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Transcript of the September 20, 1988 Meeting of the New York City Charter Revision Commission at the New York City Bar Association

New York City Charter Revision Commission

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MEETING OF THE
NEW YORK CITY
CHARTER REVISION COMMISSION

Bar Association
42 West 44th Street
New York, New York

Tuesday
September 20, 1988
8:15 a.m.

Michele Berkey,
Hearing Reporter
PRESENT

RICHARD RAVITCH,
CHAIRMAN

HARRIET R. MICHEL,
VICE-CHAIRMAN

AIDA ALVAREZ,
COMMISSIONER

JUDAH GRIBETZ,
COMMISSIONER

PATRICK J. MURPHY,
COMMISSIONER

ARCHIBALD R. MURRAY,
COMMISSIONER

W. BERNARD RICHLAND,
COMMISSIONER

DAVID G. TRAGER,
COMMISSIONER

ROBERT F. WAGNER,
COMMISSIONER

FRANK MAURO,
DIRECTOR OF RESEARCH

ERIC LANE, ESQ.,
COUNSEL

GRETCHEN DYKSTRA

* * * * *
THE CHAIRMAN: I wonder if we could begin, please.

Nobody else was able to come on such short notice, but everybody received the note from me, and I have heard no dissent from any of our colleagues who are absent.

COMMISSIONER WAGNER: Dissent in what way?

THE CHAIRMAN: No disagreement with going with that course of separating the meeting.

COMMISSIONER WAGNER: I have some questions on the statements, I mean, some of these questions it's like being -- you don't say what you are going to do and, I mean, I tried it out on some people. They said they would have to have some explanation of what you are going to do, prohibitions against conflict of interest, and how are you going to do it.

THE CHAIRMAN: I wonder if I could just explain how I got to --

COMMISSIONER WAGNER: I am sorry, because I was in the hospital at the time,
but I brought it up last time. I don't think it's very helpful to the public.

THE CHAIRMAN: Well, let me just recite what occurred. When we discussed this at our last meeting, a number of you suggested that we ought to break this out into a greater number of questions, but the majority felt, given the arguments; brevity was in this instance a virtue, No. 2 that most of the people who voted on propositions do so as a result of having information they acquired prior to going to the voting booth, and that was traditionally true with respect to propositions. That in 1938 and 1962 when there were major charter questions on the ballot, that they were on as one proposition, basically not describing the substantive context, but just asking the voters whether or not they approve the changes recommended by the Charter Revision Commission.

Then 1975, the separate issues were spelled out. That was due in part to the
fact that in order to get a report out of that Commission, which was internally divided, there was an agreement to put on all the questions, even those the majority of the Charter Revision Commission hadn't supported. Since we made the decision that we did, we have had a large number of comments from a number of good government groups and individuals suggesting that it would be far more helpful, particularly in light of the fact that these proposed changes are not generating a great deal of newspaper publicity in the light of the fact that that is on the ballot.

This is the first time that the charter change is on the ballot in a presidential year, that it would be helpful if we broke out the questions and gave more information to the public on the ballot itself, and, therefore, in thinking about it, it was my best judgment that was possibly, probably the more sensible thing to do which would be to spell out to the public the gist of what these charter
changes were intended to accomplish, and come up with five questions.

We have, as you know, ten separate changes, but thought ten were too many questions. One of the factors you recall of some concern that if you have too many propositions in the ballot, it could slow down the election process in the voting booths significantly.

And, second of all, there tends historically to be a fall off in the number of votes in each successive proposition on the ballot.

All states questions are Proposition No. 1, after considering this carefully, it was my judgment to put five on, and there was kind of a logical breakdown of a proposition here.

We have all seen the proposals. We have some suggested changes, changes which come from a number of you.

I would like to go through these one by one with you, but I would like to remind you all that a number of people have to
leave in about a half hour so that hopefully we can conclude our business. If we can't, we have to reconvene at another time.

If nobody has any objection, I'd like to go through the proposals one by one.

MR. LANE: Let my make it clear, you should have in front of you a September 19, 1988 afternoon draft. That is not the draft that was sent you. There are some changes made, and particularly in Question 3 reducing its complexity.

Additionally, Pat, I would suggest in the interest of speeding that we only address the ones that someone may have a problem with.

THE CHAIRMAN: I would like to read them because we have gotten comments from other people.

COMMISSIONER MURPHY: And members of the Commission who are here.

COMMISSIONER WAGNER: The September 19th draft, is that it?

MR. LANE: Yes.
THE CHAIRMAN: Now, I am going to read it and then permit me -- just note some suggested changes that I think make sense.

