

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Transcript of the Public Meeting and Public
Hearing of the
CHARTER REVISION COMMISSION
held on Monday, June 27, 2005
110 William Street
Borough of MANHATTAN

TANKOOS REPORTING COMPANY, INC.	
305 Madison Avenue	142 Willis Avenue
Suite 405	P.O. BOX 347
New York, N.Y. 10038	Mineola, N.Y. 11501
(212)349-9692	(516)741-5235

1 Meeting convened at 7:20 p.m.

2 P R E S E N T

3 DR. ESTER FUCHS, Chair

4 DALL FORSYTHE, Vice Chair

5 STEPHEN FIALA, Secretary

6 COMMISSIONERS:

7 JENNIFER RAAB

8 ROBERT ABRAMS

9 AMALIA BETANZOS

10 STANLEY GRAYSON

11 DAVID CHEN

12 ANTHONY CROWELL

13 STEPHANIE PALMER

14

Also Present:

15

TERRI MATTHEWS, Executive Director

16

BRIAN GELLER, Analyst

17

18

19

20

21

22

23

24

25

1 CHAIRPERSON FUCHS: Good evening, everyone
2 and welcome to the public hearing and public meeting of
3 the New York City Charter Revision Commission. Thank
4 you for coming this evening. We will begin with our
5 public hearing. This is our third public hearing since
6 the release of our preliminary recommendations for
7 Charter revision. I want to especially thank our
8 Commissioners for coming tonight. This is a very
9 difficult time of the year, the month of June, and
10 people have canceled vacation plans in order to attend
11 this evening and make sure that we have a quorum for
12 this important public discussion.

13 I'd like to introduce to all of you the
14 members of the Commission, starting from left to right,
15 Stephanie Palmer, David Chen, Amalia Betanzos, Dall
16 Forsythe, our Vice Chair; Steven Fiala, our Secretary;
17 Jennifer Raab, Robert Abrams, Stanley Grayson and
18 Anthony Crowell.

19 Again, thank you all for attending this
20 evening.

21 At tonight's public hearing, we expect to
22 receive comments from the public on the issues raised in
23 our preliminary recommendation for Charter revision, as
24 well as any other comments you would like to make. This
25 will be the last public hearing of this series of public

1 hearings, and tonight's hearing will be followed by two
2 public meetings where the Commission will discuss
3 opinions and proposals received from the public and use
4 that information to either revise or accept the
5 proposals.

6 We have copies of the full report in the
7 back of the room, and you could also access copies of
8 the report on our website.

9 Just so everybody understands, we continue
10 to welcome comments from the public, but in order for us
11 to have a sufficient amount of time to review proposals,
12 we ask that comments regarding our preliminary proposals
13 or other ideas that the public has for inclusion in our
14 final reporting be received by either mail or e-mail by
15 Tuesday, July 5th at 10 a.m. If you are interested in
16 contacting us by phone, you could call (212) 676-2060.
17 You can visit us at 2 Lafayette Street on the 14th floor
18 or you can e-mail us or go to our website at
19 www.nyc.gov/charter. We will be having two more public
20 meetings, one on June 30th at 7 p.m. at 22 Reade Street
21 and one on July 5th at New York Presbyterian Hospital,
22 the Millstein Building at 177 Fort Washington Avenue at
23 West 168th Street.

24 As you know, at public meetings the public
25 may attend and listen to deliberations of the

1 Commission, but the public does not speak at public
2 meetings. If you need any directions to any of these
3 sites please log on to our website or call the
4 Commission.

5 For those of you who have not as yet signed
6 up, there is another signup sheet in the back of the
7 room, so feel free to sign up and we will essentially be
8 going in the order that people have signed up. For
9 those of you who have not come before, you should be
10 aware of the fact that public officials will pre-empt
11 anybody else in the lineup and we will extend them the
12 courtesy of allowing them to testify when they choose.

13 Each person is being given the opportunity
14 to speak for three minutes, and we also encourage
15 written testimony, which I see many of you have provided
16 for us.

17 When we hit 30 seconds before your
18 three-minute deadline, Brian is basically providing a
19 time keeping function for us, and the bell will go off
20 on his alarm clock. Obviously, we will allow people to
21 finish their testimony and not make you stop in the
22 middle of your sentence.

23 Please stay at the microphone when you
24 finish your testimony, because Commissioners will then
25 be given the opportunity to follow up with questions.

1 On behalf of all the Commissioners this
2 evening, I want to thank everybody for coming in advance
3 of your testimony, of course, thank you for the
4 testimony.

5 I'd like to begin by calling up Marcia Van
6 Wagner from the New York City Comptroller's office who
7 will be speaking this evening for the Comptroller.

8 MS. VAN WAGNER: Thanks. We were expecting
9 the Comptroller tonight and I can see the position of
10 the microphone reflects that.

11 Good evening, Chairman Fuchs, vice Chairman
12 Forsythe and members of the Charter Revision Commission.
13 My name is Marcia Van Wagner, Deputy Comptroller for
14 budget. I'm testifying today on behalf of Comptroller
15 William C. Thompson, Jr. and I just want to say the
16 Comptroller was originally intending to be here tonight
17 and was unable to make it and is very sorry he is not
18 going to be able to be here.

19 Before I discuss the specific recommended
20 reforms I'd like to provide a little context. As you're
21 all aware, New York City engaged in dubious fiscal
22 practices for decades prior to its near collapse in the
23 mid-1970's. As part of its response to the City 's
24 fiscal crisis the State enacted into law the Financial
25 Emergency Act of September 1975. Among other steps the

1 FEA created what is now known as the Financial Control
2 Board. The FEA signaled passage of the City's fiscal
3 renewal. The act gave the FCB the authority to take
4 over the City's finances if the City ran a budget
5 deficit of more than a hundred million dollars. The
6 presence of this stick over the City's head helped
7 impose the fiscal discipline New York City needs. The
8 act also required annual presentation by the City of a
9 four year plan that included the current year's budget
10 and the next two years of future operations. These
11 provisions remain in place today.

12 We need to be certain that we continue to
13 avoid the missteps the City made prior to the '70s
14 crisis. As a result the Comptroller generally supports
15 the Charter Revision Commission's recommendations that
16 the City incorporate into the Charter those provisions
17 of the FEA that have helped the City restore stability
18 to its finances. The Comptroller does, however, have
19 concerns about one element of the proposal, specifically
20 the provision for allowing a revenue anticipation debt
21 to mature after the end of the fiscal year. Under the
22 Financial Emergency Act, this can be done, provided that
23 the FCB certifies that the revenue against which the
24 bond is issued properly estimated and accrued. This
25 acts as a check on the reasonableness of the Mayor's

1 revenue forecasts. Under the new language, this
2 certification would be done by the Mayor. It would be
3 far more prudent to have a more objective entity such as
4 the Comptroller's office certify the revenue numbers.

5 In addition, Comptroller Thompson is
6 concerned by the notion that the Charter revision
7 proposals by themselves are sufficient to replace the
8 oversight mechanisms that have served the City so well
9 for nearly thirty years. Quite simply, they are not.
10 The revision should be complemented by State law. First
11 at the State level we should work to maintain some
12 version of the Financial Control Board. The FCB has
13 helped insure that the City be disciplined in its
14 budgeting and financial planning and I believe the City
15 would benefit by maintaining some form of the FCB.

16 Second, as part of these discussions
17 Comptroller Thompson believes we should consider
18 amending the FEA so it allows the City to establish a
19 rainy day fund. Under a rainy day fund some portion of
20 budget surpluses would be deposited in an account
21 accessible only under specified circumstances. This
22 account could be funded over a period of years and then
23 be used to stabilize City services in a downturn.

24 In this regard, New York would join many
25 other local governments and it would be a vast

1 improvement over the City's current budget stabilization
2 account, because the rainy day fund could only be used
3 when the economy falters. With our budget stabilization
4 account the Mayor simply prepays the following year's
5 expenses by rolling over a built up budget surplus.
6 Indeed the Mayor is largely balancing the fiscal 2006
7 budget by relying on over \$3 billion, I think it's
8 probably approaching 4 billion at this point accumulated
9 BSA.

10 MR. GELLER: Thirty seconds.

11 MS. VAN WAGNER: If the City did not have
12 easy access to this rolled over surplus, it would be
13 forced into establishing a structurally balanced budget.
14 For this reason and others, creating a permanent rainy
15 day fund would do much more to insure stability in the
16 City's finances.

17 As you know, the Charter would have to be
18 altered to provide the creation of a rainy day fund as
19 with elements of the State law. I will skip a few
20 details here, you have written testimony.

21 Third, we should take action to insure that
22 the information provided by the public by the current
23 budget process is not diminished. For example, the
24 language in the FEA requiring four year financial plans
25 from the covered organizations such as the Health and

1 Hospitals Corporation, is not included in the
2 recommendations for revision.

3 The fiscal condition of the covered
4 organizations frequently has implications for the City's
5 budgetary obligations. The continuation of a
6 requirement to provide financial plans by the covered
7 organizations should be pursued at the State level.

8 The reforms made in the '70s has been
9 crucial to the way we managed our budgetary challenges
10 in recent years. Extending and improving those reforms
11 is the most logical next step for the City to take.

12 The transparency that is part of our budget
13 process allows us to confront our budget problems years
14 in advance. That is no small thing. We must resist any
15 impulse to slide back towards the murkiness in our
16 fiscal affairs that define our not so distant history.
17 Comptroller Thompson also supports the Charter Revision
18 Commission proposal to create a Commission on Public
19 Reporting and Data Access. Such a Commission would
20 benefit agency management as well as increase
21 accountability to the public.

22 The Comptroller applauds the Charter
23 Revision Commission's prudent recommendations and he
24 looks forward to working with you to insure that the
25 City adopts those provisions that mirror inclusion in

1 the Charter.

2 Thank you.

3 CHAIRPERSON FUCHS: Thank you, any questions
4 from Commissioners? Commissioner Fiala.

5 COMM. FIALA: Deputy Comptroller, thank you
6 for your testimony. I'd like to thank the Comptroller
7 for his work and we appreciate the thoughtfulness that
8 went behind this.

9 We've discussed, I think we're on the same
10 page in many respects. This Commission has discussed a
11 rainy day fund. It actually came up in our very first
12 meeting, and as you have alluded to, it's somewhat
13 beyond the scope of our work. But we have addressed it
14 and I think it's going to wind up in the report when we
15 encourage further dialogue down the road.

16 With respect to the recommendation that some
17 form of the FCB be maintained, do you have any thoughts
18 on how that would be replicated, in what form, who would
19 be on it?

20 MS. VAN WAGNER: No, we haven't gone through
21 the exercise of coming up with a specific proposal. I
22 think that's something that would be probably the
23 outcome of a dialogue among all interested parties.

24 COMM. FIALA: Okay, well, thank you again
25 for the thoughtfulness of the testimony.

1 MS. VAN WAGNER: Thank you.

2 CHAIRPERSON FUCHS: Any other questions for
3 the Deputy Comptroller? I, too would like to thank the
4 Comptroller for sending you in his stead today to
5 testify. It's very important that we hear from the
6 Comptroller's office and we thank him for his engagement
7 and the engagement of his staff throughout this process.
8 I think we are very close to agreement that we can't do
9 everything through the Charter, that there must be a
10 discussion later on when the Financial Control Act
11 actually sunsets about what the State's continuing role
12 will be.

13 It's our position at this point that the
14 City has paid its dues, so to speak, in terms of
15 financial control and crisis management, and that 23
16 years of a balanced budget indicates that if we can
17 continue to maintain existing financial management
18 procedures, we can continue to do the hard work of
19 keeping the City fiscally sound.

20 We also think that we have tremendous
21 oversight already and that the Comptroller, the City
22 Comptroller's office provides that oversight, as well as
23 the State Comptroller's office, as well as the IBO. So
24 we actually think that we have enough oversight with the
25 Comptroller's office, so I hope that you report back to

1 the Comptroller that we appreciate his remarks and his
2 support and we also, it sounds like we value his work in
3 some ways more than he does.

4 So we want to thank you again for coming
5 this evening.

6 MS. VAN WAGNER: Thank you.

7 CHAIRPERSON FUCHS: Thank you.

8 I'd like to call on Bonnie Brower from the
9 City Project.

10 MS. BROWER: Good evening, members of the
11 panel. I have testimony to give you, if I can.

12 CHAIRPERSON FUCHS: That would be great.

13 MS. BROWER: Don't start my clock yet,
14 please. It wouldn't be fair.

15 CHAIRPERSON FUCHS: We won't.

16 MS. BROWER: Thank you.

17 Well, no one's ever said they can't hear me,
18 so -- because of the time limitation, I am going to
19 forego complimenting you on the extraordinary effort you
20 have in fact put in. I'm also going to --

21 CHAIRPERSON FUCHS: You get a couple more
22 minutes.

23 (Laughter.)

