commissioner Fiala.

COMM. FIALA: Thank you for listening at the May 25th hearing. I too look forward to hearing from the outside stakeholders. I'm not a financial expert, so I took careful notes the last time.

This is an important subject, too. What we're doing is important, and I want to be very careful about how I frame this. Everything is always viewed to a political prism and the world we live in at the

moment. Before I got into elective office I worked with Senator John Marchi and I think he's considered by everyone as a statesman and he said we do not build policies around people or personalities, we build them around institutions and institutional mechanisms.

The questions I have relating to this and it's based on the Vice Chair's previous comments, by extension, not implicit, but explicitly do we carve out language that provides that Comptroller and the Independent Budget Office the tools they need to perform their duties, because again, it has nothing to do with, you know, right now we've got a Mayor who is great, you know, he opens up the City, you have information and access to everything. That's not always the case, we know that. This Mayor believes everything should be transparent, so you don't have to worry about the technical language.

But we have had mayors and we will have mayors who will not be as forthcoming with information. And the Vice Chairman indicated a couple of times previously, it's the role of OMB's and budget people to release only enough information, you know, to make your case.

This administration is not the one we should be using as the standard, because it's not. My fear

comes post Bloomberg. It comes based on what we've seen in the past, and what I know we'll see in the future. Have we explicitly given the tools that these independent watchdogs need, because now with FEA expiring, going out of business, we're going to need that reliance, that tool. IBO will become the dominant player that it was thought to be, so does the City Comptroller and IBO possess all the powers they need to perform their duties and does the language we're working with explicitly as opposed to implicitly provide IBO and the Comptroller with the ability to obtain data from City agencies and OMB alike? Have we worked that into it so that there's that protection?

MS. GLUCK: As you know, there are Charter chapters on the Comptroller's office and the IBO and their powers are defined within those chapters for the most part. This financial plan section really refers to powers they already have. We haven't addressed in more detail powers they currently have in this language. This language basically refers back to the other sections that concern their authority.

I mean, the Charter elsewhere addresses their authority but not in that particular language that I read to you.

COMM. FIALA: Have they weighed in on this?

CHAIRPERSON FUCHS: Just to give you some background here, we're in conversations with the Comptrollers and with the IBO and anybody who has any interest in accessing information and anyone who has any interest in the question of maintaining fiscal stability in the City particularly after the sunseting of the financial control act. So we've been continuously having, staff and myself have had those conversations. We've brought in my Vice Chair here into some of those conversations, so your point is very well taken.

We think that this language addresses your point. That is the point, and in fact, I think I'll just reiterate what the Vice Chair said, we hope to get the feedback during the public hearing in a public sense, but we're specifically hoping that this language would address that point, and we're pretty comfortable now that it does.

Spencer, do you want to add something?

MR. FISHER: I would note with respect to Commissioner Fiala's point of the IBO being the leading agency, as you put it, after the Financial Control Board goes away, which may happen as early as 2008, the IBO will have important duties during that period but they will also as the section acknowledges, there will still be a City Council, there will still be a City and State

Comptroller, as well, and just to read from a section that many people know, but Section 93(b) of the Charter on the City Comptroller, you know, this is not the place now to interpret the power, but just read literally, "The Comptroller shall have power to audit and investigate all matters relating to or affecting the finances of the City, including, without limitation, the receipt and expenditure of all City funds," and of course the City Comptroller currently has subpoena power.

As Abbe mentioned, there are significant provisions in the Charter which provide access to financial information and that is why we cross referenced powers of those officials.

COMM. FIALA: So we made enormous progress. My concern, Madam Chair, is this, with FEA going away,

the stick is gone now. We all agreed that's one of the areas that we don't want to touch, we don't have time for that, we can't do everything, but the stick is gone. All that will exist is the powers of persuasion and that is why the Comptrollers office, the Independent Budget Office, outside the legislation, which Commissioner Betanzos, I agree with her, we can't rely on that, they're not OMB, so without that watchdog, with them gone insuring there was an explicit tool available is

what I was concerned about. Again, it's about the future. We have had mayors who have run this City into the ground and but for a Governor, another Mayor, we would no longer be the City of New York.

So we've been there, and I honestly believe history repeats itself. Michael Bloomberg is term limited, he'll have four more years, God willing, but I worry about what comes after, because not everybody is as open and honest with his Government as this Mayor is. We have to constantly, because we build around institutions, not around personalities.

CHAIRPERSON FUCHS: Vice Chair?

COMM. FORSYTHE: I appreciate what

Commissioner Fiala said, but it's important to these monitors and Commissioners to come forward and tell us what they think about it. I think we'll hear that in a couple of weeks. I think we agree on what we hope to accomplish, but I think it's important to hear whether they think it's been accomplished and if not if they have other suggestions about how to do it. That's the problem. A lot of people are worried about what might or might not be, but we need specific proposals, and this is a specific proposal that will be put out and people will react to it and I think that's a good start.

CHAIRPERSON FUCHS: Thank you. I would just

suggest that much of what you address is real of course, but some of it is simply larger than the issues we're trying to focus on by importing these aspects of the Financial Control Act into the Charter. So whether or not a Mayor abuses power, for example, it would be good if we could fix that, but that's partly where the judiciary comes in. I'm not a lawyer, so the lawyers in the room can correct me, but to the extent I think that we could prevent that, we've made a very strong effort to come up with language as strong as we could to prevent that.

Nevertheless, as we all know, if a public official chooses to abuse power, they can do it regardless of what you put in in any constitution or in a Charter or in any document. So we're trying to work here in the spirit of hoping that public officials come in and will be doing the jobs that they promised to the people that they're going to do, but on the fiscal side, making sure that there is something in the Charter that requires them to do what we now know historically really helps the City remain fiscally stable, which is of course important to all the people of the City of New York.

So I'm very sympathetic, of course, to all of these issues, but I just want to make it clear that

we have sort of a limited capacity here to address some of the larger issues of potential systemic abuse, and so I want to just make sure that we continue to focus on what we can do realistically.

Thanks.

Okay. Let's move on to the second area of administrative law reform. I'll do a quick update on that and then ask my staff to bring more detail into the

discussion.

In the last meeting where we discussed this, the Commission recommended that we send a letter to the Mayor to establish the office of a Coordinator of Administrative Justice through Executive Order. We have sent that letter to the Mayor. You should have -- the Commission is CC'd on that letter and you should have received it, and we expect the Mayor within the course of hopefully the next month to act on that letter and establish through Executive Order that position.

Additionally, the Deputy Mayor of legal affairs and the chief of staff in the Corporation Counsel have also received copies of the letter.

We now also have some statutory language for the Code of Conduct for the administrative law judges and hearing officers and I'm going to ask our panel to briefly describe that to us. It is in the draft of the

preliminary report as well.