"Shall the prohibitions against conflicts of interest for public servants be clarified and strengthened and shall the Board of Ethics be renamed and restructured," and inserting the word "and" taking out the comma after "renamed."

MR. LANE: He is reading the one that you have in front of you right there, and putting in some grammatical changes.

MR. CHAIRMAN: "To be more independent, with the power to enforce such prohibitions, as proposed by the Charter Revision Commission."

COMMISSIONER GRIEBETZ: Say that again.

In other words, the only change that I did was to eliminate the comma after "renamed," insert the word "and" and put a comma after the word "independent"?

COMMISSIONER WAGNER: My question
is, why aren't you spelling out what you are going to do to be more independent? I have tried this out on some intelligent people, and they just think it's a general statement about motherhood and good God and everything else.

MR. LANE: The way to explain what is done, which is similar to the changes you made in '61, is we have made hundreds of changes. We have an abstract.

COMMISSIONER WAGNER: Can you improve of what we did in '61?

MR. LANE: My point is, there is an abstract that lays out each of the changes, which the Board of Elections prints and makes available at the voting booth for the public to review, and that has what each of these questions involve, but if we were to put all these details --

COMMISSIONER WAGNER: If a person is going to get it at the voting booth and start reading what it's all about --

MR. LANE: If they have it in the polling booth, it wouldn't fit on the
ballot. We have a whole program.

COMMISSIONER WAGNER: I don't mean a long explanation, but by two sentences what are you going to do to strengthen it or something like that, I just think this is very confusing.

MR. LANE: I guess our answer to that is we have probably eight ways of strengthening each of which have equal virtue, all of which, you know, since we took a long time to discuss it, whether it be $20,000, five percent, the post-employment things, it would be impossible since we have done the entire chapter. Every piece of the ethics chapter is new.

I think we would probably be accused of selecting certain ones to be favored or leaving certain ones out to argue our cause, so we just made a choice to make it as simple as possible, hoping our education campaign and the abstract are sufficient.

COMMISSIONER RICHLAND: That is not the abstract. That is what will appear
on the ballot; is that correct?

THE CHAIRMAN: Yes.

MR. LANE: Yes. And I have said --

COMMISSIONER RICHLAND: There's to be a discussion of each of these. Is that what we are going to do?

COMMISSIONER WAGNER: I get the reaction from intelligent people who say you should strengthen and clarify and so on. You are not really saying what the hell you are doing. Not on all of them but on Question 2 and Question 3.

THE CHAIRMAN: The question is, really, can you explain what you are doing with any greater clarity then we have here?

COMMISSIONER WAGNER: There is no clarity here. There is a big principle and everybody is for that principle, but what are they voting on to obtain that objective?

THE CHAIRMAN: I don't know how you summarize all the changes we are making in a single paragraph, that is my problem.
COMMISSIONER RICHLAND: Will all this fit on the ballot?

THE CHAIRMAN: Yes.

MR. LANE: But I don't think all the changes in the ethics chapter.

COMMISSIONER RICHLAND: On the machine?

COMMISSIONER MURPHY: Yes.

COMMISSIONER WAGNER: Again, what I said as I was going through it, the reason, basically the provisions, as suggested by the Charter Revision Commission 61, 62 was because all the political leaders in both parties were against it, and the voter went in and voted for it because it must be pretty good if everybody is against it.

But there are no political leaders of any strength now that are going to say that, and people are going to pay any attention to it.

MR. LANE: We have no comments to elicit a positive vote.

THE CHAIRMAN: Let me say, just
citing your example, that, in fact, the reason --

COMMISSIONER WAGNER: You are going to guarantee the political leaders are going to be against it?

MR. LANE: Interestingly enough, we did receive some calls from people that surprised me, that strengthening the ethics law might not be the virtue that we think it is. So what I mean is, it's not necessarily a wonderful thing to some people.

COMMISSIONER WAGNER: Why don't you say so then, if it's not such a wonderful thing?

COMMISSIONER RICHLAND: As I recall, the questions on the ballot in regards to the amendment to the Constitution were very simple. We said, shall the Constitution as proposed by the amendment be adopted with only one separate suggestion. One separate notion; is that right?

COMMISSIONER WAGNER: Because the
Constitution Convention of '38 --

COMMISSIONER GRIEZETZ: '67.

COMMISSIONER WAGNER: Having them all lumped together can get you in a lot of trouble, and I think you should say what you are trying to do. Give them credit that they are not going to read all these statements that are going to come out.