24 MS. BROWER: I'm also not going to go into
25 who City Project is for those who don't know, because

1 it's also summarized. I'm also more surprisingly going
2 to inform you that we are not testifying tonight about
3 your fiscal stability proposals even though they are
4 nearest and dearest to our hearts and we met with your
5 Chairperson and previously submitted recommendations.
6 We will be submitting our responses to the proposals by
7 your time frame, which as you realize is the morning
8 after July 4th.

9 What we will address here -- you said July
10 5th at 10 a.m.

11 CHAIRPERSON FUCHS: Maybe we could for the
12 record change that to 5:00 on July 5th.

13 MS. BROWER: That would definitely be
14 preferable.

15 CHAIRPERSON FUCHS: That's fixed.

16 MS. BROWER: Were everything so easy.

17 CHAIRPERSON FUCHS: Right.

18 MS. BROWER: What I am going to be
19 testifying about is the proposal that pertains to the
20 Commission on agency efficiency and data access, and I'm
21 afraid, my testimony is pretty long and I'm going to
22 have to skip most of it, so let me get to the bad part.

23 Basically, we agree with your analysis that
24 there is a huge need for data and reporting improvement,
25 as well as and equally if not greater need for public

1 access to meaningful substantive information on a
2 regular and comprehensible basis. The problem is that
3 we don't think your recommendations pertaining to
4 reporting, data access and accountability adequately
5 address information deficiencies and lack of access, and
6 don't propose really anything substantive or meaningful
7 solutions.

8 We have three fundamental problems with the
9 Charter revision provisions that you have put forward on
10 this issue. Number one, while the proposal ambitiously
11 seeks to achieve important but very different goals in
12 improving internal Governmental efficiency at the same
13 time it increases public access to Government
14 information, it fails to acknowledge or respond to what
15 we think are inherent tensions and sometimes outright
16 contradictions between these two competing goals and
17 values.

18 Secondly, we think the proposal fails to
19 accord equal or even adequate weight to the stated goals
20 of public disclosure and accountability while mandating
21 duties that tilt heavily almost exclusively in the
22 direction of reducing or restricting public information
23 and public reporting.

24 And lastly, and this is a summary which we
25 go through in greater detail, to accomplish its goals,

1 it proposes to create an entity that gives the Mayor
2 mere absolute control over information access,
3 exacerbating an already staggering imbalance of power in
4 the ongoing struggle over full public disclosure of
5 vital City information, a struggle that we are generally
6 involved in every day.

7 If, as you say, your proposal is to put on
8 the ballot only things that reflect and create
9 consensus, I would suggest that this proposal doesn't do
10 that.

11 I'm going to -- I did a qualitative study of
12 the actual text of the recommended proposal and it
13 basically, out of twelve separate subsections that
14 address all of the various powers and functions and
15 composition, 75 percent, 75 percent, nine out of twelve,
16 refer explicitly to the power to waive and the power to
17 abolish. I think that gives you at least in terms of
18 numbers some idea of why we think the Commission is
19 tilted, to put it mildly, in favor of information
20 withholding.

21 Secondly, I did a qualitative analysis, too,
22 because I don't think numbers say it all, obviously, and
23 in that instance, I think that some of the provisions
24 reveal even more clearly an information restrictive bias
25 and function. I'm going to cite only one specific

1 provision, but to me it really states unequivocally what
2 the problem is that we have. It states that the
3 Commission, quote, "shall have the power and duty," and
4 I underline "duty," "to waive reporting requirements."
5 That's Section D1 at 59.

6 It's interesting to compare that mandatory
7 power to waive, duty to waive to the discretionary power
8 in the one provision in the next to last line of the
9 next to last provision of the text, that refers to the
10 possibility of adding reporting requirements.

11 This is really a stacked deck and it's a
12 deck that's stacked, I think, against the interests of
13 the public.

14 The last -- without going into some of the
15 procedural objections we have, which I do lay out, there
16 is one thing that I think really opens the referendum to
17 questions as to its legality, and that's the provision
18 in the guise of reiterating the Council's powers to pass
19 reporting requirements.

20 CHAIRPERSON FUCHS: Just a correction, we
21 won't take this off your time. The staff explained to
22 us there's a mistake in that paragraph, it's only
23 "power." Not "power and duty."

24 MS. BROWER: That's your typo.

25 CHAIRPERSON FUCHS: That's a typo.

1 MS. BROWER: But it says "power."

2 CHAIRPERSON FUCHS: Right, it says
3 that but there was no intentionality.

4 MS. BROWER: I'll withdraw my objection to
5 "duty," then. I would say though, that even absent the
6 word "duty," it becomes very clear that the way the
7 Commission will function is basically as a Commission to
8 limit public access to information and reporting, and
9 the thing I started saying is that there was a
10 provision, the very last provision of the text which if
11 passed would actually subordinate the City Council's
12 legislative authority just to add or expand reporting
13 requirements, subordinate that to the review and waiver
14 powers of the Commission. It's Section G, page 62 and I
15 think it probably, if not illegal, at the very least
16 really violates the most basic principles of separation
17 of power on which our democracy is premised.

18 And the last thing I just want to address
19 very, very quickly, and I really hope you will bother to
20 read the testimony, because we go through our own
21 experience trying to access data and having to use
22 intermediaries, you know, being forced like Blanche
23 Dubois to rely on the kindness of strangers and some
24 friends at IBO, but it shouldn't happen. We shouldn't
25 need an intermediary to access data about the City's

1 business, I feel very strongly about that.

2 The last thing I want to say is contrary to
3 I think your very good references to involving all
4 stakeholders, the Commission that you set up and the
5 process that is set up is in fact creating a Mayorly
6 dominated information gatekeeper or censor. There is no
7 requirement that any of the Mayor's six of nine
8 appointees even be representative of any segment of the
9 public. There are two other Citywide elected officials
10 and the third person is the Speaker of the Council. So
11 as far as we're concerned, we can't find the public or
12 the stakeholders whose interests I think are vitally
13 involved on the Commission, and I guess the last kind of
14 rhetorical question is, why in God's name does our
15 Mayor, any Mayor, and I want to be very clear, that the
16 questions and concerns that City Project is putting
17 forward do not relate to this Mayor or any particular
18 Mayor, they relate to a bias that we think is contrary
19 to the public interest, institutionally contrary.

20 Why does the Mayor, whose budget and fiscal
21 powers are near imperial and his manner of access to all
22 City data is greater than any human being in this City,
23 why does he need yet another tool, another weapon to
24 have the potential to withhold public information? I
25 just think that this Commission creates a very dangerous

1 situation. I think it blurs the lines between
2 executive, legislative powers and I think basically
3 leaves the public out on third base, if not left field,
4 and so despite, I think your good intentions and your
5 hard work, we would urge you to shelve this and not,
6 certainly not put it on a ballot on which there's a
7 contested Mayoral election.

8 We also do have an alternative proposal of a
9 vehicle that could take off from where your great work
10 left off, and that would be, and I'll just say it for
11 the record a very weird and probably never heard of
12 notion of a joint executive-legislative Commission that
13 would include members, representatives of the sectors
14 that are most concerned, involved and also affected by
15 the various business of the City, and we even lay out
16 some ways in which you might go about, that such an
17 entity might go about functioning.

18 So I apologize for my tone and my time, but
19 we feel very, very strongly that this is a proposal that
20 should not go on the ballot in its current form.

21 CHAIRPERSON FUCHS: Do we have questions for
22 Bonnie Brower? Yes, Commissioner Crowell.

23 COMM. CROWELL: How would that other
24 Commission be formed?

25 MS. BROWER: Well, what we've put forward is

1 the notion that the Mayor and his executive agencies and
2 the City Council would get together and try to designate
3 representatives, some of whom may be the exact same
4 representatives who on your Commission, only this
5 Commission would not have mandatory powers, it would be
6 furthering the inquiry.

7 And would also select, perhaps in an open
8 competitive process, my God, members from the public who
9 would represent the very diverse sectors in this City
10 whose interests are usually neglected.

11 COMM. CROWELL: So it would be formed
12 through some administrative mechanism?

13 MS. BROWER: Yes, and it might ultimately
14 wind up with recommending proposed Charter amendments or
15 new laws or things that could be done by Executive
16 Order. The question is whether, number one, we urge
17 that it cover exactly the area that you have excluded
18 from the Commission's jurisdiction. I didn't get into
19 that. You have excluded from the Commission's
20 jurisdiction the very issues on which public input is
21 most urgently needed.

22 The budget. There have been substantive and
23 procedural reforms that have been submitted to you that
24 have been ruled outside the focus of this Commission
25 that have been left to some indefinite entity at some

1 unknown time to be dealt with. Because the expiration
2 of the Financial Emergency Act is occurring, whether in
3 2008 or some other time it still seems to be up in the
4 air, this is not only a missed opportunity, but it's a
5 tragedy.

6 Our City's budget which we applaud as being
7 fiscally responsible and some people say transparent, is
8 not substantive. It gives nobody any substantive
9 information of how our expenditures are linked to
10 programs. Everybody knows that. There's no index of
11 the budget. The budget is 36 volumes a year. Nobody
12 can absorb that. Mark Page couldn't answer a specific
13 question during the budget hearings about a particular
14 program. Nobody can figure it out without tracking it
15 to the person inside OMB who generally doesn't talk to
16 you, who handles that area. The budget is not
17 transparent, programmatically and substantively.

18 All best practices in terms of public
19 budgeting now demand that there be a direct and
20 immediate connection between the figures in the budget
21 that require oversight for stability and fiscal
22 accountability and the actual use of the monies, as well
23 as where the revenues are coming from. And our budget
24 doesn't do that, and you are not, you have chosen to not
25 address those issues with this Commission. In fact, to

1 exclude it, and we think that's a tremendous error.

2 And there are other issues that have been
3 excluded, which really go to how this City will function
4 and the degree to which we will actually fulfill what I
5 think we all believe is a basic, basic principle of
6 democracy; transparency, accountability and maximum
7 public participation.

8 I guess with respect to this entity, we
9 think it fails those three tests.

10 CHAIRPERSON FUCHS: Are there any other
11 questions from the Commissioners? Commissioner Fiala.

12 MS. BROWER: By the way, I live on Staten
13 Island, but not in your District.

14 CHAIRPERSON FUCHS: Former District.

15 COMM. FIALA: Thank you. Your tone and your
16 time were quite reasonable.

17 MS. BROWER: Thank you very much.

18 COMM. FIALA: And that's not because you're
19 a fellow Islander.

20 I just want to say that when this idea first
21 popped up on our radar screen, I and I think a number of
22 us were of the opinion that it might not be needed, that
23 it lacks specificity in terms of what it was, how it
24 would be governed, how it would be created, and through
25 debate and debate, we wound up debating and refining,

1 debating and refining, debating and amending, and
2 finally debating and coming up with I think a very
3 impressive product, and it's important this be on the
4 record.

5 At one of our meetings we said, we refined
6 this thing, we took it from nothing and really made it
7 into something that now could be thrown into the public
8 and the public would have the opportunity, along with
9 civic leaders and others like yourself to come back and
10 say, "you missed the boat here, missed the mark here,
11 I'd tweak it here, tweak it there."

12 Because I have come to appreciate strongly,
13 as a Councilman I came to believe this, you know, you
14 get these reports, you don't know what goes into the
15 reports, you don't know how many reports are, those are
16 reports that are needed from Council to Council, Mayor
17 to Mayor, Comptroller to Comptroller, so on. This as
18 the Chair has alluded to, this is kind of a safe space
19 that you could talk about this very cumbersome, very
20 boring thing as far as the media and public officials
21 and public are concerned, stakeholders such as yourself
22 are concerned.

23 Two thoughts. One, with respect to the
24 imperial powers, we've discussed this, and the mechanism
25 that we've drafted here or created here was that the

1 City Council, obviously the Mayor and the City Council,
2 the duly elected officials, the chief executive and the
3 legislative body have ultimate authority, and the
4 Council could override a Mayoral veto, it doesn't have
5 to accept --

6 MS. BROWER: But you've limited the
7 Council's consideration to a ninety-day period after
8 which the rulings go automatically into effect.

9 CHAIRPERSON FUCHS: That's going to be
10 changed. I agree. We're going to change it.

11 COMM. FIALA: This is exactly what should be
12 happening, I'm really glad you're here today. We threw
13 it out --

14 MS. BROWER: That's unusual.

15 COMM. FIALA: I know I'm serious, I've come
16 to know all these folks, we're all serious. We're
17 interested in what didn't we get right, what would your
18 differences be. Would it be 120 days? I'm of the
19 position there should be some time frame imposed. When
20 you have an open ended, let's face it, it gets ignored.
21 There's time frames imposed on everything, and
22 particularly in Government, when you have 24-hour news
23 cycles, when you're trying to get all the things done
24 such as managing all the important data in the City, you
25 want to be sure the legislative body and the Mayor

1 understand that yes, the Commission has acted, here are
2 their recommendations, now you have to act.