MS. GLUCK: That would be on page 45 of the draft that was handed out today. So as you know, for the past several months this Commission has been considering proposing a requirement that a code of conduct or ethics for administrative law judges, ALJ's,

or hearing officers -- and hearing officers, and Terri Matthews has done several presentations on this topic for you already, so you should be familiar with the background.

Briefly, as you know, unlike in the case of State Court Judges, no state or Local Law binds the City's ALJ's and hearing officers to any code of conduct or ethics that is specifically tailored to the quasi judicial nature of the work they perform. They are subject, like all public servants are, to the City's general conflicts of interest law, but they're not subject, as most judges are, to a code that's tailored to judicial work.

So we drafted code language to require the creation of a code and that language begins on page 45. It would require the Mayor and the chief ALJ of OATH to jointly promulgate and as necessary amend rules establishing such a Code or Codes of Conduct for ALJ's and hearing officers in the City 's tribunals. Now,

note that although the draft language requires the Mayor to promulgate the Code of Conduct with the Chief ALJ, the Section 8 of the Charter allows the Mayor to delegate that duty and we believe the Mayor will delegate that duty, perhaps even to the administrative

judicial coordinator that he may create through Executive Order as requested by the Commission, and give him that authority. That person will be ideally suited to this task.

You will note the draft language also requires the Mayor or his designee and the Chief ALJ of OATH to consult with the Conflicts of Interest Board and the Commissioner of Investigation and affected agency and tribunal heads before promulgating new rules, establishing the Code or Codes of Conduct and the language also provides that ALJ's and hearing officers will be subject to disciplinary actions for violating the rules in the manner they otherwise may be disciplined and that the rules also can provide new penalties and sanctions.

Another Section, makes a conforming change to the section of the Charter that concerns the duties of the Chief ALJ of OATH, to require the Chief ALJ to promulgate these new rules jointly with the Mayor or his designee.

CHAIRPERSON FUCHS: Any questions or

comments. Commissioner Grayson.

COMM. GRAYSON: Can you talk a little bit

about the enforcement side of these new rules. I understand the promulgation of these new rules and what it means --

MS. GLUCK: You mean how they'll be disciplined?

COMM. GRAYSON: Yes, on the enforcement side, who is charged with enforcing?

MS. GLUCK: I think part of that is going to be left up to the way the rule is devised, but I think the way we set this up, they could be subject, our understanding, these ALJ's are subject to disciplinary rules in their agencies and tribunals already so new rules or sanctions could be set up to keep them disciplined in that already existing process or this could establish its own sanctions and penalties that can be enforced and that's something we hope these people will work together to decide what's most effective.

COMM. GRAYSON: My understanding is that rules promulgated tend to work best when enforcement accompanies or a mechanism for enforcement of the rules accompanies the rules.

MS. GLUCK: I think that mechanism currently exists individually with agencies. It probably differs

from agency to agency.

COMM. GRAYSON: That's the problem. Isn't it the problem that similar actions get treated differently at different agencies?

MS. GLUCK: It may be the determination of this group of people that that's inappropriate and maybe they will promulgate new sanctions and penalties and subject all different ALJ's to those penalties across the board. That's something we hope they will consider or investigation.

CHAIRPERSON FUCHS: Part of the reason for asking for this to be done through the judicial administrative coordinator is because there's really not enough information to determine whether or not it should be agency specific or it should be uniform across the board for all ALJ's. Right now I think as Abbe pointed out each agency has its own way of sanctioning. Your point was well taken and this was written intentionally to allow for the judicial administrative coordinator to review that aspect across all of these agencies in anticipation of coming out with some common agenda where appropriate, and our research has already indicated that in many areas there should be a common agenda, so -- but that we decided needed to be done operationally as opposed to through Charter.

MS. GLUCK: I would also point out that the language leaves open the possibility that several different codes of conduct will be promulgated tailored to different kinds of ALJ's so it may not be that this is a uniform solution, we're just hoping to leave it up to the people who are going to study this to determine what the best solution is.

CHAIRPERSON FUCHS: We just didn't want to put too many constraints at this point on the administrative judicial coordinator because we just felt there wasn't enough information. It's clear there needs to be some standards. That we know, that as was pointed out by both Abbe and Terri, so we know we need to do this, because they're not subject to the standards that lawyers are subject to, so we don't have enough in place, so that was the reason we felt we needed to do that part in Charter, but the rest is really open for a big review, frankly.

Are there any other issues related to this topic? Thanks very much.

The third area, the final area that we'll discuss tonight is the area of agency efficiency effectiveness accountability -- too many words. You could see I didn't write that topic. Okay.

As some of you may remember at the last

meeting, we summarized the first version of a proposal to create a Commission on public reporting and data access, and we had a very interesting discussion and in which one of the most important parts of that discussion and Commissioner Betanzos was one of the people who felt very strongly about that, if we propose that change to the Charter to create this Commission we should make sure in some ways that the appropriate stakeholders are given an opportunity to address the Commission about the value of reports.

So that's one very specific thing I wanted to just put out front that we've addressed, but I'm going to now ask the members of our expert staff here to outline to you the latest iteration of this Commission and to ask for your very, how shall I say this? We need a lot of attention paid here, because this is a proposal that I know everybody has been thinking about, it's not as cogent in the sense that we haven't discussed it as long as the other proposals.

We think it's very, very important, that it addresses an important problem, but we really are interested from the Commission to get the maximum amount of feedback on this, so that we can really address any

concerns that any of the Commissioners have about how to structure a Commission like this, what its powers should

be, and if we move forward with this proposal at all.

Spencer?

MR. FISHER: Sure. I guess I should just start by just sort of reiterating what the Chair just said in that this proposal is a little bit, it appears concrete in the way we presented it, but it is still a bit more of a moving target as opposed to the others, and the report indicates in a few places that this proposal is really a fleshed out option for the Commission's attention, rather than a sort of finalized concrete proposal ready for the ballot, if you will, at this point.

You'll find in the draft document in front of you there's a summary of this proposal at the beginning of page 54 and the actual draft text begins at page 57, and I guess I'll just take you on a brief tour through the text, because I think even though as I said the text makes it look like this is all sort of beautifully wrapped up already like a birthday present really the point of the text is to flag issues and

there's no really better way to do that than to actually read draft text of the Charter.

To go through it briefly, we would add a new section of the Charter to the Charter, Section 1113, and we numbered it that because the number was available.

There was an appropriate Chapter. Subdivision A of the section provides that except as provided in the section any provision that mandates the periodic issuance of reports or the establishment of an advisory body that exercises no sovereign power would be subject to waiver, and essentially would be deemed to be conditioned in accordance with the provisions of this section.

So essentially this process that would be laid out here would be a sort of overlay, an overlay on any provisions enacted by the Council to establish reports and advisory bodies.