COMMISSIONER RICHLAND: You have a better chance to get them adopted.

COMMISSIONER WAGNER: You voted against everyone.

THE CHAIRMAN: Let me say, I still think, Bob, in that year people voted for that because you were for it and because the newspapers were for it and because it generated a lot of publicity, not just because the political leaders were against it, and I think most people's awareness of these kinds of issues stem from the work that some governmental leaders engage in, and hopefully some of the elected officials in this City will support these charter amendments.
I hopefully expected that the good government groups will and that the newspapers will and that's going to generate the public's knowledge about the details.

COMMISSIONER GRIEBETZ: May I ask counsel a question or two which might hopefully be helpful. When we --

COMMISSIONER WAGNER: Let me just say I am not going to make a big deal out of this, and I will be guided by the majority.

COMMISSIONER GRIEBETZ: I don't want to tell you that very early in the morning, but when you speak we listen, okay, and I know you are always trying to be helpful, and you have some concern of testing it out on people. We ought to be wise enough to consider it and see what we can do.

COMMISSIONER RICHLAND: That's a nice position to be in, Mr. Mayor. I wish I was in that position.

COMMISSIONER WAGNER: Keep it up.
COMMISSIONER GRIEBEZ: When we first considered the propositions, it's my recollection that counsel said that the Board of Elections was concerned that it was a presidential year, there were always problems with closing the polls, with long lines of people waiting to get in, and that should be a factor for us to consider in posing the questions.

MR. LANE: I said that a number of people who had watched the election process in New York had expressed that concern. In fact, there is always concern about the machine, about the stability of the machines.

COMMISSIONER GRIEBEZ: Let me pursue these questions for a moment.

MR. LANE: At least I got the impression that whether or not it was the Board of Elections or people knowledgeable in the election process were concerned about how much space we could take up on the ballot. That was one of the concerns.

COMMISSIONER GRIEBEZ: Then we all
read that editorial in the New York Times.
I think there was a sentence in it to the
effect that the Board of Elections
complained about the format of our
questions which were then two.

MR. LANE: That is correct.

COMMISSIONER GRIBETZ: They did.

They communicated officially?

MR. LANE: It wasn't in writing,
but I received an official communication
from their counsel that they thought the
number of questions were too few.

COMMISSIONER GRIBETZ: Did he also
tell you at the time how much space would
we have on the ballot?

MR. LANE: No. We didn't raise
the question. He just felt that as a
matter, I think he was thinking in the
terms of how you are laying it out for the
public.

COMMISSIONER GRIBETZ: Because I
would take it that if we approach the five
questions in the context of what Mayor
Wagner is suggesting, we might have a
practical problem.

Okay, let me just highlight it by way of an example.

If you take Question 2, the second line uses the word "clarified," uses the word "strengthened," the third line says "restructured," "independent," the fourth line talks about "power to enforce."

Now, each of those phrases are phrases that some might consider motherhood phrases that require for the public some elaboration, and I will just pick one at random, "be more independent," okay, and I would add a phrase such as, "there shall be three citizen members not holding government or political party office appointed by the mayor with advice of consent of the City council."

That only addresses one of the issues, and then here I would say, certainly would give the public more knowledge about what the question is, but it would be selective.

Maybe we should talk about clarifying
and strengthening the question. I am at a loss, and I get back to the question of how much space do we have.

MR. LANE: Well, I would suggest --

COMMISSIONER GRIEBETZ: And if you take Question 2 and put in four or five, six words for each of the four or five words that could stand further elaboration, you are going to have a long question, and then if you do with the other five, you may end up with them complaining that we are taking up too much space in the ballot, and, therefore, I ask what is the practical solution?

MR. LANE: Can I just add one other point to that? When you read these ballot questions, one of the real concerns is if you come across a question that is very complex and long, one of the things you worry about is the delay that it takes in reading them.

When you are having a presidential year and people are lining up, which has
been one of the complaints, and I think is one of the complaints in the lawsuits that have been filed about getting into the polling places, and, secondly, people won't go beyond, if you have the second question that's very long.

In fact, the original maintenance question that we sent you, and we realize that we didn't think anyone would go beyond it, so we have shortened it with the goal of trying to be informative but trying to make it possible for the voter who goes into the booth to be available to look at all the questions and get some idea of what's in them, but we are not intending to educate the voter in the voting booth. We are trying to inform them and hopefully educate them through the three million pieces of material we are sending out.

COMMISSIONER WAGNER: It's very well written what's in there.