3 So if you could tweak the time frame, what
4 would it be? One other question, and I'll throw it back
5 to you.

6 Stakeholders. We looked at this. You'll
7 notice in our language there is an appointment of three
8 individuals from outside of Government. Would you
9 refine that, and would you recommend specific types of
10 people in terms of expertise?

11 MS. BROWER: Let me say a couple of things.
12 Number one, in my first draft of comments, I went
13 through every specific provision and minutely analyzed
14 and also even suggested reforms. I ultimately concluded
15 that that would not produce an entity that we could
16 support, but for a number of reasons, many of which I've
17 already stated, others of which are in here, I would say
18 this: As long as your entity, the Commission, is not
19 an elected entity, which it's not, and is not a
20 representative entity, which it is not, I don't think
21 it's appropriate to give a time period for the City's
22 Legislature to act to opt out of a proposal that's being
23 made by the Commission. I think it might make sense to
24 require that it opt in.

25 There's a heavier burden to opt out, and I

1 think it's inappropriate coming from a non-legislative
2 entity to -- look, I'm not going to talk about the
3 efficiency of the City Council. I mean, I'm an equal
4 opportunity offender. Ask them about us, me and City
5 Project. We have a lot of criticisms that I think are
6 valid to make about the way the Council functions.
7 Actually, Mr. Fiala, I think the question of term limits
8 makes that even worse, because people are just being
9 broken in by the time their term limits are expiring.
10 That makes putting a time limit on the City Council I
11 think even less appropriate.

12 In terms of the stakeholders, you cannot
13 have an entity 66 percent of which is appointed by the
14 Mayor without any, by the way, guidelines as to the
15 three non--- civilian representatives and say that
16 that's going to be a representative entity. The Mayor
17 has 66 percent of the power, which I think in terms of a
18 lot of -- you know, and again, I want to go back to the
19 fact that there really are two different needs that are
20 being addressed here, and initially, I said to myself, I
21 don't think they can be addressed at the same time by
22 the same entity. Those are the internal efficiency and
23 effectiveness needs which I absolutely agree -- I agree
24 with your premise that reform is essential for
25 reporting. I want to be very clear about that, you

1 know, and I do appreciate that you have struggled to
2 come up with this proposal. I just think it's wrong,
3 that's all.

4 But the needs for internal efficiency, for
5 performance-based reporting is not identical and in fact
6 may be intentional and may be an outright conflict for
7 the need for public disclosure and more importantly or
8 as importantly public access to data.

9 If you will give me the opportunity, I want
10 to give you an example. Last fall City Project decided
11 to undertake a huge project to study tax expenditures
12 that were recurring in City property from all sources,
13 not just sources that the City controls; State,
14 sovereignty, the Feds, State laws, City laws, you name
15 it, which apparently no one else has done recently. The
16 City hasn't done it.

17 We went to two City Charter mandated reports
18 to determine the scope of the problem. One is the
19 City's annual report on the property tax, that's Charter
20 mandated. The other is the City's property tax
21 expenditure annual report, which is also mandated by the
22 Charter. Neither of those two reports, alone or
23 together, gave us information about the entire scope of
24 tax expenditures; the value or the source, where they
25 came from. We had to go to our friends at IBO and beg

1 them to see if they could access the Department of
2 Finance -- that's who does these other two reports -- if
3 they would get the Department of Finance to do basically
4 a property by property printout for us. The bottom
5 line, we did one report so far, called State of Distress
6 that's on the State property tax exemptions and five
7 public authorities are now starting a second phase, but
8 the amazing thing to me is that the City's tax
9 expenditure report reported on \$2.4 billion of tax
10 expenditures of lost revenues because of tax exemptions.
11 We found a minimum, minimum, in the most recent year for
12 which we got data of \$7.7 billion.

13 Now, some of those are directly controllable
14 by the City. Some of them are indirectly controllable
15 by the City, and some of them aren't controllable at
16 all. But what I would say is that when the City has a
17 structural gap between its usual revenues and its
18 necessary expenditures, it would be good to know if
19 there are revenues that we could be accruing into the
20 City Treasury, where they're to be found and how we
21 could go after them.

22 You could not do this study and again, I
23 just sent six e-mails to my contact at IBO for more
24 information for the second phase because we can't access
25 the information from the Department of Finance.

1 CHAIRPERSON FUCHS: Okay. I'd like to jump
2 in and make a couple of points and ask a couple of
3 questions, because I'm concerned that, obviously there
4 are some valid points that you make here which I think
5 we're in the process of trying to deal with. For
6 example your point about the opt in versus the opt out
7 on the City Council and the 90-day limit. We've also
8 had discussions around this issue and we believe there
9 shouldn't be a limit, and because we were very, very
10 explicit about not curtailing any powers of the Council
11 to ask for reports.

12 MS. BROWER: But you do, the last
13 paragraph--

14 CHAIRPERSON FUCHS: No, we don't, actually.

15 MS. BROWER: Could I read you the last
16 paragraph?

17 CHAIRPERSON FUCHS: Yes, sure, it's just a
18 misread of what the Commission is about, so we have to
19 clean up any language. If you have the perception that
20 we are curtailing the Council's power here --

21 MS. BROWER: I do.

22 CHAIRPERSON FUCHS: Then we have to just
23 change whatever it is that's leading you to that
24 perception, because we can't -- we have no interest in
25 doing that, and that isn't the purpose of this.

1 MS. BROWER: Let me just read you the
2 language so you'll understand why I misread it.

3 CHAIRPERSON FUCHS: Go ahead. I have legal
4 counsel here who will help me respond if I'm somehow
5 missing the boat.

6 MS. BROWER: I'm reading it as a consumer,
7 who used to be a lawyer but not anymore. "Nothing in
8 this section shall be construed to prevent the City
9 Council from acting by Local Law to repeal or limit any
10 requirement otherwise subject to this section at any
11 time or to enhance or extend such requirement, provided
12 that any such enhancement or extension shall be subject
13 to the review procedures of this section."

14 Excuse me, that says to anybody who can
15 follow legal babble, that the Council can waive and get
16 rid of any reporting requirements it wants, no problem,
17 but if it wants to enhance or extend reporting
18 requirements, those enhancements and extensions are
19 subject to the review, and I would suggest, the waiver,
20 of this Commission. That's what it says.

21 CHAIRPERSON FUCHS: Okay. While I'm hoping
22 we can clarify this to the extent that it's
23 understandable to the general public, I will have
24 counsel respond to you directly. But just for the
25 purposes of the discussion this evening, the point of

1 that is to acknowledge existing Council authority to
2 report or ask for reports, rather, that they choose.
3 It's not to suggest in any way that we are trying to
4 limit Council authority. It's to acknowledge existing
5 Council authority.

6 I do want to --

7 MS. BROWER: It does on the one hand and
8 taketh away on the other.

9 CHAIRPERSON FUCHS: No, it's not taking
10 away. This sounds like a loop. What we want here is
11 review of every report. What we're saying is when the
12 Council reups a report that report then becomes subject
13 to review in the cycle of review that we have. That's
14 all that says.

15 MS. BROWER: And your review power as laid
16 out by 75 percent of this language, this text, entails
17 the power to waive.

18 CHAIRPERSON FUCHS: Right, let me --

19 MS. BROWER: It doesn't have the power to
20 expand or enhance.

21 CHAIRPERSON FUCHS: We can enhance, too.

22 MS. BROWER: That's advisory only, by the
23 way.

24 CHAIRPERSON FUCHS: Right, that's absolute
25 and intentional.

1 MS. BROWER: That's insane.

2 CHAIRPERSON FUCHS: Could you excuse me just
3 for a moment so I can explain this and you can feel free
4 to respond.

5 MS. BROWER: I apologize.

6 CHAIRPERSON FUCHS: The point is, I could
7 ask everyone in this room to tell me what report has
8 ever been waived by the City Council or by the Mayor?
9 Has anybody ever looked through the Charter, looked
10 through the Administrative Code and said, "there's a
11 report nobody is using anymore and is useless, let's
12 waive the reporting requirement because we want to think
13 about it in a different way."

14 Just let me finish my point.

15 I believe there is nobody in this room that
16 can think of one single report that has ever been
17 waived. So, my problem here, I'm sort of upset only
18 because it seems so much like you've missed the boat
19 here and we need to clarify this. You're suggesting
20 almost throwing out the baby with the bath water.

21 MS. BROWER: I'm suggesting throwing this
22 baby out.

23 CHAIRPERSON FUCHS: I know you are. And I'm
24 saying we are not doing what you want us to do, which is
25 expand whatever ways in which the public accesses

1 information in a direct way. We are not doing that,
2 that's correct, we have not figured out how to do that.
3 Doesn't mean it shouldn't be done. We're addressing an
4 issue which essentially we believe will pave the way for
5 more rational and reasonable reporting and information
6 access.

7 If we simply layer report upon report, which
8 is what's happening now, then there's very little
9 incentive for anybody to think about, what do we really
10 need in terms of reporting. There's very little
11 incentive to do what you think we should do which is to
12 crosswalk budget data with programmatic data because
13 we're on first reports. On first cut here we have
14 reports in the Charter, we have over a hundred Charter
15 required reports. In the Administrative Code there are
16 another 150 reports. Am I exaggerating the number of
17 Charter required reports? Absolutely. Okay. Give me a
18 -- it's something around 80.

19 So the point here is, is that there needs to
20 be a place where we do review, so we're going to make --
21 we're going to make this Commission be able to waive
22 reports. This will not stop the City Council from

23 requiring more reports. In fact, we hope it enhances
24 their abilities to think rationally in terms of data and
25 reporting in terms of two criteria; the public's right

35

1 to know and the ability for us to manage in an efficient
2 way.

3 My problem with your remarks, many of which
4 are valid and legitimate, it just doesn't address in
5 many ways what we're trying to do in a limited way.
6 This is a limited Commission, this is absolutely true.

7 MS. BROWER: No, it's not, Ester. The name
8 of it is the Commission for Efficiency and Data Access.

9 CHAIRPERSON FUCHS: Right, because we
10 believe --

11 MS. BROWER: You have left out the access
12 and accountability provisions.

13 CHAIRPERSON FUCHS: We don't believe we have
14 left out the access for the following reasons. We
15 believe that in order to improve our ability to report
16 data we have to have a mechanism to clean it up, so
17 that's the first thing. The public could come to this
18 and make requests about the kinds of information that
19 they want. This will be a place where an extended
20 discussion can happen. That won't be in a political

21 environment that ends up happening every time there's a
22 request linked to the legislative body for data. It's
23 not that we -- we expect the legislative body to
24 continually make requests for data. They will do it.
25 They should do it, we want them to do it.

36

1 The Mayor will continue to do that, but the
2 problem is nobody has time or the political will or the
3 inclination to review what we have in there, and if we
4 don't do this, what I feel strongly about, it's a
5 mistake not to support this, if we can come up with some
6 language that deals with your hesitations about limiting
7 the Council's ability to act, which is certainly not the
8 intention here, I'm very concerned if we don't do this
9 or support this at this moment and we're not wedded to
10 supporting this, because if everybody believes the way
11 you believe that this is the intention, we're not going
12 to put it out, to be perfectly honest, but I believe
13 there will be a lot of opportunity to do this cleanup
14 that we think needs to be done in order to do the
15 conversation that we all want to have.

16 There is absolutely no way now in which
17 anybody will take it upon themselves to review reports,

18 as Commissioner Fiala suggested.

19 MS. BROWER: We made a proposal for a way
20 that I think would depoliticize and neutralize existing
21 inequalities and that is the remarkable apparently
22 bizarre notion of a joint legislative-executive
23 Commission on which public representatives would
24 actually be seated.

25 I am not standing here opposing the goal of

37

1 either reviewing the reports, but I don't think you can
2 review just for the purpose of repeal or waiver, you
3 know, you have to review for the adequacy, for the
4 intelligibility, for the substance, or you have to say
5 this is a provision that pertains only to internal
6 Government efficiency.

7 That is not what is being put out here
8 publicly.

9 CHAIRPERSON FUCHS: Right, because we
10 believe that the review process will emerge as a much
11 more thoughtful process in the way you're suggesting
12 now.

13 MS. BROWER: It won't in the entity that
14 you've created. There will be -- there is a built in
15 bias. It's not even a bias, it's an absolute mandate

16 that all it look at is reducing reporting, and that is
17 not what this City needs.

18 CHAIRPERSON FUCHS: That's not -- I don't
19 know. It's troubling to me that that's how you're
20 reading it, because that's not what it says.

21 MS. BROWER: I'm a very literal reader,
22 seriously.

23 CHAIRPERSON FUCHS: We're all literal
24 readers in some fundamental way. It says that one needs
25 to, of course, reduce the number of reports. There's no

38

1 question about that, we're out there to look at how --
2 that means, also that, that provides more room for
3 better reporting and other reports, and we're not
4 limiting anybody's ability who currently has it to ask
5 for reports and you can be sure the City Council will
6 continue doing what it does.