Subdivision B of this section would essentially establish the Commission, as we discussed at an earlier meeting it would consist of nine members including the City Council Speaker, Public Advocate, Comptroller, Corporation Counsel the director of the Mayor's Office of Operations, director of OMB. They would all serve ex officio, could designate others to

attend Commission meetings in their place. In addition there would be three public members appointed by the Mayor who would serve on the Commission for terms that would be coterminous with the term of the Mayor who appointed them, one with experience in public communications, one would be a director, officer or employee of a civic or public interest organization

active in New York City and one would be essentially an academic from a graduate school of public administration or public policy located in New York City. And the director of Office of Operations would serve as Chair of the Commission.

Subdivision, to sort of move on, subdivision C of this section, which begins on page 58, essentially contains some of the mechanics of how this Commission would operate. It would be required to hold at least one annual public hearing, it would meet on a regular basis, and in response to an actual question that Commissioner Fiala I believe asked at an earlier Commission meeting, the staffing is left quite flexible here. It could have its own staff within obviously within appropriations or it could rely upon the staff of

essentially at the request of the Chair, it could rely upon the staff of any appropriate City agency, including agencies represented on the Commission, both Mayoral and non-Mayoral.

Moving on to subdivision D. Subdivision D is broken up into several paragraphs and I can go through it briefly. Paragraph 1 essentially sets forth the jurisdiction of the Commission and its basic role, which would be to review requirements for periodic or multiple reports that are in the essentially the local

laws of New York City or in the Charter or Administrative Code. And it would determine whether those reports should be continued or waived or waived in part.

As you'll see in a moment, that determination would not be the last word and would be forwarded to the Council and the Mayor for further review. The Commission would review any requirements that's in effect on the effective date of the Section. However, this is a big however, it would not be empowered as it is drafted here to waive reporting requirements that are set forth in certain key chapters of the Charter that relate to the budget including the

chapters on the expense budget, capital, the entire budget process as well as the IBO chapter, so we've essentially exempted all the key budget chapters from its jurisdiction, as well as the final Mayor's Management Report, the annual audit.

So most, virtually all, at least the huge majority of the documents arranged in the budget would not be within the Commission's jurisdiction, so that relieves, I think, what some might see to be a tension between this and the earlier information on the budget.

Paragraph 2 on page 59 refers to the concern that the Chair mentioned that Commissioner Betanzos had,

that the Commission would be required to solicit the views of groups, organizations or entities that essentially represent constituencies that arguably are interested in or served by the report at issue or the body at issue. And in fact it requires that any recommendation that the Commission ultimately makes must include a statement that it has solicited input in accordance with that requirement.

Paragraph 3 essentially contains some basic sort of procedural requirements as to how the Commission

will operate. When it reviews a requirement it issues a written determination as to whether to waive it. In the case of reporting requirements, it can waive that requirement in part rather than in whole. Initially, it would be expected to review everything by a date in 2008, so that the next Mayor or this Mayor in his second term would get some benefit from its review in the course of that term.

After the initial determination the Commission would make further determinations from time to time in particular if it had not waived a report or a body, it would go back and review that again, on a five year cycle, or if the Council had overridden the Commission the first time and maintained a report, the Commission would get another shot at it five years later

or within five years, to see if they were still a valid report or advisory body.

Paragraph 4 and paragraph 5 track, essentially set forth a review procedure, that is in some ways analogous to other review procedures in the Charter in which the Council and the Mayor review various determinations in the Charter.

A determination by the Commission to waive a

requirement would be filed with the Council and the Mayor, and it would also be provided to groups, organizations and entities from which the Commission sought comment pursuant to what the Commissioner described earlier. So they would also have an opportunity because they would know about this promptly, to weigh in with the Council and the Mayor when the determination was forwarded to them.

Essentially, there would then be potentially an opportunity for the Council to override the Commissioner's determination, for the Mayor to veto the Council's override, and the Council to in turn override the Mayor's veto by a traditional two-thirds majority. So there would be a fairly typical process.

I think, again, the Commission is not so much dictating to the Council or the Mayor, as presenting a determination to them that they can reject.

This opens up a conversation, if you will, opens a space or conversation in which a report that perhaps has outlived its usefulness or a body that is no longer useful can be looked at again and periodically.

That's paragraphs 4 and 5.

Moving on to subdivision E on page 60.

Subdivision E sets forth some criteria that the Commission would consider. It would not be limited to these criteria, but the criteria are somewhat similar with respect to both reports and advisory bodies. Whether the report provides, for example, useful information for evaluating the results of programs, activities and functions, whether it assists in assessing the effectiveness of the City's management of its resources, whether it's duplicative of some other report and finally, a fairly standard sort of cost benefit analysis if you will as to whether the benefit of the report outweighs the use of public resources to produce it and I think that's just designed to recognize the fact these reports come at a cost to the public and the taxpayer.

There would be a similar test with regard to the advisory bodies that are created.

Finally, a couple of, well actually, not finally, penultimately, I should say. Subdivision F

sets forth another role of the Commission which would be that the Commission could in addition to simply waiving all or part of the report could decide that because of

changing data needs the report should be modified in some way other than simply waiving it and it could even recommend additional data that might be collected. Those recommendations, unlike in the other case, those recommendations would not become determinations with a formal process, but would merely be recommendations that the Commission would make to the Mayor and the Council. I should note the contrast here is that in the earlier case, if the Council either approves the Commission's action or does nothing within a period of time, the Commission's determination would take effect, and the report at issue would be waived or the advisory body would be dissolved. In the case of these recommendations of subdivision F, they are just recommendations and they would have to be acted on by someone else to be implemented.

Finally, subdivision G simply preserves, insures that the City Council's authority is preserved by emphasizing that the Council is always free on its own to repeal or limit any requirements enacted earlier, or to enhance or extend a requirement with the sole proviso that any new reporting requirement would be

subject to the Commission's review in the same way that existing requirements are.

So that's sort of a brief overview and I guess I turn it back to the Chair of the Commission.

CHAIRPERSON FUCHS: Any questions, comments? Commissioner Raab.

COMM. RAAB: Just I'm wondering if you thought there was any other definition of advisory Commissions or bodies. I imagine you struggled with that in the sense of -- I'm just thinking about the greater problems that could come up. At the end of the day a Community Board is actually an advisory body, so one could say subject to this you could look at Community Boards. Just thinking through, this is probably just an amazing amount of these boards that are created that don't actually have dispositive or --

MR. FISHER: I'm actually not sure I would view, also Community Boards are in a sense advisory. I'm not sure I would view them as advisory for this purpose.

COMM. RAAB: I know you didn't. I'm just throwing the question out. Maybe it's overlawyering, but I'm thinking about what's an advisory board. How do you define that?

I know the purpose here is to try not to

have to perpetuate commissions, bodies that were set up for a particular time and a particular purpose, then they have to keep being filled and I agree with that, I'm just wondering if we're thinking about the words used.

MR. FISHER: I think you'll notice we try to do this by saying boards that are advisory in nature and exercise of no sovereign power. I guess we could look at refining that. I think the idea was that there is a proliferation of sometimes considered minor or peripheral advisory boards.