COMMISSIONER RICHLAND: Isn't it appropriate to state the questions in such a way as Judah says, they sound as they are
in favor of motherhood, because that's what these questions do.

Are you in favor of the charter revision that have been suggested by the Charter Revision?

COMMISSIONER ALVAREZ: Could we simply add a line, for example, and give one example so at least there is a flavor for the nuts and bolts?

COMMISSIONER WAGNER: Or by doing such --

COMMISSIONER ALVAREZ: For example, by doing blank one line.

COMMISSIONER MURPHY: Tell us all the things. The meaning, the number of pamphlets that are being published and distributed, I think they're making a larger effort than before to give the public, and perhaps that may help to alleviate the problem we are having here.

COMMISSIONER RICHLAND: But all of those are provided for in the material that you find at the election booth. They are all spelled out. Do we really have to
spoon feed the voters and spoon feed them with a sweetened material? These sound like an advertisement in favor of what we are proposing.

COMMISSIONER MURPHY: What's so bad about that?

COMMISSIONER RICHLAND: That's not what our job is. Our job is to ask the voters are they in favor of what we suggest, that does not mean that we have to say that are you in favor of motherhood and are you in favor of virtue. This is one of the problems.

VICE-CHAIRMAN MICHEL: I think these questions talk about --

COMMISSIONER RICHLAND: Have you seen questions presented in this way, Bob?

COMMISSIONER WAGNER: No.

VICE-CHAIRMAN MICHEL: These questions get to the effect, and I think the voter wants the very effect that these questions get to, those who have not paid any attention to it to the point that they get to the booth, they are the kind of
voters who want to hear, in fact, that the
conflict of interest will be clarified and
strengthened. Those are the kind of words
that will encourage them to vote for it.

First of all, I think you are giving
more credit to the sophistication of the
voter than actually those who are
interested in it will avail themselves to
the detail --

THE CHAIRMAN: I wonder if I could
ask your indulgence? Let's go through the
questions and then go back and revisit
these issues, because I appreciate both
what Mayor Wagner and Commissioner Richland
was saying, but I don't think this language
does that.

Let's go to the question, "Shall city
agencies," and I am going to just note a
couple of changes. "Shall city agencies
prepare and update plans for" strike the
word "keeping" and insert the word
"maintaining bridges, streets, parks
buildings and other major capital assets"
strike the words "in good repair." It's
now been taken care by substituting the words "maintaining and keeping and shall the mayor request the funds necessary for such maintenance," so strike out the words "to implement these plans" and insert the words "for such maintenance or explain the reasons for not doing so as proposed by the Charter Revision Commission. I'll read it again, "Shall city agencies prepare and update plans for maintaining bridges, streets, parks, buildings and other major capital assets and shall the mayor request the funds necessary for such maintenance."

That seems to me to be appropriate and straightforward of what our structure amendment is.

We go to Question 4. "Shall the following changes to the charter as proposed by the Charter Revision Commission." Then we listed one --

COMMISSIONER GRIBETZ: Why do we have to say "as proposed by the the Charter Revision"?

MR. LANE: There is a custom to
doing it. It's always been done, and it comes out of the law.

COMMISSIONER GRIEBTZ: Okay.

THE CHAIRMAN: Back to Question 4. "Require all city agencies when adopting rules which regulate the behavior of individuals or businesses to solicit public comment and regularly publish such rules in order for them to remain in effect, and provide" and strike the word "minimum" "and provide due process for formal hearings held by," insert the words "held by city agencies."

Now, I think that is a straightforward explanation of the Administrative Procedures Act.

Next, "require the mayor and top city administrators to establish controls to ensure the effectiveness and integrity of agency operations; create an independent tribunal to hear and decide appeals concerning those city taxes," insert "those city taxes" "for which there is currently no independent," and insert the word
"administrative appeal."

Next, "reorganize the charter to make it more coherent, make technical changes, and eliminate" strike "unnecessary" and insert the word "inappropriate gender references in," strike the word "all."

COMMISSIONER ALVAREZ: Why not say "in all sections"?

MR. LANE: It just sounds redundant.

THE CHAIRMAN: We change in all sections.

Question 5, "Shall the following changes to the charter, as proposed by the Charter Revision Commission, be adopted: provide an orderly process for determining when a mayor is temporarily or permanently unable to carry out the duties of office; require that vacancies in the offices of council member, council president, comptroller and borough president, currently filled by designees of the council or comptroller, be filled by the voters in special elections?"
And the phrase "by the voters" is in the draft in front of you, it was not in the draft that you received by delivery the other day.