7 I'll bet you, if we don't put this on the
8 ballot and this doesn't pass that in the next ten years,
9 no one will eliminate one single report and the City
10 Council will continue asking for reports. I will bet
11 you as today is whatever day it is. Whatever you want
12 to bet, that not one single report will be eliminated if

13 we can't produce a Commission like this. And having
14 said that, I don't know whether we should do this,
15 because if it's too contentious and too difficult for
16 people to understand, our Commission may decide it
17 doesn't want to go forward with it. I am not wedded to
18 this, but I'm telling you right now nothing will happen.

19 MS. BROWER: With all due respect, I don't
20 think it's too difficult to understand, I think it's too
21 contentious.

22 CHAIRPERSON FUCHS: It's not meant to be
23 contentious.

24 MS. BROWER: It may not meant to be
25 contentious, but you're also, Ester, you're talking in

39

1 terms of "we" and "them." I'm not in the "we," I'm not
2 in the "them." I'm not an employee of the executive
3 branch of Government, I'm certainly not an employee of
4 the legislative branch of Government. I don't see this
5 as a fight between us and them. I think this Commission
6 has set up a Commission that does reflect that profound
7 division and lack of cooperation. That is one of the
8 basic reasons I think it will fail to do what you want
9 it to do, and the issue, by the way, I noted the two
10 ways in which you tried to assess the usefulness of

11 existing reports. First of all, you didn't even include
12 the reports that we were talking about, that's fine, but
13 they're very useful.

14 CHAIRPERSON FUCHS: There was a point -- we
15 didn't put the budget documents in the MMR because we
16 believe --

17 MS. BROWER: I'm not talking about the
18 budget, I'm talking about the finance tax report.

19 CHAIRPERSON FUCHS: The point is we left out
20 of the review the reports that there is a strong
21 consensus that these are useful to the agencies that
22 have to --

23 MS. BROWER: No, you did ask about the
24 budget documents. I think what you found doesn't -- I
25 think what you found suggests findings other than the

40

1 ones you concluded, that everything other than the
2 budget and the MMR are useless because the media doesn't
3 report on it and significant experts don't use them. I
4 think that has something more to do with the real
5 intelligibility of those reports and also the delivery
6 mechanisms and the communication mechanisms that the
7 City uses.

8 CHAIRPERSON FUCHS: You know what, we don't
9 believe they're useless. We believe that in the
10 instance when that finance document came up, if it did
11 in a review, you would come to the meeting and you would
12 say, "this is a useful document to me," and that this
13 Commission would deliberate and say, "this is a document
14 that we don't want to suggest to waive, because there's
15 a constituency that uses these documents and they're
16 important the way they are." So --

17 MS. BROWER: No, they need to be improved.

18 CHAIRPERSON FUCHS: Well, you would come and
19 make a suggestion --

20 MS. BROWER: There's no forum for that.

21 CHAIRPERSON FUCHS: -- at that forum. You
22 would be eliminating another place if we don't do this,
23 to have that conversation in which you are invited to
24 come to say, "this is an important document but it could
25 be improved in the following ways." The Commission

41

1 could make that recommendation, then, to the Council to
2 basically revise the document, to take into account
3 these following suggestions.

4 MS. BROWER: It's an executive document,
5 Ester, what is the --

6 CHAIRPERSON FUCHS: It could make the
7 suggestion to the Mayor to revise that document it
8 reviews, whichever body is responsible.

9 MS. BROWER: What if he says no?

10 CHAIRPERSON FUCHS: What if he says no? Ha,
11 ha, ha. That's like asking me a question, " You know,
12 what if God says no?" What if he says no? This is a
13 process that everybody doesn't get what they want at the
14 end of the day.

15 MS. BROWER: First of all, I'm not talking
16 about getting what we want. I'm talking about an entity
17 and a process that is fair, that is representative and
18 that is not politicized, and I suggest to you most
19 respectfully that those three qualities don't apply to
20 this Commission, and I think it is a fatal flaw, and I
21 think it will postpone indefinitely the ability to do
22 the kind of smart revisions and review that you and I
23 both agree are essential for City information to be as
24 lean, mean and substantive as it needs to be, for both
25 internal uses and for external uses.

42

1 CHAIRPERSON FUCHS: All right. I appreciate
2 your comments. What I would suggest, to be most helpful

3 to the Commission at this point is that you, if you're
4 still interested, make suggestions to us about how we
5 could change this to accommodate --

6 MS. BROWER: I have made a proposal.

7 CHAIRPERSON FUCHS: Right, I know.

8 MS. BROWER: The proposal is for the
9 designation of a joint executive --

10 CHAIRPERSON FUCHS: Is that all? That's all
11 you think will remedy this?

12 MS. BROWER: No, no, I think this is a
13 really great beginning. It's a process to take off from
14 where you conclude.

15 CHAIRPERSON FUCHS: I know. I'm asking for
16 what you think we would have to do to remedy your
17 criticisms. If it's like a list of fifty things, we're
18 obviously not going to be able to do it at this point in
19 time. But if there are things that have value, we would
20 like to consider it. We have one. If there are other
21 things that you think we should do that we could
22 consider in the next couple of weeks we're going to
23 deliberate and I would like to be able to present some
24 of those ideas as you have tonight to the Commission for
25 consideration.

1 So that's really all I'm saying.

2 MS. BROWER: Okay. Some of the things
3 you're requesting are in my written testimony.

4 CHAIRPERSON FUCHS: Okay, that's fine, then
5 we'll get it from the testimony.

6 Are there any more questions, comments, for
7 Bonnie? Thank you for coming this evening.

8 MS. BROWER: Thank you very much.

9 CHAIRPERSON FUCHS: I appreciate your
10 testimony, I know the Commission appreciates your
11 testimony. It's disappointing on some fundamental
12 level, because I do think we share some of the same
13 values of what we want to get out at this.

14 MS. BROWER: I agree.

15 CHAIRPERSON FUCHS: And it would be
16 unfortunate if we were not able to come to some
17 appropriate consensus here to get to the outcomes we all
18 want. We may, we may not, I'm completely up in the air
19 at this point and I know the Commission is, about what
20 we should do with this proposal. We may not be able to
21 do anything at the end and we may end up taking it off
22 completely as we discussed earlier. We may try to
23 revise it and see if we can accommodate some of the
24 problems people had or it may stay in substantially the
25 same form and we may move forward.

1 So this is a good discussion. We're all
2 passionate about what we think is important and we
3 appreciate you coming this evening.

4 MS. BROWER: Thank you. Thank you for
5 listening.

6 CHAIRPERSON FUCHS: Thank you.

7 I'd like to call Councilman Weprin, please.

8 COUNCILMAN WEPRIN: We have copies of the
9 written testimony. I'm not used to being on this side,
10 having sat through three months of budgets hearings.

11 CHAIRPERSON FUCHS: This should be
12 refreshing for you.

13 COUNCILMAN WEPRIN: Chairman Fuchs,
14 distinguished Commissioners, many of whom I have known
15 for many years, it looks like. Thank you for the
16 opportunity to speak here tonight.

17 My name is David Weprin. I Chair the City
18 Council Finance Committee and I'm actually here
19 testifying not only on my own behalf but on behalf of
20 the New York City Council.

21 The proposal before you today attempts to
22 import requirements of the State Financial Emergency Act
23 into the City Charter. The Financial Emergency Act was
24 designed to provide independent oversight of the City's
25 budget process in the wake of the fiscal process of the

1 1970's.

2 The City has certainly come a long way since
3 that time. In the wake of the September 11th terrorist
4 attacks and subsequent recession, the Council worked
5 extremely hard to control spending, insure adequate
6 revenues and maintain essential services. We had to
7 make extremely difficult decisions. Over the course of
8 three years we cut over \$3 billion in spending, we made
9 difficult decisions to raise taxes and fought to
10 maintain essential services that keep our City safe and
11 maintain quality of life for our residents thereby
12 insuring our City's continued economic vitality. As the
13 Finance Chair of the City Council that made these tough
14 decisions I have a number of concerns with the proposal
15 before us today.

16 One concern is that when you attempt to mesh
17 what was written as an independent review into the
18 process that was originally the subject of that review
19 there is a potential to tilt the balance struck in the
20 process. The proposal before you today states that if
21 there is any deficit in the budget, the Mayor is
22 required to take all actions to insure compliance with
23 the requirement that the budget be balanced. People

24 more cynical than me might wonder if by June 5th based
25 upon the Mayor's estimate of revenues the Council adopts

46

1 a balanced budget, yet on July 1st the Mayor claims that
2 there is a deficit, would this allow the Mayor to undo
3 the agreement he made three weeks earlier with the
4 Council? This would be a situation that should be
5 resolved by the Mayor and the Council together, as
6 contemplated by provisions such as the budget
7 modification provisions of the current City Charter.

8 On the other hand, because the City has come
9 so far from the days of the fiscal crisis, it surprises
10 me that certain burdensome restraints imposed by the
11 Financial Emergency Act may be carried over into the
12 City Charter by your proposal.

13 There currently does not appear to be an
14 exception to the GAAP balanced budget requirement for
15 creating a rainy day account or carrying a surplus. The
16 inability to do this imposes significant burdens on our
17 City that other municipalities in the State are free
18 from. I certainly believe that whether or not the
19 Financial Emergency Act or some of its requirements are
20 to continue, this is one of the first issues that needs
21 to be addressed so that the City can save money in good

22 times to maintain essential services and insure its
23 fiscal stability in bad times.

24 Finally, I have to admit that the Financial
25 Emergency Act has served the City well for the past 25

47

1 years. I believe actually it's very existence in part
2 is part of the reason that every year the City Council,
3 unlike Albany, although this year they surprised us, has
4 adopted an on time balanced budget and we still have
5 three days to do this this year as well, and I'm going
6 to make a prediction publicly that we will have a
7 balanced budget in place by Thursday.

8 Under current State law certain parts of the
9 State Financial Emergency Act may continue past 2008. I
10 believe that we together with the State should take a
11 comprehensive look at the Act over the next two years
12 and decide what if any independent monitoring is
13 required, as well as how best to relieve a much more
14 responsible City Government from some of the more
15 onerous requirements. Then should this be done in a
16 manner that does not upset the carefully crafted balance
17 of power laid out in our current City Charter.

18 I'd be happy to answer any questions.

19 CHAIRPERSON FUCHS: Thank you very much.

20 Commissioners --

21 COUNCILMAN WEPRIN: As long as I don't have
22 to answer Bonnie Brower's questions.

23 CHAIRPERSON FUCHS: I assure you we're done.
24 Commissioner Grayson.

25 COMM. GRAYSON: You're the second speaker

48

1 today that has talked about a rainy day fund. As
2 Chairman of the Finance Committee have you thought about
3 what level you would fund the rainy day fund? Would it
4 be a mandatory annual dollar amount to fund the fund to
5 get there or would it be based solely on excess revenues
6 at the end of the year?

7 COUNCILMAN WEPRIN: That's a good question.
8 I don't know if we should do it based on a percentage.
9 Certainly I would think a percentage would be more
10 appropriate than a dollar amount, because the budget
11 certainly keeps going up each and every year. The
12 current budget we're in right now, that we're about to
13 adopt is close to 50 billion, it's about 49.7, so
14 currently I think it should be a percentage. What that
15 percentage is I guess is subject to discussion. But it
16 certainly should be a percentage in my opinion of the

17 adopted budget.

18 CHAIRPERSON FUCHS: Any other questions?

19 Councilman -- notice how I misspoke. Former Councilman,
20 current Commissioner Fiala.

21 COMM. FIALA: Thank you, Madam Chair.

22 COUNCILMAN WEPRIN: I think his name is
23 still up at 250 Broadway, they took a while to take down
24 those names.

25 CHAIRPERSON FUCHS: He misses you guys.

49

1 COMM. FIALA: I'll have to come visit.

2 I don't know if you were here earlier when
3 the Deputy Comptroller spoke. This is something we
4 spent a lot of time on, actually I indicated to the
5 Deputy Comptroller in our very first meeting this came
6 up. I agree like you we need a rainy day fund. For
7 nine years when I was in the Council, I tried to get the
8 Council to agree to that. I think it's important for
9 the public to understand, watching on TV, why we take
10 certain things out and we don't throw in all the things
11 we want.

12 As I understand it, having now studied it
13 and been guided by our own counsel and staff, marrying

14 the rainy day fund into the proposal we have now is a
15 lot more difficult than I thought in that there are
16 provisions of FEA that would have to be amended and
17 would prohibit us from doing that at this time.
18 Obviously State law and State requirements supersedes
19 City, but that was the reason.