COMM. RAAB: I completely understand the objective. I'm just saying reading it for the first time that language just brings into question about down the road in the Charter, what mischief could be used in this provision, if any, or is there any other way to define it. I'm sure you've given it a lot of thought.

CHAIRPERSON FUCHS: I think we can give that more thought and make sure we're not putting in boards that obviously have a clear purpose associated with them. I think the language about sovereign power was what they had in mind here and what we had in mind here to address that issue.

MR. FISHER: I would add to that the reason why we put in the exercise of no sovereign power,

there's a long line of case law that refers to who is a public officer in this City. I believe Community Boards have been found to be public officers.

COMM. CROWELL: They have.

CHAIRPERSON FUCHS: Yes.

COMM. RAAB: Do they have sovereign power?

MR. FISHER: I guess they play a significant enough role in various processes that they were found to be public officers. I guess I would add that if this Commission sought to abolish the entire Community Board system I suspect that would be adversely viewed.

COMM. RAAB: I would imagine.

MR. FISHER: But the idea of the exercise no sovereign power was to get at the issue of bodies that were advisory in the truest sense, that they did not play a sort of mandated or critical role in the City process, but were usually created as sort of advisory appendages to individual agencies. We could certainly look at refining the language. There's no pride of authorship. This doesn't say we can't change it by any means but we intend it to tie in to some degree to the public officer test that has been used by courts and others to understand the difference between people that

perform advisory functions and people who perform core

functions.

CHAIRPERSON FUCHS: Commissioner Grayson.

COMM. GRAYSON: I had a question on the three private members of the Commission. I guess, what is the precedent for defining the backgrounds? Do we see that in other Commissions? As opposed to some broad omnibus sort of thing, why are we specifically looking at these three backgrounds for the private members, particularly when the mission and scope is to elicit all kinds of input and support from all these broad groups of interested parties?

I guess I'm asking the question more as an administrator who has been faced over the years with trying to find apples to go in apple crates and oranges to go in orange crates and then faced with a bunch of wonderful delicious pears.

COMM. RAAB: I had that same reaction, Stan. When you have to define these categories --

CHAIRPERSON FUCHS: Let me address that for a moment and I think we're certainly open to discussion to the issue of should we use categories at all and

should the categories be different, so that's certainly something we have certainly discussed internally among the staff and with some Commissioners, and also we did some research here, and that was part of the reason we

picked these three categories.

There are three groups of what we consider to be likely users of Government reporting, so most of the public doesn't really look at reports. That's just how it is, and they don't care about reports and they don't even know that reports are reported. But there are certain what we might call opinion makers, an elite public, who care about reports and use reports.

So in an effort to make it clear that we're not trying to limit the flow of information to those who need reports and use reports, we want -- those are the people who tend to care about reporting, those three communities, and they tend to use reports; the civics, the good government organizations, the broadly construed public communicators which could also be construed as more media oriented and academic types and those are the three groups other than the Government people who are represented very specifically on the board who care the most about it and who tend to use these reports the

most.

So we were trying to get a sufficient amount of what we consider to be expert knowledge into this Commission so that it would have the best chance of really doing what we think needs to be done, which is a serious review of reports.

Having said that, we're certainly open to a broader discussion on that. Commissioner Forsythe who is a pear, a juicy pear.

COMM. FORSYTHE: It's true, I wouldn't fit.

CHAIRPERSON FUCHS: That's right. If we change it, you may end up on yet another Commission.

COMM. FORSYTHE: I just wanted to say I admire your response to that question because I thought it was a very thoughtful way to describe the rationale for these categories.

On the other hand, I'm very sympathetic to what Commissioner Grayson is saying. My first experience with these kinds of categories is on the IBO advisory board which has excruciating detail, much narrower than this and much more narrow than I think makes any sense. I guess if we got to vote, I would

vote for eliminating the categories and point out it would serve one other purpose which is that it would make this shorter.

I think it's possible that the framers of the U.S. Constitution described and outlined all of the legislative powers of the United States of America in less words than we used to describe this Commission.

CHAIRPERSON FUCHS: Ah, but it was a different time, a different place.

COMM. FORSYTHE: I believe that somewhere it would be nice if the Charter was shorter rather than longer.

CHAIRPERSON FUCHS: Commissioner Raab.

COMM. RAAB: When we described it, you described it in broad categories, academic, if you look at the way the words are used, it's very limiting. There are schools that have programs in urban administration that are schools, free standing schools. There are probably people at Russell Sage that isn't academic, that use this information, but they're not an academic institution.

I think you could use words like academic or research -- business schools, non-profits -- I think

they shouldn't be eliminated. What Dall is talking about, you're trying to pick somebody and they don't fit into the definition.

CHAIRPERSON FUCHS: That's a good point. Any more refinement in this area? We can obviously discuss the rest of the proposal. Terri?

MS. MATTHEWS: I want to mention in our outreach we took this on the road a little and the makeup of the body, because the outside users, the public, the informed public, look at this as a fairly stacked Government entity. There are some people who

think more private members would make it -- so it represents a balance, I just thought I'd point that out, that the three privates, there's some people, in this world of reporting, there are citizen participation and involvement in reporting, this is what Barbara Cohen, that whole research project, I mean, this issue of what does the public want, they don't know what they want, that whole area is developing.

So people that are in this field feel that the private members, we've tried to strike a balance. I just wanted to throw out there that it could be worse.

It could be more specific than it is, and maybe we can loosen it up but there does seem to be a value when talking about this idea to the non-Government world that there's a value to having private members on it.

COMM. GRAYSON: I don't think anybody disagrees there's a value in having private members, it's just predefining what private members should be involved. The Chair I believe did an excellent job in coming up with a rationale. As I interpreted it, it really is focused on the users.

If I were going to play devil's advocate, I would say it may be more valuable to have people who have sufficient expertise in creating reports on the panel because they could make reports a lot more

intelligible and therefore more usable. So, I mean, I could very easily make that argument.

COMM. CROWELL: Like from sectors other than the public sector, you mean.

COMM. GRAYSON: When Dall was at Lehman Brothers he did presentations and reports all the time. He could probably take some analysis and turn it into plain English and make it very useful for the general population.

CHAIRPERSON FUCHS: I think it's a well taken point, frankly. I'm just concerned, as Terri mentioned, that we strike some balance here with this user community, which is concerned that they are represented in this process. So from my perspective we could go either way on this representation issue.

Commissioner McCormick?

COMM. McCORMICK: I need more information. My sense here is, you may be looking at it in too unnatural a setting. I sit on the Mayor's Committee on Appointments, and I am struck by the very large number of commissions, by the extensive regulations involved and who needs to sit on them and trying to find the people and you realize when they were put together there was a purpose for that, you have one real estate person from here, one from there, and it progresses, and later

on, you can't really imagine that.