COMMISSIONER Gribetz: Is it office or offices of council members?

MR. Lane: Offices.

The Chairman: You are asking the --

COMMISSIONER Gribetz: I am just asking.

MR. Lane: It's offices. It's more than one.

The Chairman: Question 6, "Shall the following changes to the charter, as proposed by the Charter Revision Commission, be adopted, establish a panel of city officials and representatives from community and civic organizations to oversee a nonpartisan program to encourage voter registration and voting; establish the powers" --

COMMISSIONER Wagner: Here you get into some detail, in Question 6.
THE CHAIRMAN: "Establish the powers and duties of the Campaign Finance Board, including 1, publishing and distributing a nonpartisan voters' guide with information on candidates, ballot proposals and referenda, 2, administering any voluntary system established by local law that limits campaign contributions and spending" --

COMMISSIONER RICHLAND: Wasn't it more candid in the draft that was sent to us originally? This does not indicate that this body of non-elected people shall have the power to mandate expenses.

COMMISSIONER GRIBETZ: It's in the next phrase, Bernie.

THE CHAIRMAN: I think we are mixing apples and oranges.

COMMISSIONER RICHLAND: In the other one it said "with powers and duties to provide partial campaign financing." It should be "provide campaign financing."

COMMISSIONER GRIBETZ: We have the same power and duties right at the top
phrase of the new draft.

COMMISSIONER RICHLAND: I understand that, but it seems to me that the draft that was given to us originally was more candid and more non-advertising, and this doesn't disclose what the actuality is. You know that this is something that I have considerable trouble with.

THE CHAIRMAN: Bernie, it seems to me this phrasing of it as against the first draft establishes a bit more about the registration, but it says that the Board, the Board itself has three powers and publishes and distributes a nonpartisan voters' guide, it administers a volunteer system established by local law that limits campaign contributions and it insures that the candidates in the '89 elections will be funded by this proposal, will be funded, in other words, in accordance with that local law. We are not trying to confiscate it.

COMMISSIONER RICHLAND: I think we should be more candid that this gives the power to the Board to mandate.
THE CHAIRMAN: But that's not what it does. What we are saying that if the voters approve this proposition, that means the City is mandated to fund the requirements of this local law in 1989, not otherwise.

It doesn't mandate that the Board do anything other than what local law requires them to do.

COMMISSIONER TRAGER: It is inaccurate because this says that we are avoiding partisan campaign financing and we are not. We agreed that we weren't going to take up the issue except with a limited respect with 1989. But you are saying that we are in this charter mandating a system of public financing and we are not.


COMMISSIONER TRAGER: That's in 3.

COMMISSIONER RICHLAND: Much of that was in the one that was given to us originally.

COMMISSIONER TRAGER: No. The one that's given to us originally is too broad.
It implies that we adopted the system and, in fact, it's the local law that adopted a system.

COMMISSIONER RICHLAND: No, the local law does not adopt a system. This does not mandate the expense to the budgetary process, and what we are talking about here is the ability to mandate the difference between what is provided for in the budget and what the -- what this particular Board decides is appropriate, and --

THE CHAIRMAN: With all due respect, you are wrong. The Board does not have the latitude to do what it thinks is appropriate.

The law is very specific and it requires that the government, or through this Board provide matching funds for contribution under certain conditions, with "certain" all caps. All this does is say for 1989 the City must provide the money to fund the requirements. It doesn't give the Board unlimited money to spend.
The law contains the provision as to how much money. The Board doesn't have the discretion to spend unlimited amounts of money.

COMMISSIONER RICHLAND: Who said so? The determination of what funds are to be expended for what purpose is a budgetary matter which is ordinarily under the control of an elected official, and it seems to me, we ought to be candid enough to deal with it in a candid way.

THE CHAIRMAN: We really have a short timespan. I think this is being very candid. We are requiring that the expenditures be made in 1989.

MR. LANE: It basically -- well, I'll let Gretchen explain.

MS. DYKSTRA: It's basically a three-prong strategy that includes the media, the distribution of handbooks and personal appearances by the commissioner, including talking at a variety of meetings. I will start with the distribution of the handbook. We have in the works two
million copies of handbooks which will be eventually published in Chinese, Spanish and English.

We have devised a relatively comprehensive strategy for distributing those using the majority city agencies, for instance, the Housing Authority, to get into all senior citizen centers that are funded either by HRA or the Department of the Aged.

We have targeted the Health and Hospitals Corporation and they will distribute them in waiting rooms of public hospitals.