20 I'd just like you before you leave to know
21 that we're very strong, I know I will be advocating as I
22 think all of my colleagues, if this gets put in what we
23 call the back of the book to be reviewed at a later date
24 as you get closer to the FEA expiration date and the
25 hopeful thing that will happen is that we'll be able to

50

1 do that down the road. But I believe the budget
2 stabilization account, while of great help to us now, is
3 not a long term fiscally responsible thing to do. So I
4 thank you for advocating for it and for the work you do
5 as Finance Chair.

6 COUNCILMAN WEPRIN: Thank you.

7 COMM. ABRAMS: Madam Chair?

8 CHAIRPERSON FUCHS: Commissioner Abrams.

9 COMM. ABRAMS: Councilman Weprin, as you are
10 probably aware based on the preliminary recommendations
11 that were put forward, one of the things the Commission

12 is considering is not continuing the Financial Control
13 Board as it currently exists. Do you have a personal
14 view of that? Do your colleagues in the Council have a
15 view?

16 COUNCILMAN WEPRIN: My colleagues and more
17 particularly the Finance staff which is very much
18 involved in the technicalities of the budget, feel that
19 in the event that the City Council was to adopt their
20 own budget, which hasn't been done too much, it was done
21 one year under Speaker Peter Vallone's tenure and Mayor
22 Guiliani's tenure in recent history, they feel that the
23 Control Board would be very helpful in that process of
24 certifying a separate budget by the City Council.
25 That's one of the issues.

51

1 I mean, obviously, the other thing is, of
2 course, as I mentioned in my testimony, is that we do,
3 it does seem to be, for years there have been proposals,
4 as you know, throughout your tenure as Attorney General
5 going back to those years, there were always issues
6 about how to force the Legislature to have a budget in
7 place by April 1st and I know at one point there were a
8 number of ideas that were out there, including adopting

9 the previous year budget and obviously this year there
10 were a number of other legislative proposals.

11 But it seems to be that the one thing that
12 seems to kind of make it acceptable and force the
13 Council to have a budget each and every year by July 1st
14 is the fear of the Control Board actually coming in and
15 taking over the finances of the City of New York, which
16 I don't think is something anybody really wants to see.

17 So -- does that mean there's ever a time
18 that we shouldn't remove the Control Board? No. It's
19 certainly something that should be discussed, but that
20 is an issue, that is a mechanism that forces us to meet
21 that July 1st deadline. I know I've said it when I've
22 spoken publicly, and I know the Mayor has and the
23 Mayor's been at publicly at town hall meetings and other
24 things, he always refers to the fact that we do have a
25 balanced budget in place by July 1st and does reference

52

1 the Control Board. Whether, obviously we're all
2 professionals and it's our responsibility to adopt the
3 budget on time and we should, although that didn't stop
4 Albany for many years of not doing it.

5 COMM. ABRAMS: So it's your view and the
6 Council staff or the Finance Committee's view that the

7 Control Board should be continued?

8 COUNCILMAN WEPRIN: At this point, yes.

9 CHAIRPERSON FUCHS: Commissioner Forsythe.

10 COMM. FORSYTHE: The rainy day fund is an
11 interesting idea, question that's been put forward,
12 Professor Brecher put it before us earlier.

13 That was exciting.

14 CHAIRPERSON FUCHS: God is speaking through
15 Commissioner Forsythe. Uh-oh.

16 COMM. FORSYTHE: The Commission has put it
17 forward and there are a number of problems and issues
18 associated with it, as Commissioner Fiala suggested.
19 Especially what restrictions there might be on its use;
20 whether it can be drawn down whenever the Mayor and the
21 Council decided to, or there should be some limitation
22 to economic circumstances, as well as how funding would
23 be required, whether there would be required
24 contributions and in what amount.

25 Those need to be considered very

53

1 sensitively, and I urge you and others as you think
2 about this over the next couple of years to think very
3 carefully about this.

4 I make this suggestion on the basis of my
5 experience in Albany where there was in fact a rainy day
6 fund that had been created but was not used. The
7 Governor and the Legislature both saw fit to avoid its
8 use as often as possible, because they preferred to
9 spend the money on their own without the restrictions
10 that the rainy day fund imposed on them, so until well
11 into the Pataki administration the rainy day fund was
12 unused.

13 I make that observation to remind people
14 it's possible to create a rainy day fund and still have
15 it not serve the purpose that it was set out to do,
16 unless the design is very carefully done and people are
17 very cautious about the provisions and principles
18 associated with it. Again, I know you'll be involved in
19 this debate over the course of the next couple of years
20 and I encourage it. I think it's an important issue to
21 be discussed, but it is easy to imagine the creation of
22 a rainy day fund that turns out to be avoided more than
23 it is used.

24 COUNCILMAN WEPRIN: Point well taken. I
25 remember your tenure as budget director and I think you

1 did a very good job back then and your experience,

2 obviously, is something that -- was there a budget on
3 time during that period?

4 CHAIRPERSON FUCHS: That takes care of you,
5 huh? Never got a budget in on time, huh?

6 COUNCILMAN WEPRIN: I don't think it was his
7 fault.

8 COMM. FORSYTHE: Actually that offers me the
9 opportunity to reminisce happily about the first Speaker
10 Weprin who managed --

11 COUNCILMAN WEPRIN: Is that foreshadowing?

12 COMM. FORSYTHE: I tried to use it
13 carefully. The first Speaker Weprin who managed I think
14 to get two budgets within a week or a day of their
15 deadline. Unfortunately I was not budget director at
16 the time, my friend Pat Boliaro (ph) had taken over by
17 them, but it was possible almost to make it and there
18 was another man named Weprin who was involved in that.

19 Thank you for remembering.

20 CHAIRPERSON FUCHS: Any other comments or
21 questions? Just want to thank the City Councilman
22 Weprin -- maybe some day another title will be his,
23 too -- for coming here today, and want to just reiterate
24 that the issue of the Control Board, obviously, is not
25 impacted by anything we've proposed here, so that we

1 hope that we can get the support of the Council for this
2 proposal, regardless of what they think about what
3 should be done in the future about the Control Board.

4 And I want to personally state my own
5 observation that I have full faith that the City Council
6 can operate responsibly without a Control Board, and it
7 is amusing to me that both you and the Comptroller come
8 in today to suggest that in fact the City might need the
9 State Control Board vehicle when in fact the State has a
10 fairly abysmal record in dealing with its budgetary
11 issues, and we here have had extremely responsible
12 public officials, both in the legislative branch and the
13 executive branch, as well as in the Comptroller's
14 office, making sure that the City has had 23 consecutive
15 balanced budgets and the best bond rating.

16 You should take some credit for that, it
17 happened this year, that we've ever had.

18 So we thank you for coming today and sharing
19 your views with us and sharing the views of the Council.

20 COUNCILMAN WEPRIN: Thank you, and I know
21 whatever deliberations you'll make will be on a
22 non-partisan basis, because as I mentioned, I know a
23 number of you in different capacities and have very high
24 regard for the membership of this Commission.

25 CHAIRPERSON FUCHS: Thank you very much.

1 Can I call Chuck Brecher, please, to testify?

2 MR. BRECHER: I have a written statement.

3 CHAIRPERSON FUCHS: Thank you.

4 MR. BRECHER: I am Chuck Brecher, executive
5 vice president and director of research at the Citizens'
6 Budget Commission, a group that's a nonpartisan civic
7 organization, been in existence since 1932 seeking to
8 promote better financial management at the City.

9 This is my second visit with the Commission,
10 I thank you for having me back. I really want to focus
11 my remarks around three things this evening.

12 One is to give the Citizens Budget
13 Commission's endorsement to the proposals to incorporate
14 in the Charter many of the planning requirements now in
15 the Financial Emergency Act. I want to respond to your
16 request for some comments on the preliminary proposal
17 for a public reporting and data commission and then end
18 with some unsolicited advice about some other items, so
19 let me go through that.

20 First on incorporating the requirements for
21 financial planning and budgeting, and reporting, we
22 think this is a good idea. The Commission hasn't yet
23 taken a position on whether to extend the Emergency
24 Financial Control Board, we think that we should assume

25 the current law will stay in place, that it will expire

57

1 and that its commendable of the Mayor and of you to be
2 thinking ahead, be planning about what happens when that
3 act expires and to incorporate these requirements which
4 are some very good financial practices into the City
5 Charter and have them exist beyond the expiration of the
6 current law.

7 I won't go through and repeat what you have
8 done and incorporate it in the Charter as summarized in
9 the testimony. Those are very important provisions. I
10 do want to say one of the technical comments about that.
11 With respect to the financial planning, the quarterly
12 modifications, I think the Act, because the State law
13 now can impose requirements on what are called the
14 covered organizations having to submit plans along with
15 the City in the City Charter I don't think you can
16 mandate things on to the covered organizations. You
17 might want to acknowledge that in your report and
18 recommend to the Mayor and State Legislature that there
19 be supplementary legislation to maintain that.

20 Otherwise we think it's a wise step,
21 anticipating what will happen and again, we commend the
22 Mayor for having established a commission to think about

23 it and you all for the good work that you have done in
24 making those recommendations. So thank you for that.

25 To provide some response to your request for

58

1 reactions to a proposal for a commission on public
2 reporting and data access, I really have two points to
3 make about that. One is that if there is to be a body
4 -- well first, I guess to endorse the notion that we
5 need some entity to address this. We think it is an
6 unmet need and again you've recognized something, a
7 place where City Government can be improved by doing
8 this better and it is a step forward to be talking about
9 how to do that.

10 With respect to the specific proposal, one,
11 if there's going to be an entity that does this review
12 and steps back, that the principle should be that the
13 people who decide what the Mayor has to report to the
14 public ought not to be, that Board ought not to be
15 dominated by the Mayor, so the composition of this
16 should be thought of as trying to incorporate Mayoral
17 appointees with a majority of people that aren't
18 directly accountable to the Mayor and that it should be
19 an independent voice making this case, so that would

20 suggest a change in the composition of the Board that
21 you create.

22 And then the second thing is that, I think
23 you need to recognize that there is a body in the
24 Charter already called the Commission on Public
25 Information and Communication, COPIC as it's sometimes

59

1 referred to, that has a lot of overlapping
2 responsibilities with the Commission that you would
3 create. It's not identical, but it does overlap and it
4 probably would be wise to explicitly address this
5 overlap, decide whether what you want to do is get rid
6 of COPIC, have this new Commission replace its
7 functions, absorb them or modify the powers and
8 composition of COPIC to do what you want, but I don't
9 think it would be the wisest course to create another
10 entity that's duplicative of something that's already
11 there, so you might as well acknowledge it and do what
12 can be done to streamline things in accomplishing this.

13 Then the last part of what I wanted to do,
14 make three other points, advice that you didn't ask for
15 but I wanted to take the advantage of the opportunity to
16 put it on the record.

17 One is what you have done is incorporate the

18 good financial planning practices in State law into the
19 City Charter. I think good practices can be made
20 better. There are things we find as weaknesses in the
21 current requirements that you can correct as you do
22 this. The principal thing is to get some things that
23 are now off budget on budget. That includes all the
24 revenues and expenses of the Transitional Finance
25 Authority, the Tobacco Settlement Assets Corporation and

60

1 some of the surplus revenues of the Industrial
2 Development Agency and the Economic Development
3 Corporation.

4 I think you could again serve the purpose of
5 transparency of better financial reporting by saying
6 this ought to be part of the City's budget, not be left
7 off budget the way it is now.

8 Second, this gets to a subject that's
9 already been discussed a bit, the rainy day fund. I
10 think we understand the complications of trying to
11 create a rainy day fund in advance of the expiration of
12 the Financial Emergency Act and that you would have to,
13 if this were to be operative before that period, you
14 would need to do a whole lot of other things that

15 probably won't happen, and don't necessarily need to
16 happen. So it's understandable that you might say let's
17 consider this, let's figure out how to design it right
18 and do it in the future.

19 The thing that troubled me most in reading
20 your report was that I don't think you're doing justice,
21 if your intention is that sometime you should have a
22 rainy day fund, your report doesn't make that case very
23 well. It suggests in its text that in fact we now have
24 the equivalent of a rainy day fund through the budget
25 stabilization account and the ability to roll money from

61

1 year to year, that's not a rainy day fund, that's not
2 used on rainy day we're going to spend over \$3 billion
3 on the sunniest of days when we've got growing revenues
4 and it's not bad circumstances. So it's not a good
5 practice the way we do it now, so I think you should
6 reflect on that and include on what you suggest if we
7 think about a rainy day fund in the future an accurate
8 portrayal of how things are.

9 Finally, I want to end by giving some
10 support to the concern and urging you to take seriously
11 the concern that Ronnie Lowenstein, the director of the
12 IBO, has made in the past and probably will make again

13 this evening that nothing that you do should be
14 interpreted as diminishing the ability of fiscal
15 monitors to get information from public officials.
16 There is a concern that essentially now the enforcement
17 tool is the existence of the Control Board. If that
18 goes out, how do we know we will be able to get access
19 to this information?