The other point of that is, nonetheless, we are forming a small Commission so it is a constituency and it's very important. I think maybe positioning this too high, that you have academics, you have the media, you have good government groups and it's a general

knowledge, but you may have a real estate group, you may have a group interested in water or development that really needs the data that we could miss in the way of setting this up.

CHAIRPERSON FUCHS: Actually, we tried to address that issue specifically in the outreach section. We realized that we cannot represent every user group here because it was really a balance between size of this Commission and representation and creating a Commission that actually could get work done.

COMM. McCORMICK: I'm not suggesting that we represent them. It may be that the history is so good about when it was created, why it was created and all the interests behind it and if we could understand that, we could find our way to the best use.

CHAIRPERSON FUCHS: I agree with your point, I think that's a legitimate and real point. I think we have to make sure that if the work of this Commission proceeds that this part of outreach of making sure the

people who wanted that report to begin with are brought into the conversation, that's really what that is about.

The other issue of representation on the Commission itself, I think is, as you point out, it's a

sort of open question. It's not obvious that five years from now or ten years from now you want the same categories and I think that's what Commissioner Grayson and Raab were both getting at, and I think the three of you are making a legitimate point which we should think about.

COMM. McCORMICK: May I ask another question. Remind me, how many reports are there?

MS. MATTHEWS: Oh, hello, I'm so glad you asked that.

CHAIRPERSON FUCHS: You should know this, this is the first time that anybody has tried to aggregate this. Kudos to the staff for putting this together.

MS. MATTHEWS: In the back of the March 4th book you have about 33, that was the beginning of the analysis. In your packet, we did some more, Brian Geller who works with me sat with Lexis. It's not a definitive list, but we went through the Charter and came up with, is it 66, it says, "preliminary estimates for reporting requirements in the New York City

Charter," this is in addition to appendix A and that's

66 and then we went through the Administrative Code. This is just to give an estimate, it's not like, there could be more, there could be fewer.

MR. FISHER: Some of them are actually exempted, in the case of the Charter.

MS. MATTHEWS: Just to give you a sense of the world and the nature of the problem and the reverse archeological dig, it's getting bigger and bigger and bigger. When you look at the Ad Code it's 76, so 75 and 66 and appendix A.

MR. FISHER: And a few not on Lexis yet because they're being enacted as we speak.

MS. MATTHEWS: For the first four years there's going to be 30 to 40 documents a year, if you talk about the scope of the year, that they're going to be looking at --

CHAIRPERSON FUCHS: There should be some lag on that, that the workload for this Commission isn't onerous, we would have to figure that out, that everything could not be reviewed --

MS. MATTHEWS: I think the way you structured it, they have five years to go through --

MR. FISHER: The way we tentatively structured it, we had given them, the first three years

so that the next administration gets some benefit from this review, but after that a five year cycle essentially in which to hit all the reports.

MS. MATTHEWS: They come in, they have three years to decide how to hit these reports and stagger them so they're not doing all 100, 120 for the first year, they would have a three-year period to review.

COMM. McCORMICK: How many of the reports are actually performed as required, would we guess?

MR. FISHER: One would hope virtually all of them, but --

COMM. McCORMICK: I notice you said "one would hope."

CHAIRPERSON FUCHS: It looks pretty good. We haven't done a careful study of that, that's a legitimate question, but I think most of them are actually produced, and most of them are not actually read or used by anyone, so that evidence we've actually gotten from some of our survey data and some of the media overview.

Commissioner Forsythe and then Commissioner Raab.

COMM. FORSYTHE: When I first started talking about this, I was a little worried because I thought it was Orwellian to have a Commission on public

reporting and data access whose main task was to eliminate public reports and reduce public access to data. So I was particularly pleased to see Section F, which seems to establish the possibility of a positive role for the Commission.

CHAIRPERSON FUCHS: We heard you.

COMM. FORSYTHE: And the possibility of recommending additional reports or reports that might be particularly useful in special circumstances, while providing a forum for groups that felt like they were getting these that weren't being addressed, so I want to thank you.

COMM. RAAB: Did you do a similar survey for these advisory commissions?

MS. MATTHEWS: No, but we probably could.

COMM. CROWELL: It's basically done. The finance office, which I work very closely with, has compiled an entire binder of everything, we know everyone who is on them, how often they meet, who staffs it, more or less with the output and it's voluminous. It's well over a hundred boards and commissions.

CHAIRPERSON FUCHS: That's scary, frankly, that notebook. I sit on that with Anthony, and you know, a lot of -- I think part of the reason we decided to include these advisory boards in this, because some

of them, they have one task, to produce a report that nobody reads. So we didn't want to eliminate, propose the elimination of a report and then the Commission that produced the report that nobody reads still remains, so we basically figured we better tackle this, even though it's difficult, swallow it whole, so to speak.

MR. FISHER: This is not limited only to Commissions that produce these reports.

CHAIRPERSON FUCHS: That's right, but that was the impetus for actually looking -- we had initially thought we won't go there, but in fact the impetus for going there was this fact that many of these commissions are supposed to produce one report that nobody reads, so we figured we had to rectify that and if we were going to rectify that, well, we should just bite the bullet and do what we all thought we should do, though it's hard.

This is difficult. It's an issue that's been brought up to us in multiple ways by different stakeholders in the system and there's no question that we want to, we're committed to keeping access to information, but we sort of go back to the original

issue with reports. They should have one of two purposes; they should either be useful from a management point of view or they should address the public's right

to know, and right now, there's no way of reviewing reporting requirements for either of those, and there isn't any safe space to have that conversation.

I'm just saying have that conversation, so we really are, as Terri pointed out, by Commissioner McCormick's question about the number of documents let alone the number of commissions, but the number of documents that are now required take an enormous amount of time by agencies and it's not obvious to what end.

And then even though the public's right to know, what struck me is that often what happens is that there's a request for information and then somebody will point to the report and of course the report is not really the information that people wanted anyway and then the data that backs up the report is not there, and so there's a pile of reports that really has very little correlation to the request for information that our people are asking for, that creates an enormous work burden and we don't really have a place in City Government right now to have a real conversation about

the value of reports and how we make reports more useful from both an accountability point of view as well as from an operational point of view.

So I would just ask the Commissioners if they have any comments on that first.

I know this is a complicated proposal, so I'm really, I'd really like to get a sense from the Commission whether or not they think this is a valuable thing for us to be considering at this point and whether or not if you go back and work out some of the kinks that have been brought up by Commissioners, we should continue along these lines.

Obviously staff has done a lot of work on this, and we think that there is something here important that we should be addressing and we think we've come up with a way of addressing it, but we also know that we need some serious consideration by Commissioners on this issue, because it hasn't been discussed as thoroughly as the other two issues that we have gone through tonight.

Commissioner Fiala.