We are dealing with the unions which will help us to distribute it to their members, we are looking for major outlets to get large numbers of those books out.

We are also, Sunday, October 30th, stuffing it in every Sunday paper, the entire Daily News and the New York Times south of 96th Street and all copies of El Diario and the Chinese Daily News.

Interestingly enough, there are only
40,000 New York Times distributed north of 96th Street and it adds a lot of money, so that the distribution of handbooks: But that is not separate from what we are trying to do with the media.

COMMISSIONER WAGNER: You have some way of checking, seeing whether these agencies will distribute them, because you can find people in these agencies who are not very enthusiastic to distribute them?

MS. DYKSTRA: Once we make contact with the points people, they will then spend their time going down the ladder as it were to the various people responsible at the different levels, so that is being handled by the Community Relations Staff.

COMMISSIONER GRIBETZ: May we ask general questions, Mr. Chairman?

THE CHAIRMAN: Sure.

COMMISSIONER GRIBETZ: Are all these two million copies printed?

MS. DYKSTRA: No, we are waiting for the end of this meeting, because the
next million and a half will have a sample ballot on the back page.

COMMISSIONER GRIEBETZ: Is it possible, if we finally determined the question, for the voter of having a voter handbook, a correlation of the text to the question?

MS. DYKSTRA: That’s what I mean about the sample ballot will be on the back page.

COMMISSIONER GRIEBETZ: I want to eliminate the confusion when we talk about campaign finance reform.

MS. DYKSTRA: You can pull a little line, and it will say see Page 8.

VICE-CHAIRMAN MICHEL: Excuse me, you mentioned a number of papers, you didn’t mention the Amsterdam News or any black publications.

MR. LANE: Number one, they don’t have a Sunday edition, but we are not targeting minority papers, we are targeting language papers.

COMMISSIONER ALVAREZ: Why the El
Diario and Chinese News on the theory that most people read a daily paper, whether it be the New York Times, whether or not they be black or white?

MR. LANE: And the Daily News illustrates that.

MS. DYKSTRA: We are doing the entire run of the Metropolitan Daily News, 100 million copies.

VICE-CHAIRMAN MICHEL: You are not doing Newsday?

MS. DYKSTRA: No.

COMMISSIONER GRIBETZ: And the Post? Somebody might claim that they have a Saturday edition. I am just asking, I am not an expert in this area, somebody could say we are selective.

MS. DYKSTRA: I think they could say we are being selective.

COMMISSIONER GRIBETZ: What is the reason?

MS. DYKSTRA: The reason is we think we will reach ninety-nine percent of the voters through those papers.
COMMISSIONER ALVAREZ: If you put it in the Chinese paper, then you have to put it in the Saturday or Friday edition of some black papers. It's just going -- I think people are going to raise the question of being selective, I would.

MS. DYKSTRA: Which black papers?

COMMISSIONER ALVAREZ: Whether it's the Amsterdam News --

MS. DYKSTRA: I am willing to look into it, but if to do the Amsterdam News, and then I think we would be perhaps criticized for not doing all the Spanish papers.

COMMISSIONER ALVAREZ: So you do the larger circulation papers. I would be sensitive to it.

VICE-CHAIRMAN MICHEL: That's a question. I ask about Newsday because there are a lot of people in Queens who read Newsday who don't read the Daily News on Sunday but who do take Newsday on Sundays, so that's why I asked the question.
MS. DYKSTRA: I will look into it.

Newsday is relatively small, that's why I discounted.

VICE-CHAIRMAN MICHEL: But they are concentrated in Queens.

COMMISSIONER WAGNER: Can I just ask this question? After this meeting, that handbook will try to link up the questions with answers, a great deal is left out in these things.

MS. DYKSTRA: We will figure how to do that graphically as for the stuff into the papers. I will look into the others and we will do it. And at this moment it costs $84,000 to do those four papers. It will obviously cost more to do it.

With the media strategy, it's pretty conventional. We are calling all the TV and radio stations in the hopes of getting interviews set up. I have to tell you, the response has not been overwhelmingly positive, but we continue to try that.

We are writing letters to the editors
in response to when we see articles in various papers that provide a natural hook for our agenda, and we submit letters to the editors of papers.

We are in the process, and Dick will make appointments, and we will soon begin the meeting with the editorial boards.

Some of you are participating in WNYN every Tuesday and the first Tuesday in November that will devote an hour to the major issue of the charter revision.

We have two thirty-minute productions in collaboration with WNYC and some of the housing projects like Starrett City are producing TV shows for their own cable networks, and obviously in all those cases we will be pushing the handbook.