20 I think there have been some suggestions
21 kicked around about how to strengthen that language. I
22 don't have specific legalese to suggest, but I do want
23 to suggest that we at the Citizens' Budget Commission
24 share those concerns. We did go through this. It can
25 and did happen here that people were shut out from

62

1 information and anything you can do in writing these
2 Charter provisions to protect that access would be an
3 important step.

4 I'll stop there and thank you again for the
5 second chance to share my thinking.

6 CHAIRPERSON FUCHS: Thank you.

7 Commissioner Raab.

8 COMM. RAAB: Does COPIC have independence in
9 your view as it's constituted?

10 MR. BRECHER: I believe now its appointees
11 are a majority of Mayoral appointees, although it's
12 chaired by the Public Advocate's representative. I
13 think whether you change COPIC or create something new
14 you would probably want to change the composition of
15 that Board.

16 CHAIRPERSON FUCHS: Commissioner Abrams?

17 COMM. ABRAMS: Commissioner Brecher, I'm not
18 sure if in your testimony you expressed the view about
19 the maintenance, continuation of the Control Board.

20 Does the Citizens' Budget Commission have a view on that

21 MR. BRECHER: We have not taken a position
22 on that yet. I don't think we have to yet, so we
23 haven't yet.

24 COMM. ABRAMS: Have you got a personal view?

25 MR. BRECHER: I want to be informed by the

63

1 deliberations of the members of the Commission when you
2 take up that issue.

3 CHAIRPERSON FUCHS: Commissioner Forsythe?

4 COMM. FORSYTHE: Thank you for your focus on
5 the discussion on page 24 of the role of the surplus --
6 the role, r-o-l-e of the surplus roll, r-o-l-l, which I
7 do believe is the functional equivalent of a rainy day

8 fund. I think we will have a good debate as we
9 suggested earlier about whether we should put
10 restrictions on a rainy day fund and if so what the
11 restrictions should be.

12 We should clarify the report, because in my
13 view the surplus roll, the prepayment gets, quote,
14 "spent" not every year when it rolls in 3 billion or 3.6
15 whatever it's going to be this year, it rolls into the
16 budget, but if you roll out a smaller amount then you
17 have spent, quote, a smaller percent of that, what did
18 you call it, an ersatz rainy day fund. So it's not just
19 that it gets rolled, it's when it shrinks or grows from
20 year to year that it gets spent down or added to.

21 We should clarify that, too, because it
22 isn't clear and there are a lot of problems with the
23 prepayment or surplus roll.

24 I noted in The New York Times story about
25 the police arbitration this \$3.6 billion surplus was

64

1 being cited as a rationale for additional police
2 salaries. Now, that 3.6 billion has nothing to do with
3 what operational surplus is being created this year, and
4 I think that that creates a lot of problems and I do

5 think that a properly designed rainy day fund could
6 address those if it was used. If the executive and the
7 Legislature used it.

8 Then again, it's my own difficult experience
9 with a mechanism like that, that makes me shy about
10 unequivocally recommended it without very careful
11 attention to its design. But we should work on, and I
12 think we will work on the report to make sure it's
13 clear.

14 CHAIRPERSON FUCHS: Any other comments for
15 Dr. Brecher?

16 MR. BRECHER: Thank you again.

17 CHAIRPERSON FUCHS: Thank you very much for
18 coming back today. We've appreciated your testimony in
19 the past, it's really been helpful to the Commission's
20 deliberation and we appreciate your remarks today. We
21 will address and clarify the point about the surplus
22 roll, and we also will address the issues about the
23 Commission as it relates to COPIC, something that we've
24 thought about. It's really a question of can you fix
25 something that's been so broken for so long, because

65

1 it's really not functioned or should we try to construct
2 something else that is different, really, than COPIC,

3 and somehow not sort of rock that political boat, so to
4 speak, that is in the Charter. So it's a difficult
5 conversation but we will go back to the COPIC issue and
6 see if there's something we can do.

7 Thank you.

8 Ronnie Lowenstein, please.

9 MS. LOWENSTEIN: Thank you, Chairwoman
10 Fuchs, and members of the Charter Revision Commission
11 for the opportunity to comment on the preliminary
12 recommendations. I'd also like to thank the Commission
13 and its staff for the time they spent discussing these
14 issues with IBO over the past few months, they've been
15 remarkable discussions.

16 The Financial Emergency Act has been a
17 tremendous value to the City. The provisions that the
18 Commission proposes importing into the act from the act
19 into the Charter, rather on year end budget balance, the
20 four year financial plan with regular updates and the
21 restrictions on the use of short-term debt will help
22 insure the continued sound financial management the City
23 has enjoyed under the act. IBO supports the
24 Commission's efforts to insure that these important
25 provisions of the Financial Emergency Act are included

1 in the Charter.

2 But as I emphasized in our March testimony
3 another critical element in the success of the Financial
4 Emergency Act has been the Financial Control Board's
5 very strong access to information. The information
6 necessary to carry out its functions.

7 The Financial Emergency Act gives the FCB
8 the ability to require whatever records and reports from
9 the City it deems necessary or desirable. The
10 information must be made available on a schedule that
11 meets FCB's needs and the information is shared with
12 Comptrollers, IBO and the general public. Literally
13 decades of FCB requests for data, reports and meetings
14 have produced an ongoing routine stream of information
15 that has allowed fiscal monitors and others to form
16 sound, independent judgments about the City's fiscal
17 condition. It's very possible that the Control Board's
18 strong access to information has been as important to
19 the success of the Financial Emergency Act as the threat
20 of a control period itself.

21 The Commission's taken a step towards
22 recognizing the importance of the accessed information
23 by guaranteeing the availability of one report, the
24 report I've got here, the monthly financial plan
25 reconciliation. But this report is just a fraction of

1 the routines full of information IBO and others rely on
2 to monitor the City's fiscal condition. Attached in the
3 testimony is the major fiscal reports we currently
4 receive from the administration and there's a partial
5 pile of it in front of me. All of these documents, plus
6 access to other data and meetings, are used to produce
7 IBO's Charter mandated work.

8 When the Commission held its forum on the
9 topic of fiscal stability in March, IBO stressed that
10 the City's ability to manage its own fiscal affairs
11 without State oversight would depend on continued strong
12 local oversight by IBO and others. But strong local
13 oversight of the City's budget and finances depends on
14 continuing the free flow of information that accompanies
15 each financial plan modification. This information
16 that's now routinely produced and disseminated literally
17 within days of the delivery of the financial plan to the
18 Financial Control Board is crucial to our ability to
19 form sound unbiased assessments of the City's finances.
20 IBO respectfully requests that the City spell out some
21 mechanism preferably within the Charter itself for
22 continuing the seamless flow of the information needed
23 to monitor the City's finances. The City of New York
24 can manage its own fiscal affairs without State
25 oversight but only if the local oversight agencies are

1 guaranteed routine access to all the information needed
2 to do the job well.

3 Thank you again and I'd be pleased to answer
4 any questions.

5 CHAIRPERSON FUCHS: Questions? Commissioner
6 Abrams.

7 COMM. ABRAMS: So do I take your last
8 statement and one before that to imply or to state, or
9 to indicate that the IBO does not support the
10 continuation of the Control Board in a proposed City
11 Charter?

12 MS. LOWENSTEIN: As long as the local
13 monitors continue to have guaranteed routine access to
14 the information we need to get the job done. Right now
15 we've been relying upon the powers of the FCB, which are
16 extraordinary, to make sure that we've got not just the
17 reports, but the data and the face-to-face meetings that
18 are required to do the job well.

19 If we're convinced that we'll continue to
20 have that very strong access after the Financial Control
21 Board is allowed to sunset, if it does, then we would
22 indeed support the notion that we can do it without
23 State oversight.

24 CHAIRPERSON FUCHS: Commissioner Forsythe.
25 COMM. FORSYTHE: I think I worried at the

69

1 first meeting where we discussed these proposals and
2 section I guess E, it is, that adds the monthly
3 reconciliation report, that by proposing that, but not
4 mentioning the rest, that in some ways that impeded or
5 diminished the sense of access.

6 I think the argument being made, I know the
7 argument being made by the staff is that that's not the
8 case and that Section E is designed to emphasize that,
9 but I do think the situation still has some ambiguity
10 and I know that we're trying to get some clarification
11 from OMB about their view of the existing powers and
12 their ability to compel the necessary flow of
13 information.

14 I, as I've said many times, I think the City
15 can do without a Financial Control Board but I think it
16 can only do so if it has a lively, well informed and
17 thoughtful monitoring community and that the free flow
18 of information is very important to that, so I think
19 it's still an important item for discussion and concern.

20 CHAIRPERSON FUCHS: Commissioner Fiala.

21 COMM. FIALA: Just to follow up on my
22 colleagues' comments. We've wrestled with this, this
23 like the Commission we've been talking about has been
24 debated and amended and tweaked and whatever other words
25 you want to use.

70

1 As I understand it, currently, Section
2 259(c) of the Charter gives you as the IBO director
3 access to such information from agencies which include
4 OMB. You determine what is necessary. Is that
5 accurate?

6 MS. LOWENSTEIN: Yes, as far as it goes.
7 The whole provision says, "the director shall be
8 authorized to secure such information, data estimates
9 and statistics from the agencies of the City if the
10 director determines to be necessary for the performance
11 of the functions and duties of the office, and such
12 agencies shall provide such information to the extent
13 that it is available in a timely fashion."

14 COMM. FIALA: Now, language is critical,
15 obviously, in today's litigious age, and right now
16 you've got an administration, we've talked about this
17 before, that's very transparent. So you probably don't
18 have that, the problems that existed or will exist, no

19 doubt, because this just happens, it's just a function
20 of power, so I trust that the fear comes down the road.

21 What we're wrestling with, what I have
22 wrestled with over the ten months that we've been
23 working with this, almost eleven is, when you get to the
24 point where you've got your product and now recognizing
25 that language is critical, is coming up with the precise

71

1 language. We've seen with the debates tonight how one
2 word can be interpreted in a way that was different from
3 what we intended, so we want to try to insure that
4 what's intended is what's interpreted. But more
5 importantly when we go out of business and this
6 administration goes out of business we want to make sure
7 that you have access to information because in the
8 event, likely it will happen, and happen in our
9 lifetime, you'll come up with a CEO that's difficult.
10 It's the nature of that business.

11 Can you describe for us specific language or
12 how you would tweak the existing sections or the
13 sections that we're promoting, or can you conceive of
14 another mechanism that would somewhat force the hands of
15 future administrations, you know, whether it's a good

16 faith effort or some kind of an MOU, something that
17 would be carried over. We all agree. The stick would
18 be gone. All that's left will be Charter mandate,
19 goodwill and public pressure, and IBO has the ability to
20 use public pressure, so that is a tool, that is a stick,
21 and I understand that it's not necessarily a stick that
22 you want to rely on completely.

23 So what do you propose that we do with the
24 proposal that we have now thrown out to the public.

25 MS. LOWENSTEIN: I think we can work with

72

1 you to amend the language you're proposing, rather than
2 going into our Charter sections, deal with the 258
3 section that you're proposing, or staff, our general
4 counsel can work with you to make recommendations on
5 language. No language is ever going to be bullet proof,
6 this is a point Ester made very eloquently and
7 vociferously at the March panel and I agree with that,
8 but where we can have the clearest possible Charter
9 language, there's going to be less temptation or less
10 ability on the part of some future Mayor to try to cut
11 corners and try to prevent the information from flowing.

12 So we'll work with you on that to make
13 recommendations.

14 There are other ways to do it as well.
15 Potentially, if you were to revise your Commission on
16 Public Reporting and Data Access so that it was not a
17 Mayorally dominated panel, potentially you could charge
18 them with some ability to review requests as they occur
19 in realtime. That's probably a more difficult task than
20 pinning the language within the 258 section.

21 Finally, I guess the last thing I should say
22 is that there's a huge difference between having power
23 of access to information and knowing that three days
24 after the preliminary budget, for example, is produced,
25 that on your desk will be a huge stack of papers with

73

1 audit reports and tax revenue forecasts and backup, and
2 pretty much the tools that you need to do the job, and
3 it's that sort of goodwill, it's that knowing that the
4 material is coming, that it will be there, it will be
5 there routinely, that's tremendously important, rather
6 than having to worry about going to court to enforce
7 something when we all know that's a process that takes
8 far longer than any fiscal oversight would take.

9 COMM. FIALA: I appreciate those comments
10 and I would urge you to have your counsel contact the

11 Executive Director and the Chair and the staff here
12 because the rubber is meeting the road. We have fleshed
13 this thing out, we've debated it for close to eleven
14 months. I think that your organization along with many
15 others supports the noble attempt to try to codify into
16 Charter language something that will allow us to
17 continue on, on the road of fiscal stability and fiscal
18 responsibility and to the extent that we can tweak those
19 areas that deal with access to information, I think you
20 get a sense it's very important to this Chair access to
21 information and it's important to the Commission, so I
22 would encourage that dialogue as soon as possible.