COMM. FIALA: I would just commend you,

Madam Chair, and the staff. It hasn't been discussed as much, I think a sufficient amount of work has been done, and many of the issues that we've raised you've all addressed, and I think the next logical place for it is the arena of public discussion now, allowing the outside stakeholders, the public to come in and comment. This is a good working document, all three of these areas and the one where I've seen the most growth because it

started out with nothing is this, and you'll really be commended for that so let's throw it out there and now allow the public to nitpick the way we all have, but you've all done really a wonderful job.

CHAIRPERSON FUCHS: Any other comments?

Thank you very much. I feel very strongly that the staff has done an amazing amount of work here and I'm really pleased that the Commissioners recognize that work.

Any other comments on this? Well, in that event, it does seem to me that we have some consensus on the preliminary report as presented by the staff. So what I'd like to do now is take a vote to adopt this report in substantially the same form as it currently appears, but also incorporating the changes that some of

you have suggested tonight and that the staff has suggested, and what I'd like to do is then we can release these proposals to the public for input as was suggested before by the public in the upcoming round of public hearings.

So the vote is to adopt the preliminary report, not a vote to put anything on the ballot. So I want to emphasize that, that this is simply a vote to adopt the preliminary report and this begins our public discussion phase. We will still have the opportunity to

vote down, oppose, revise or support any or all of these proposals.

COMM. RAAB: Point of information. So we just talked about these three categories, for example, some of us feeling they were too limiting, but they will still be put out to the public in the way that they're in this document?

CHAIRPERSON FUCHS: What we're going to do is -- what we'd like to do is actually leave it with the three categories now for the purposes of public discussions, but in fact I think as the Commission then listens to public discussion, we're in a position then

to change that to broaden the categories, but I don't have a strong opinion one way or another unless the Commission at this point would like to change --

COMM. RAAB: I do have -- because I know how hard you worked and I don't want to undercut any of that and I know how hard it is to pick exact language, because I've had to do it myself, but I also feel we're putting this out publicly where there's a sense that we generally stand behind it, and I don't stand behind these definitions the way they're written.

CHAIRPERSON FUCHS: Do you have a proposal you'd like to put up now?

COMM. RAAB: A number of us talked about the

categories, just making --

CHAIRPERSON FUCHS: Do you want to remove all the categories altogether, or would you like to create categories that say --

COMM. CROWELL: I think there's a bigger issue. It also says here that the Commission is proposing certain things and it seems it's more of a formal acceptance. What are we doing? Are we asking the public to review issues?

CHAIRPERSON FUCHS: It seems to me you know

better than anybody what we're doing here which is we're asking the public to review the issues. I think I've said that five times and I can say it ten times. That's all we're doing is asking the public to review the issues.

I think Commissioner Raab has a specific issue here that she would like addressed and I'm happy if there's a consensus among Commissioners to change the language now before it goes out to the public.

So I would like a sense from the Commissioners -- do you have a proposal, Commissioner Raab, of how would you like this to read, we can change this right now. I don't know that anybody including the staff is strongly wedded to that particular language.

So if you want to change it to eliminate

categories altogether or to narrow the categories, to broaden, rather, to broaden the categories, we can do any of that.

COMM. ARCHER: These are categories for the private citizens?

CHAIRPERSON FUCHS: Correct, Commissioner Archer.

COMM. RAAB: I would put a suggestion up that to perhaps say a member of an academic or research institution?

CHAIRPERSON FUCHS: Okay, so let's change that immediately -- do I have a consensus among Commissioners just to change that immediately?

COMM. RAAB: Is that a little more -- I just said --

CHAIRPERSON FUCHS: I think that's a friendly amendment.

MR. FISHER: May I ask, are we saying something like "a member of an academic or research institution with expertise in public policy," or something along those lines? You don't even want to refer to public policy?

CHAIRPERSON FUCHS: What do you want to say?

COMM. RAAB: I think the form in the sense of, because you get into what does that mean. Let's say

you have someone who is a political science professor who uses this in his or her research but is not in a public administration program.

CHAIRPERSON FUCHS: How about an academic or research institution, period.

MS. GLUCK: In New York City?

CHAIRPERSON FUCHS: In New York City, yes.

MR. FISHER: Or officer, member or something of a -- we'll pick that language, of an academic or research institution located in the City of New York.

COMM. RAAB: I think that gives you a little more flexibility.

COMM. McCORMICK: If the Mayor gets to appoint these people, right, there are three appointments, I would assume that someone who has been an elected Mayor of the City can identify three people who could make a contribution to this without our being so precise about who they should be.

CHAIRPERSON FUCHS: I'm comfortable with that. As I said, the only reason we really did this is because of the stakeholders in this process who felt strongly about getting their particular institutional relations represented, so I'm, as I said, I agree with you, Commissioner McCormick, which is that I'm sure the

Mayor can figure out appropriately how to do this, but our experience in the past with these things is that if

you don't, if you're not more specific, then you get pushed back, why didn't you say specifics, why didn't you say the academy.

We can go out to the public either way, we can go out to the public either way.

COMM. FIALA: Could I put a motion on the table, in the interests -- I make a motion that we remove the specificity allowing it to be three Mayoral appointees and that we during the public hearings do try to elicit some consensus on this and then we can go back and refine that language.

COMM. FORSYTHE: Could we at least like to say three Mayoral appointees from outside of Government?

CHAIRPERSON FUCHS: Right. From outside of Government who live in the City of New York.

COMM. FIALA: So the motion on the table is to do just that.

COMM. RAAB: With no prior public policy experience.

CHAIRPERSON FUCHS: No, that doesn't count. You can't get yourself off the hook.

Okay, we have a motion on the table, excuse me. Could you repeat for the purposes of the record

here the motion of how we should change this language,
Commissioner Fiala?

COMM. FIALA: That with respect to
the specificity of the Mayoral appointees, that we
remove the language as its presently written and allow
or insert language which states that it's three Mayoral
appointees as the Vice Chair has said from outside of
Government service.

MR. FISHER: Not employees of the City of
New York.

CHAIRPERSON FUCHS: Not employees of the
City of New York. Do I have a second?

COMM. RAAB: Second.

CHAIRPERSON FUCHS: All in favor?

(Chorus of "Ayes.")

CHAIRPERSON FUCHS: All opposed? We carry
that as a friendly amendment and move it forward.
Terri, would you like to clarify something?

MS. MATTHEWS: Okay, we've been talking a
lot about this is the beginning of a process, and these
proposals are going to the public for public comment --

COMM. CROWELL: The issues are going.

MS. MATTHEWS: The issues. So I think what
Anthony was noticing is we use, the title of this
document is "Preliminary Proposal for Charter Revision,"

which is for a dialogue. Then when we introduce the statutory language we say in three places, "to accomplish the above objectives, the Commission proposes the following amendments to the Charter," and I think you were thinking that was making it seem like that was actually the proposals to go on the ballot.

CHAIRPERSON FUCHS: So we need to clarify that.

MS. MATTHEWS: We need to soften that a little.