We have another round of subway posters going up that are advertising the availability of handbooks.

We have produced, in both Spanish and English, public service announcements that are being sent out today literally to all radio stations again announcing the
availability of the handbook not advocating on behalf of the proposal.

We are considering the production of a television PSA, but it is a little expensive on the TV station, and at this point have not been too enthusiastic about their willingness to broadcast, although the cable station would.

So it is a question of whether or not the cost is effective on the cable outlets and community.

Dick is scheduled to speak in many citywide meetings and in addition he has begun to appear in community boards, and there will be more of that.

The community relation staff and myself meet weekly, if not daily, also at smaller meetings that people have shown interest and, of course, there's the distribution of handbooks, for instance, the Chamber of Commerce, all of them have been contacted, asked whether or not Dick could speak, and asking what their avenues for the distribution of handbooks in
concert with the speaking engagement.

Dick is going to Montauk to appear in front of the Municipal Council. DC-37 has been very helpful, and they are going to spearhead the effort by all the unions.

We hope to get the handbook to their members, and we are also hoping and working on trying to get them to add a tag line at the end of their calls for Dukakis and Bush in November saying "Vote yes on Questions 2 through 6."

COMMISSIONER WAGNER: You shouldn't get them involved in being for or against the charter revision.

MS. DUKSTRA: There is also in the works privately a spearheaded effort to establish a citizen committee, and we will follow that with interest, although we do not, we are not part of that. There are groups that are trying to do that.

COMMISSIONER WAGNER: Anybody against it?

MS. DYKSTRA: Yesterday I think Pauline Toole got her first word in part of
Queens. We are beginning to see votes against public campaign financing, and we have heard that there is some opposition to special election, but not in any organized way, so that's it.

COMMISSIONER ALVAREZ: Can we vote?

THE CHAIRMAN: I would just like to make one more change which is stimulated by Bernie's comments.

In the last sentence of Question 6, on the third line from the bottom where it says, "spending" third line from the bottom on the page in front of you, you have the last page, to put a colon after the word "spending," strike out the parenthetical reference to 3, and says "and insuring that candidates to the 1989 elections," "in the 1989 elections". So we just say, "establish the powers."

COMMISSIONER GRIBETZ: Would you read 2?

THE CHAIRMAN: "Administering any voluntary system that limits campaign
contribution and spending."

COMMISSIONER GRIEBtz: Semicolon, "and insuring that candidates in the 1989 elections abiding by such limits receive the matching grants earned under such law."

I think that's more accurate, as Bernie suggests.

COMMISSIONER GRIEBtz: Another quibble, a semicolon or a comma, I am going to take the blame for a quibble, but it's really, and before the No. 2, insert the word "and" one and two.

THE CHAIRMAN: I am trying to differentiate.

COMMISSIONER GRIEBtz: I am trying to differentiate it, which doesn't modify the power of the board.

THE CHAIRMAN: We understand.

Let's read the full text together. Okay.

"Establish the powers and duties of the Campaign Financing Board, including (1) publishing and distributing a nonpartisan voters' guide with information on candidates, ballot proposals referenda, and
(2), administering any voluntary system that limits campaign contributions and spending, and insuring that candidates in the 1989 elections abiding by such limits receive the matching grants earned under such law? "

Is that what you say?

THE CHAIRMAN: Correct.

COMMISSIONER RICHLAND: My problem is that I doubt that this fairly describes the provision of the charter that gives to the Campaign Finance Board the power to direct the finance administrator to take from the general funds an amount of money which they determine to be necessary to pay these.

The public finances, that is what my objection to it was. It's as simple as all that, and I am not going to argue the matter further. We are dealing here with what the estimate of cost is supposed to be, $28 million. I have never yet found an estimate of municipal cost to be less understated by a fact of probably one hundred percent. So we are dealing with
substantial amounts of money. Having said that, I rest.

THE CHAIRMAN: Anybody have any further comments or observations?

COMMISSIONER TRAGER: Can we call a vote?

THE CHAIRMAN: Would you like to make a motion?

COMMISSIONER GRIBETZ: I would make a motion, but before I make a motion, I would like to go back to Question No. 2, I want everybody to be comfortable, and I have a feeling that the mayor is not comfortable with Question No. 2.

Would it be worthwhile to spend a little more time on Question No. 2? Let's spend some time on it. The other questions are okay.

COMMISSIONER WAGNER: Especially if there is going to be a --

MS. DYKSTRA: Correlation.