23 Thank you very much.

24 MS. LOWENSTEIN: Thank you.

25 CHAIRPERSON FUCHS: Any other comments? I

74

1 just want to make one comment and pose a question to
2 Ronnie who, we've talked to IBO now many times and are
3 trying to work with them, staff has reached out to them
4 as she said, because we really value their role in City
5 Government, and we want to deal with this issue of
6 access to information.

7 What's troubling me, and it's not so much
8 the IBO issue per se here about access to information,

9 it's a general problem, and maybe it goes back to the
10 earlier point that I made, in which there may have been
11 problems in the past of getting access to information,
12 and it wasn't just IBO as I recall, I think that the
13 State Comptroller tried to do an audit with clear and
14 unequivocal powers. In fact, the power to subpoena.

15 Yet, somehow, the Comptroller wasn't able to
16 do that audit, get that information, had to go to court
17 and a number of years later the courts found in favor of
18 the state Comptroller to do that audit.

19 I think I recall there have been periods
20 each when the Financial Control Board was in place in
21 which IBO either was not funded, did not have access to
22 the information, so this is a singular problem in a
23 Democratic society, I think, in which we do have balance
24 of power and we have a judiciary essentially here to
25 arbitrate the dispute about the interpretation of legal

75

1 language.

2 I'm going back to Commissioner Fiala's point
3 about what are the existing -- what existing authority
4 does the IBO have and whether or not it's an issue of
5 somehow figuring out whether that's adequate language.

6 We went to our legal counsel and they
7 believe that the IBO, as well as the Comptrollers have
8 this authority to get this information now. To the
9 extent that a Mayor or a legislative body decides not --
10 to abuse power which as very strong language, but I
11 think that's what it is, I mean, we will put -- I don't
12 know what we can do in the Charter. If an individual
13 comes into power and says "you can't do this." So I'm
14 concerned, I don't -- I want to do what we have to do
15 here to insure everybody that we're not abrogating any
16 access to information, but there is no need in my mind
17 to reassert existing power unless you're telling me that
18 that power doesn't exist for you in the current
19 language.

20 So you've got to tell me and the Commission
21 that you think that under the existing language you
22 don't have power to access all the information that you
23 think, that we think you have power and that my counsel
24 tells me you have power to access. So that's my dilemma
25 right now. So I'm asking you that question very

76

1 directly. Because Commissioner Fiala is correct, we're
2 going to go back and go through this again, because it's
3 important to us, but we already started that

4 conversation, because it is important to us, and so
5 where we are right now is very simple.

6 Counsel says, you have this power.

7 MS. LOWENSTEIN: And what we're saying is
8 there's a huge difference between legally having the
9 power and the ability to know that within days of the
10 release of the financial plan the information necessary
11 will be there to allow to you do your work. What we're
12 looking for is language that will never totally prevent
13 an administration that's seeking to damp down access
14 from doing so, but rather language strong enough to that
15 routine information so that, any future administration
16 is less tempted to meddle that way.

17 COMM. FORSYTHE: If I could make a last
18 comment on that topic. I can understand why the IBO
19 director doesn't want to argue that she doesn't have the
20 power she would like to have, that's not a particularly
21 good discussion to have vis a vis the Court. But I do
22 think we confuse the issue a bit by proposing the
23 Charter mandate a single budget report as if that was
24 going to be sufficient when in fact there are literally
25 dozens of reports that the IBO and the other monitors

1 use on a regular basis. I think what that did was -- I
2 said it before, confused me and confused others as to
3 the availability of information and the intentions of
4 OMB and indeed the Charter Commission itself.

5 CHAIRPERSON FUCHS: Well, I think we have to
6 reconsider that, because that was put in expressly
7 designed to reassure IBO and other monitoring agencies
8 that we intend to release reports and data in a timely
9 fashion and not abrogate anything, and so if having that
10 in actually serves the opposite purpose in most people's
11 minds, then we can certainly have a discussion with the
12 Commission about eliminating that.

13 So our intention there was to, and I know
14 OMB's intention there was as a reassurance that we want
15 to continue doing this.

16 So I don't, it's a sort of odd place to be
17 in, and I think we have to discuss this at the next
18 meeting about how we want to address these positions.

19 Are there any more questions for Ronnie
20 Lowenstein, Dr. Lowenstein, as Dr. Brecher?

21 COMM. FIALA: Could I say something? I want
22 to contribute to the debate, between now and the next
23 meeting it would be very helpful if we had some idea
24 with respect to report language, what you'd like to see,
25 so that we can have some kind of framework to discuss,

1 testimony.

2 CHAIRPERSON FUCHS: Thank you.

3 MS. KIVELSON: My name is Adrien Kivelson,
4 I'm a member of the Board of the New York City League of
5 Women Voters, a former co-Chair and the author of
6 Rutnick's "New York City Runs: A guide to New York City
7 Government," based primarily on the New York City
8 Charterer.

9 First, I want to take the time to compliment
10 you, I've been to so many of these Charter Commission
11 hearings over the years, most of them I've been
12 critical. It gives me great pleasure to come today to
13 compliment you on the process you followed with these
14 preliminary recommendations. As one who has repeatedly
15 testified before Charter Revision Commissions in the
16 past decade on behalf of the League it's my pleasure to
17 come to applaud a Commission rather than to criticize a
18 Charter revision process which was too often
19 predetermined, short sighted and hasty. Your outreach
20 to experts in the public the high caliber of your
21 research and reports and the seriousness of your
22 deliberations stand as a model of how Charter
23 Commissions should function so I wanted to get that in
24 tonight.

1 prepared at this point to support or applaud your
2 preliminary recommendations nor are we here to oppose
3 them. We're taking this opportunity to make some
4 observations and comments which we hope you'll
5 considering in making your final proposals. I'm going
6 to skip over fiscal stability we're generally in
7 agreement with importing aspects of the Financial
8 Control Act in the Charter, but others have spoken much
9 more eloquently than I tonight, so I'm going to skip
10 that.

11 I do want to talk about the administrative
12 justice reform for a minute which I don't think has been
13 discussed tonight. Coordinator of administrative
14 justice is an admirable goal. Some thought we had done
15 this in an earlier Charter revision by creating the
16 Office of Administrative Trials and Hearings, with a
17 Chief Administrative Law Judge. Now we understand that
18 this office doesn't cover all agency tribunals and we
19 can appreciate the need for further coordination,
20 particularly as related to a sharing of services and the
21 promulgation of a Code of Conduct. However, we're not

22 clear on how the coordinator of administrative justice
23 to be created by Executive Order will relate to the
24 Office of Administrative Trials and Hearings and to the
25 Chief Administrative Law Judge.

81

1 While we appreciate the recognition that not
2 every office has to be Charter mandated to be effective
3 we're not sure why you demurred from recommending a
4 Charter designation in this case, particularly since you
5 included the code of administrative judicial conduct
6 under Section 13 which deals exclusively with the
7 coordinator of criminal justice. In this regard we've
8 gathered that the code would apply only to
9 Administrative Law Judges not criminal law judges so we
10 don't understand why it's placed here.

11 You do reference Section 13A provision under
12 Section 1049 which deals with the Administrative Law
13 Judge but in so doing it appears that the Chief
14 Administrative Law Judge would take the lead in this
15 endeavor because there's no mention of the coordinator
16 of administrative justice, so we're really just not
17 clear on what you're trying to do here.

18 As to agency efficiency, effectiveness and
19 accountability, you may want to come up with a different

20 title for this Commission. We do recognize that in this
21 rapidly expanding age, technological age, Government
22 must have the ability to change its reporting mechanisms
23 when such changes would better serve the public purpose.
24 Sixteen years ago when many of these reporting
25 provisions were enacted, computer networks and public

82

1 access to the Internet were much more limited than they
2 are now. We appreciate your reticence to make these
3 changes in a hasty manner and while we are hesitant to
4 see the creation of another Commission we may see the
5 merit in considering such an entity if no viable
6 alternative already exists.

7 However, our preliminary consideration leads
8 us to conclude that any such Commission should be
9 advisory only and not have the power to have its actions
10 deemed approved if the Council does not act in ninety
11 days. We do not believe an appointed body, especially
12 one with six of the nine members appointed by the Mayor
13 should be able to waive or eliminate reports which were
14 mandated by Local Law or by vote of the public or the
15 duly elected Legislature in the City. So while we may
16 have questions on some of these proposals, it is obvious

17 you're engaged in a serious effort to improve the
18 quality of Government in New York City. We thank you
19 and we thank you for the opportunity to make these
20 observations.

21 CHAIRPERSON FUCHS: Thank you very much.

22 Questions from the Commissioners?

23 I have a question on, well, I have two
24 questions. Your point about OATH and the chief judge of
25 OATH is well taken. Part of the reason, I think we have

83

1 to do some clarification there on the issues of
2 principles that you brought up, so I hope we can work
3 with you afterwards and get that straightened out.

4 Part of the reason we did not propose for
5 the coordinator to be in Charter, we were following the
6 criminal justice coordinator model, which was first
7 enacted by Executive Order, and we think that once the
8 pieces of this puzzle are coordinated it may end up all
9 ending up in OATH. We initially thought we would do the
10 coordination through OATH, but then it became clear that
11 OATH actually would have a conflict of interest and
12 couldn't be the coordinator, then it wouldn't represent
13 the rest of the agencies who were still doing this on
14 their own adequately, so we thought we needed an

15 independent coordinator. But I think you're right. In
16 principle OATH was supposed to be doing this, it's not.
17 That's why we didn't go near the Charter because we
18 wanted to work out the operational side of this first to
19 see what the Charter, what made them be what the Charter
20 mandated role.

21 MS. KIVELSON: It may be a positioning
22 question, but by positioning the code under the
23 coordinator of criminal justice it really just raised an
24 issue as to why it was there, and I think something, if
25 you're putting it in the other section, we're not

84

1 objecting, because we think things very often don't have
2 to be in the Charter so we're not objecting to that
3 principle, we're just objecting to the way it was
4 structured and don't think you're going to accomplish
5 your goals by having an administrative -- coordinator of
6 administrative justice promulgate or lead the
7 promulgation of a code if you stick it under the office
8 of --

9 CHAIRPERSON FUCHS: I think that's a very
10 good point and I think we have to figure out how this
11 links up and I think we have to have a conversation with

12 you, hopefully afterwards, because we need to straighten
13 that out for it to work.

14 On the issue of the Commission, part of the
15 problem here, I'll just address one question. We've
16 obviously, I think we covered way too much ground on
17 this issue in my first round here, so I won't take up
18 more time here. But part of the issue of making this
19 not advisory, because we initially came up with an
20 advisory role, and we understand this issue of balance,
21 so I won't address that, but most of the people who
22 would be engaged in the work of this Commission advised
23 us against advisory because advisory then means, okay,
24 maybe, the Legislature then gets all this work and then
25 it does what it does.

85

1 So we actually were convinced by those who
2 would have to do the work that it needed to have some
3 teeth or it would just be ignored, basically, like
4 everything else is ignored.

5 MS. KIVELSON: Except you're giving a
6 non-elected body a power, really, by the deeming
7 approach, you're giving a non-elected body the power to
8 overturn the Charter, and that, or to waive a provision
9 of the Charter, and either you have to restructure the

10 committee or make the, make it a more affirmative action
11 by the Council rather than a negative action.

12 Because, for example, if it becomes part of
13 the legislative process as I read the Charter language
14 that you've included, the Commission would make its
15 recommendation, the Council would have ninety days to
16 act. It then becomes part of the Council's action.

17 If the Council act to say that cannot be
18 waived and the Mayor then -- does the Mayor then veto
19 that action? If the Mayor vetos the action, you then
20 have to get a two-thirds vote of the Council to override
21 the veto. Somehow you've given more power, I think, the
22 way we read this, to a Commission appointed really
23 exclusively, almost exclusively by the Mayor who gets a
24 Commission to make a recommendation, the Council opposes
25 the recommendation, we think if it's a legislative

86

1 action then the Mayor would have the ability to veto,
2 you'd then require a two-thirds vote of the Council.

3 If we're misreading this, we would be
4 interested --

5 CHAIRPERSON FUCHS: No, and I think, this is
6 a legitimate point and in later discussions -- this is

7 modeled, the Executive Director will correct me if I'm
8 wrong, but this was modeled after ULURP.

9 MS. KIVELSON: I understand that.

10 CHAIRPERSON FUCHS: So I sort of had the
11 same reservation that you have.

12 MS. KIVELSON: ULURP, which is one of my
13 favorite things in the whole world, ULURP goes through
14 about sixteen procedures, the steps are all mandated,
15 and starts with a Community Board, with a community
16 advisory board and then City planning. This is not a
17 lot of steps, this is the Commission and the City
18 Council.

19 CHAIRPERSON FUCHS: My question to you is
20 very direct and simple here. Would it be better in your
21 mind if we changed this to simply no limit, no limit for
22 the Council to act, that the Council can act whenever it
23 wants to?