COMM. FORSYTHE: Presents for review?

COMM. CROWELL: The following issues.

MS. MATTHEWS: I think we could say "proposals for consideration by the public."

COMM. RAAB: The actual amendments, draft amendments are going to be distributed.

MS. GLUCK: This is the document.

CHAIRPERSON FUCHS: They are, so you'll just clean that up so it makes clear that these are proposals for review by the public.

MS. MATTHEWS: Yes, we will do that.

CHAIRPERSON FUCHS: So the staff is instructed, I think we have a consensus from the Commission that we should just make sure the public understands these are proposals which are subject to

review by the public and which still can be revised.

MS. GLUCK: Could we have clarification on exactly what the Commission would like us to do? Would they like the word "proposals" changed to a different word or do we want "review by the public" every time we use the word "proposal?" Just to be clear exactly what the staff needs to do with this report.

CHAIRPERSON FUCHS: I think the legal staff should determine that themselves. That would be my position. I would be comfortable with what the legal staff determines is the appropriate legal way -- people have released Charter revision proposal reports in the past and I think we can get this done.

Commissioner Abrams?

COMM. ABRAMS: In connection with the previous proposals that have been sent to the public in referendum, there has been considerable debate about the wording of the proposal that goes on the ballot. Sometimes it's very confusing, you vote no to say yes, you say yes, which means no.

CHAIRPERSON FUCHS: I remember that. Right.

COMM. ABRAMS: I know as Attorney General in the past it was the Department of Law of the State of

New York who had the obligation of crafting the terminology that would appear on the ballot that

synthesized the whole question and notion as to what this was all about and what the people were voting on.

If we're going to the public for review, analysis, suggestions, it seems to me that part of the process should also be in relation to the exact language that is going to be on the ballot, not just concepts and ideas; that we perhaps in the report should have the nuggets, the language that should be on the ballot before the public in relation to these questions, so that some professor, some member of the public comes forward and says, you know, this is not clear, I don't like that, this doesn't really characterize what is said, et cetera, et cetera, so that we would have the best possible product available to us to vote on in the end to put on the ballot before the people.

CHAIRPERSON FUCHS: Well, I think the issue here -- I mean, I'll respond simply and then I'll ask the legal department to respond, but we expect to have as straightforward as possible in this and we're not interested in obscuring anything and to the extent that we can make this as clear as possible, I think we could

charge the staff to do the very thing that Commissioner Abrams has suggested here and I think that we would have a consensus around that and there would be an opportunity for the Commission to review language to the

extent they are interested, any Commissioner is interested in reviewing language. Am I getting this correct?

MR. FISHER: I think that's fundamentally right. I guess there are a few components to the Commissioner's statement. The reason why there's no ballot question here, it's not ripe for a ballot question, we're just not there at this moment and it would create the appearance to the public of a finality that just hasn't been reached.

I would also note that as far as I know, Charter Commissions did not have a practice of going to the public with a hearing about the question, but the question, I think the intent of the staff consistent with past Charter Commissions is that the question will not be developed in a back room and never shown to the Commission, that the Commission would see and vote on the proposed question as part of its final report in an

open meeting and will discuss it, at an open meeting and if a Commission member believes that the question is unclear, it will be changed.

However, it has not been the practice to have public hearings about the question and I think that's partly because the formulation of a ballot question, yes, it can be nefarious, but it's also a bit

of an art form in that there are legal restrictions around it, it has to be in plain language, it can't go on and on, it has to sufficiently describe the proposal. I think generally it's been felt it's a matter for the Commission and staff and counsel to develop, rather than it being itself a public hearing assuming the public has spoken on the details of the proposal.

COMM. ABRAMS: I appreciate all of that and because there has been some controversy in the past, maybe that's why I'm suggesting this time it's a little different. Whereas in the past the question and the language itself has never been the subject of public scrutiny in advance, that maybe there's some benefit to be achieved by doing that. Benefit not only to put out the ideas and the concept, but the potential language.

CHAIRPERSON FUCHS: Let me make a suggestion

on this issue, because I think, I understand what you're getting at over here, Commissioner Abrams, but I think that we really run a terrible risk, if we went out with ballot questions now, I think Spencer is really correct. We run a terrible risk of the public thinking we've finalized ballot questions, it's just not that sophisticated out there.

We are intent on getting public discussion on this, and we feel confident that this Commission will

review these questions and you are on this Commission and other members of this Commission with a lot of experience who will tell us whether or not we are being clear and if we're not, we are determined to make sure we make the clearest statement through a ballot initiative, because this is not about on securing anything.

To the extent that we can make our ballot initiatives clear to the public, we will increase our chances of getting our ballot initiatives approved by the public. So I think we have every stake and every reason to want a clear proposal here, because we don't have any other agenda, and I'm confident that this

Commission will help us do that.

So, Commissioner Chen.

COMM. CHEN: How do we distribute the proposal before the public hearing?

MS. GLUCK: I will answer that or Terri can, but let me clarify before we move on that I think there's a little confusion. What we're putting before the public in this report is the actual statutory language and although the ballot question asks whether we should adopt the statutory language, the report purports to summarize more than the mere ideas but actually proposed Charter changes so what the public

would be seeing is the actual Charter change just not the ballot question.

So I think that's an important to clear up confusion. You can talk about outreach process.

CHAIRPERSON FUCHS: Let's answer Commissioner Chen's question.

MS. MATTHEWS: We have a website. Assuming you vote, we'll make the changes tomorrow to reflect the consensus on the vote. It will go on to our website immediately, we'll send the mailing to our mailing and e-mail list, we'll be translating the executive summary

and we're using the citizen's committee, they have a mailing list.

CHAIRPERSON FUCHS: Huge. How many on that?

MS. MATTHEWS: 12,000, so we're going to be sending the executive summary to the citizen's committee's mailing list, we have our own e-mailing list, a physical mailing list and the website. Then we're going to take the document, and we have another smaller mailing list we're going to take this big document that's going to be bound and we're going to ship it out. We'll get it to as many people as we can.

COMM. CHEN: May I make a suggestion, that this whole process should go on a press release that this is what we're doing, rather than nobody knowing

about it, saying we didn't see it.

MS. MATTHEWS: We're here on TV, that's the other thing.

CHAIRPERSON FUCHS: We are on TV, but I think the idea of an outreach with a press release would be very helpful and we will be doing, as this process unfolds now we will be doing more outreach to the press to increase press coverage now because we will be having

discussions about real possible ballot initiatives. So it's our intention I would add to what Terri has said to do extensive outreach to the press and I think Commissioner Chen's idea about a press release about the process and getting the information out is a good one.

COMM. CHEN: Especially when we have different translations, ethnic media would be extremely important.

CHAIRPERSON FUCHS: Yes. Any Commissioners who have outreach lists that they want to share with us, we would appreciate that you do that at this point, that would be very helpful.

Are there any other comments from the Commissioners? Commissioner Fiala.

COMM. FIALA: We issued, I don't know, again, language is -- we issued a tentative report early on. The public, I've watched these Commissions, we're

going to get attacked no matter what. There's always going to be somebody that said I didn't know. That's just too damned bad. It is on the website, we take out postings, we've done everything that's legally required. It's incumbent upon citizens to act responsibly. We issued reports that sit on tables outside these

meetings. These issues have been out there for nearly six, seven, eight months. This is a refinement of what we've been talking about. Just correct me if I'm wrong, all we're proposing to do is put this now out, last report was kind of the skeleton, we've added some meat to it. We reserve the right to after the public hearings vote up or down is that correct?

MS. GLUCK: Yes.

CHAIRPERSON FUCHS: Absolutely correct.

COMM. FIALA: That's all we're doing. This is the next step in the sequence, adding the meat to the sequence.

MS. GLUCK: Up or down on any of the proposals.

CHAIRPERSON FUCHS: And revise.

Commissioner Crowell.

COMM. CROWELL: I had other issues about language up here, couching language. I don't know if we're going to resolve it right now.

MR. FISHER: We kind of have to, don't we?

CHAIRPERSON FUCHS: Are your issues about language in the report for release to the public or are

your issues about language in the report that can be revised after release to the public?

COMM. CROWELL: No, I think, well, I'm not exactly sure. I'd like, if we could take a very brief recess so I could take a look quickly at the report on some of this?

CHAIRPERSON FUCHS: I don't think -- excuse me. I don't think we need a recess. I think we can either move forward on this or not. And I'm going to now propose and ask for a motion to adopt this report substantially as it appears with the changes summarized by the staff, including the motion that was approved by the Commission that Commissioner Raab brought up, and to release this report for public comment.

Do I have a motion?

COMM. CROWELL: I think there's still some confusion.

COMM. McCORMICK: We're talking about this report, as opposed to --

MS. GLUCK: We're talking about the clean report.

MS. MATTHEWS: One is a clean version and

that's the black line to show you the changes from the

weekend.

COMM. McCORMICK: Thank you.

COMM. CROWELL: I still think we should rephrase things --

CHAIRPERSON FUCHS: I asked for a motion. Do I have a motion?

COMM. FORSYTHE: I'll make the motion.

COMM. ABRAMS: I'll second it.

COMM. FORSYTHE: Motions are debatable. I do think Commissioner Abrams had some modest points of editorial commentary as well. It sounds like Commissioner Crowell --

CHAIRPERSON FUCHS: We've already agreed we'll take in the editorial commentaries, we already agreed we'll take in Commissioner Crowell's comments. I already agreed to that.

COMM. CROWELL: Does the legal department, as we call you, agree that we have sufficiently reviewed where the changes are made, that we've characterized it enough?

MR. FISHER: I guess I would note that the resolution on the table as it probably should be says that the report should be substantially in the form set forth before you. That means obviously we can make

minor changes to correct errors and minor clarifications.

CHAIRPERSON FUCHS: Correct, thank you.

MR. FISHER: However, if a Commissioner's proposal is material in a sense or substantive, then we would need to discuss it here, because I don't feel the staff would have leeway to change the report. It really depends on what you're suggesting. If there's a minor suggestion that clarifies, we can do that afterwards, if it changes the tenor of the report we should do that now.

COMM. CROWELL: I think Ms. Gluck knows my concern. Is it material?

MS. GLUCK: If you could articulate exactly the kind of change you want us to make, we can correct it. My understanding is what Commissioner Crowell would like us to do is go through the report and change places where it looks like we were making conclusions to options.

CHAIRPERSON FUCHS: I thought we agreed to that. Didn't we agree with that?

COMM. CROWELL: Yes.

CHAIRPERSON FUCHS: Okay, we agreed to it.

COMM. CROWELL: Except I wanted to make sure that it was sufficient, I have experienced this in other

Commissions.

MR. FISHER: Could we, I beg your indulgence, just give me one example of the sort of change you're discussing so we have it on the record what you're talking about. We thought we understood it and now I'm not sure I understand it, to be honest.

COMM. CROWELL: For instance on page 27 it says, "To accomplish the above objective, the Commission proposes the following amendments to the Charter."

MR. FISHER: Tell me how you would phrase it?

COMM. CROWELL: I don't know if we proposed amendments to the Charter by this report. We should say the Commission --

MR. FISHER: Submits to the public --

COMM. CROWELL: For possible amendment to the Charter.

MR. FISHER: Or seeks public comment?

MS. GLUCK: On the following possible amendment to the Charter.

COMM. CROWELL: That's great.

CHAIRPERSON FUCHS: That's what we spoke about before. We agreed.

COMM. CROWELL: I think there are numerous

references to that and I think you should make them

throughout.

MS. MATTHEWS: We will.

COMM. CROWELL: I don't know about what you would do with the title, if this is sufficient, primary proposals or if it's preliminary options or proposals --

MS. MATTHEWS: We'll put the word "options" in there.

CHAIRPERSON FUCHS: So change it, that's fine.

COMM. CROWELL: I'm sorry, I didn't catch this earlier in the review.

MR. FISHER: Maybe the title should remain "proposals." "Options" sounds of --

COMM. CROWELL: "Recommendations" --

CHAIRPERSON FUCHS: We will follow the procedure of previous Charter Commissions of how they titled their document. How is that?

COMM. CROWELL: That's fine.

CHAIRPERSON FUCHS: The ones in which you were the Executive Director. Okay? Does that work?

COMM. CROWELL: I remember "recommendations" was a big word.

CHAIRPERSON FUCHS: We'll use
"recommendations." Whatever language you used in
previous documents.

COMM. CROWELL: Okay. You have about 15 or
20 reports to choose from.

CHAIRPERSON FUCHS: Now that we cleared up
this scintillating topic.

COMM. FORSYTHE: Hoist by your own petard.
I call the question.

CHAIRPERSON FUCHS: Can we vote on adopting
whatever I said before? All in favor?

(Chorus of "Ayes.")

CHAIRPERSON FUCHS: All opposed? Okay.
Thank you.

Now, is there any new business that anybody
would like to bring to the table? I'm sorry if I was a
little testy here with this, I had thought we concluded
that before.

COMM. FORSYTHE: She promised she would get
me home in bed by 9:30.

CHAIRPERSON FUCHS: Right, I promised
everybody --

COMM. GRAYSON: You have seven minutes.

MR. FISHER: I just note for the record that was an 11 zero vote.

COMM. CROWELL: Actually, no. I didn't vote.

CHAIRPERSON FUCHS: Everyone voted in

favor--

COMM. CROWELL: I voted, yes.

CHAIRPERSON FUCHS: Everybody voted in favor, thank you. We have no abstentions. If we have no new business, I'd like to adjourn the Commission meeting now and thank everybody for attending.

(Time noted: 9:23 p.m.)