24 MS. KIVELSON: Then it's advisory.

25 CHAIRPERSON FUCHS: Well, it isn't advisory

87

1 if we do it that way.

2 MS. KIVELSON: We would certainly
3 entertain--

4 CHAIRPERSON FUCHS: This is sort of the

5 point and it goes back to the earlier discussion a
6 little bit. We really wanted to write something that
7 did not impact or usurp in any way Council authority.
8 So the Council can always reup a reporting requirement
9 or ask for a new reporting requirement. There's nothing
10 in this language that should prevent that.

11 So the issue is, after this Commission,
12 however it's constituted, reviews these reports, what
13 happens? Do they simply say, we think this report
14 should stay, it should be changed, or it should go, or
15 does something happen affirmatively, which is, if it
16 makes a recommendation for a report to go, then the
17 reporting requirement is waived. Having said that, even
18 if it does that, the Council at any time it chooses
19 could still reup a report, either in its existing
20 incarnation or with something new that reflects maybe
21 some of the work of the Commission.

22 MS. KIVELSON: We'll look at anything you
23 come up with.

24 CHAIRPERSON FUCHS: Is that the direction,
25 that's what I'm trying to get.

1 MS. KIVELSON: The direction it has to be

2 more of an affirmative action rather than a rejection.
3 The other part if you're doing that, if you have any
4 type of empowerment we think the composition of the
5 Commission should be reconsidered.

6 CHAIRPERSON FUCHS: We're definitely open to
7 reconsidering. We in fact reconsidered the composition
8 of this Commission at the last meeting when the
9 Commission said we should go with language that opens it
10 up to three members from the public without identifying
11 constituencies, which is where we started, so this
12 Commission felt, at least in its first round, that it
13 should just be three smart people from the public.

14 I understand the reservation about that
15 these are Mayoral appointments. Another issue that
16 emerged was that in general, it's just easier to get
17 done when it's Mayoral appointments. If this somehow
18 makes it look like an imbalance, then I think we have to
19 reconsider that and whether or not these are joint Mayor
20 Council appointments, if that's helpful.

21 MS. KIVELSON: I think the perception that
22 if the Mayor wants to get rid of a report, that it's a
23 perception that if the Mayor wants to get rid of a
24 report, that if there's a Council or Commission that's
25 two-thirds appointed by the Mayor makes that decision,

1 then it's loaded.

2 CHAIRPERSON FUCHS: So this is a part, one
3 last question from me, which is puzzling. If this
4 Commission decides it should waive a report, the Council
5 can always reup a report. It's just not that hard.
6 They do it all the time. So why is there a big worry
7 about the Council that if this Commission makes a
8 proposal and says waive this report on the basis of the
9 deliberation that will be public and hopefully engage
10 the stakeholders in a real conversation? Why do you
11 have this concern that somehow this is impacting
12 negatively on the Council, that seems to have no problem
13 asking for reports?

14 MS. KIVELSON: We don't know what, I mean,
15 what you I think are hoping to do here is develop the
16 type of information on these reports and recommendations
17 on these reports that you will be able to get general
18 agreement on and you're not entering into a contentious,
19 the Mayor wants this --

20 CHAIRPERSON FUCHS: Exactly.

21 MS. KIVELSON: We want it continued. So
22 reconstituting the nature of the Commission might make
23 it a less contentious situation. As we said, these are
24 just things that --

25 CHAIRPERSON FUCHS: No, that's very helpful.

1 I'm really struggling with this.

2 MS. KIVELSON: Those are just
3 recommendations, so we'll entertain anything --

4 CHAIRPERSON FUCHS: No, this is helpful
5 because we're -- it's difficult, because we
6 intentionally did not want to give the impression in any
7 way that we were reducing information or access to
8 information. We just want information to be more useful
9 to both the public and to people who have to do the work
10 of Government every day.

11 MS. KIVELSON: And we are coming to this,
12 what we started with was we opposed the proposal two
13 years ago to eliminate the primary management report,
14 and we did not think that was a well thought out
15 proposal and because it was a short Commission and we
16 thought what you did with this, looking at it in the
17 larger scope and with the idea that you could report in
18 different ways which would give you the same information
19 was a valid thing to, was a valid approach. So we like
20 the idea of what you're trying to do, we just think that
21 the way the structure is could use some tweaking to make
22 it more acceptable to the public.

23 CHAIRPERSON FUCHS: We really appreciate
24 that, because we are really open to tweaking. We're
25 struggling with whether or not we can constitute

1 something that is viewed sufficiently non-partisan that
2 it will be acceptable to the community of people who are
3 the users of this information. So that's the goal. I'm
4 not sure whether we can do it but that's certainly the
5 goal so we really appreciate your engagement here.

6 Commissioner Fiala I know had some comments.

7 COMM. FIALA: Thank you very much and thank
8 you for the Guide. It's a great guide, by the way.

9 The Chair said, we're very amenable to
10 tweaking. This thing has been tweaked and tweaked and
11 tweaked a little more and it will be tweaked further,
12 I'm sure. That rhymed, didn't it?

13 CHAIRPERSON FUCHS: That's another career
14 for you somewhere.

15 COMM. FIALA: I'm going to be very
16 solicitous of you and the Executive Director of the City
17 Project and all of those who have offered insight into
18 this. You've all expressed a little bit of hesitancy
19 because of the composition. We have debated this and
20 debated it. My feeling was this: This was, as the
21 Chair has said, a safe space, a deliberative process.
22 It brought together a sufficient, you make any

23 Commission too big and it just takes on a force of its
24 own and it's not productive. You make it too small, and
25 you start to open yourself up to criticism. It's just,

92

1 you know, like Goldilocks and the three bears.

2 We live in a republic. Your guide no doubt
3 talks about that. We elect people to represent our
4 interests. We don't have direct democracy in this
5 nation. 250 plus million people make that impossible.

6 This Commission has on it the Citywide
7 elected officials, all three of them, the Speaker of the
8 City Council. My assumption would be that if a report
9 that was contentious in nature, if it were the intention
10 of anyone, and let's for argument's sake say a Mayor ten
11 years from now wanted to do away with a report because
12 that seems to be a concern. I have to believe that one
13 of the other Citywide elected officials and certainly
14 the Speaker of the City Council would use that forum and
15 that Commission as one powerful public relations tool
16 and if by chance all of them were asleep at the switch,
17 shame on them, by the way, but if they were, the
18 protective measure that we put in was -- when I was in
19 the City Council, the City Planning could do things
20 without City Council approval. They're appointed

21 officials. However, I had the power to do what was a
22 callup. If I didn't do it, shame on me, but those
23 officials were appointed by officials who were elected
24 as the leaders.

25 So I think we've tried to create a system

93

1 where in that first round you have the elected
2 representatives citywide and a speaker who has a
3 citywide role, but really is the elected leader of the
4 body and if it didn't make it, swept through there, then
5 the Council does have the power and I strongly support
6 having a timetable by the way, Madam Chair, I think
7 leaving things open ended is an invitation for
8 sloppiness and neglect.

9 I'd be very curious, because we've debated
10 this, I would love for you to come back with your
11 recommendations on the composition because the intent
12 was not, as the Executive Director of City Project said,
13 it's an executive -- it's true, because the chief
14 executive runs the agency and most reports are executive
15 generated.

16 MS. KIVELSON: We have a very strong
17 representative Government and the Charter is one of the

18 things that gives parameters to what the power of the
19 Mayor is. When you have a Commission that is six to
20 three and the three Mayoral appointees, while they're
21 four year terms I believe, they can be removed at the
22 request of the Mayor, I believe that's in there --

23 VOICE: No. For cause.

24 MS. KIVELSON: For cause, non-specified
25 cause. Let's put it this way. I belong to an

94

1 organization that is committed to encouraging citizen
2 participation and transparency of Government and we look
3 at every proposal to see if in fact it meets what we
4 consider a standard.

5 We're making these observations because we
6 think what you have initially and the organization
7 hasn't voted and our board has not voted, but I wanted
8 to come here and tell you that a few of us getting
9 together and looking this over when we received it said
10 we have a problem here, and we would hope that you would
11 look at it and address it and we think that the
12 composition is a problem, even though we have very
13 outspoken Comptroller and Speaker, when you have a
14 Commission that has a vote and it doesn't say, it
15 doesn't say percentage of vote that has to waive

16 something, when you have a Commission that votes and you
17 have a six to three split, then it opens it to question
18 as to how Democratic a process it is, and we would hope
19 you would look at it.

20 COMM. FIALA: Well, thank you and I just
21 want to assure you that that's our intent. We actually
22 debated this in this room a few weeks ago and we said,
23 this is all preliminary by the way.

24 MS. KIVELSON: That's why we've come
25 tonight.

95

1 COMM. FIALA: And we ask you all to come in
2 and this is a sincere invitation. There will be a final
3 report that will either reflect changes or reflect the
4 decision of the Commission not to go forward. I really
5 thank you for your thoughts on it. We love your advice
6 and counsel on it.

7 CHAIRPERSON FUCHS: And I want to reiterate
8 the thank you's here, being a reader of the Guide that
9 the League of Women Voters puts out, I would recommend
10 it to all the people who are attending here, as well as
11 our Commissioners, who probably should have passed it
12 out to all of you. It's something I've used in teaching

13 and something I've shared with public officials around
14 the world, let alone across the country. Its an
15 enormous civic treasure and we appreciate your
16 engagement and we certainly appreciate the Guide and we
17 expect to continue this conversation with those of you
18 who came today to share your views with us.

19 Are there any other people who are supposed
20 to testify that I have missed? Yes, there's one more,
21 sorry. Lindsey Weinstock, are you here? Thank you.

22 MS. WEINSTOCK: My name is Lindsey
23 Weinstock. I'm appearing on behalf of the Urban Justice
24 Center Human Rights Project and I thank you for the
25 opportunity to give a statement of support of the

96

1 Antidiscrimination Center of Metropolitan New York's
2 revision proposals. I don't know if you had a chance to
3 review, but I gave out copies.

4 Since I'm not a representative of the
5 organization that's proffering these revision proposals,
6 I'm just going to say I might not attest to some of the
7 details, but I'll give you a statement of the report on
8 behalf of my organization, the organization I represent.

9 The current Charter Revision Commission
10 preliminary report does not reflect the current state of

11 affairs regarding fair housing in the City. In order to
12 accomplish its goal of increasing public accountability
13 in City Government, the Charter Revision Commission must
14 acknowledge inequities in the current system and provide
15 avenues for Government to address these problems
16 directly.

17 The City as a recipient of Federal funds is
18 required under Section 808 of the Federal Housing Act to
19 affirmatively further fair housing, but each year seeks
20 exemptions to the poverty and race deconcentration
21 requirements of federal regulations. This reflects of
22 the unwillingness of City Government to begin to address
23 the admittedly daunting problems of housing
24 discrimination and segregation. Indeed, the Mayor's new
25 housing marketplace plan never even once mentions either

97

1 housing discrimination or housing segregation.

2 One result of the avoidance of these
3 problems is that the City remains as segregated by some
4 measures as it was in 1910.

5 The Commission should seriously consider the
6 Antidiscrimination Center of Metropolitan New York's
7 revision proposal as a tool to guide the City for

8 addressing housing discrimination and segregation so it
9 may fulfill its obligations under federal law and under
10 its own foundational laws to serve all the people
11 equally.

12 The two revision proposals would insure the
13 City acknowledges its obligation to affirmatively
14 further fair housing in the development and
15 implementation of all of its programs and policies, laws
16 and regulations.

17 Thank you.

18 CHAIRPERSON FUCHS: Do we have any
19 questions?

20 Well, we thank you for the proposal and at
21 this point in time I don't know how much time we have to
22 consider new proposals, but I will direct staff to look
23 at your proposal and we appreciate you coming before the
24 Commission this evening.

25 MS. WEINSTOCK: Actually, I don't know if

98

1 you received this proposal before.

2 COMM. CROWELL: You did, she received it at
3 Hunter College when I believe an adjunct professor at
4 the forum presented it earlier. We had a vigorous
5 discourse on it. It was presented in a different

6 format.

7 CHAIRPERSON FUCHS: I didn't recognize this
8 as the same proposal, so we will consider it in
9 conjunction with the previous proposal.

10 Thank you very much.

11 Is there any new business? If there's not,
12 I'd like a motion to adjourn and I'd like to --

13 COMM. ABRAMS: So moved.

14 CHAIRPERSON FUCHS: Second?

15 COMM. CROWELL: Second. Third.

16 CHAIRPERSON FUCHS: All in favor of
17 adjournment.

18 (Chorus of "Ayes.")

19 CHAIRPERSON FUCHS: Thank you for attending
20 this evening, both for the audience and the Commission
21 and for your participation and for the lively
22 conversation.

23 (Time noted: 9:32 p.m.)

24

25

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

2

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

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

LINDA FISHER,
Shorthand Reporter