THE CHAIRMAN: Judah's suggestion, I think, is a useful one, and the question, I think, is to try to make Question 2 as
descriptive as the other questions are, of what the contents of our charter are.

Now, do you have any suggestions, Judah, as to having accomplished that?

COMMISSIONER GRIEBETZ: I want to get back to what I tried to say at the beginning. There are certain words that could be elaborated on, and the question that I have that each, if we elaborate on each, we may have too long a question.

Okay, let me just review it so that we could perhaps get suggestions from all of us.

The words "clarified" and "strengthened" could be elaborated on. The word, restructure" the phrase "restructured to be more independent" can be elaborated on, and "the power to enforce such prohibitions" can be elaborated. One is easy to me.

To substitute "restructured to be more independent," we can more specifically say that we shall be an independent city agency appointed by the mayor and confirmed
by the city council with no ties to city or political parties right out of the handbook, but that's about eight or ten words and it only addresses one of the issues which --

THE CHAIRMAN: I think that's a valid point. Eric, is there any question? Let's take these one by one. If you insert eight more words --

MR. LANE: I think that the question of adding all the words is getting the people to read through the various questions.

I don't believe the Board of Elections will have a problem if we add ten more words to a question. The problem is how complex you make the question in regard to the voters being able to read them?

If you take each of the words that Judah referred to, we clarify this in very flexible and numerous ways, mostly dealing with the type of prohibited interest. $5,000 or five percent, whichever is less, for certain people acquire an interest in
certain cases. I mean, it's a very complex idea what we did there.

Strengthening, we made a lot of examples of strengthening. For example, we are prohibiting certain top level governmental officials from soliciting funds for political contributions, stopping superiors from soliciting funds from people that work them, subordinates or from them to participate in political campaigns, that's two or three of the examples of strengthening of which there are more.

If you want to really lay out those changes, it's not simply a question of eight or ten words, it becomes a question to make it clear of several paragraphs. And then I am not so much worried about the space, but I am worried about how people will read it, and they will just say, what are they talking about? So I think it's so complex.

COMMISSIONER ALVAREZ: That's not what he is saying. He is saying that you would have to rewrite it. At the point
where you say, "be renamed and
restructured," and then, put a for example,
to create --

MR. LANE: Let me just finish. I
am not arguing that we can't put in an
example next to each word of what we did.

COMMISSIONER ALVAREZ: At least to
give an example such as, people know
something that's concrete versus rhetoric.

MR. LANE: Clarified, and
strengthened by the finding of a
prohibition. Defining strengthen, for
example, by prohibiting top level
government employees from soliciting funds,
for example, you have to be clear.
Restructured in the fashion that Judah
suggested by just saying what we are doing
there, but by choosing these as opposed to
others, it seems to me that we are going to
choose the strongest ones we did.

COMMISSIONER ALVAREZ: So what?

MR. LANE: Fine with me.

COMMISSIONER WAGNER: You are
going to do that?
MR. LANE: I think we are just discussing this. I want to do the language right now while we are here.

COMMISSIONER GRIEBETZ: We have to do it now?

THE CHAIRMAN: Absolutely.

MR. LANE: So let's take the word "clarify." The basic way we clarify, the basic way that we clarify is by defining what a prohibited interest is. That was our major clarification where we said five percent, $5,000, whichever is less, that was our fundamental clarification, because as you recall, no one ever knew what a prohibited interest is.

What we really did is define a prohibited interest. If we said, "to be clarified by defining a prohibited interest," that's what we did.

MS. DYKSTRA: Business interest.

MR. LANE: Business interest. I am just trying to work with you on this.

The second one under "strengthening," there are a number of provisions which
strengthen this act ranging from prohibitions on people who are presently employed to tightening certain post-employment restrictions, I would say there are seven or eight of them. One which you know, one. The one I read you right away was "prohibit certain top government officials from soliciting public contributions, protecting the superior-subordinate business relationship between government employees" is another good example and major change.

That's very strong. In fact, people have criticized us and continue to, in spite of the fact that we substantially narrow the definition to make sure it only applies to the same matter or different people. I mean those are some examples, maybe we can just choose one of them to be the example.

Or we could just say by, after the words strengthening by limits, for example, both city and employment practice.

THE CHAIRMAN: I don't like that.
COMMISSIONER WAGNER: That's not taking up too much space?

MR. LANE: Unless we went to laying out every provision of the act, I think we can add some language. The question is how selective we are.

THE CHAIRMAN: We can select out one fact and try to put it in here with language to elaborate the four verbs that we have used today to describe what we are doing, but by selecting four facts we are, in fact, prejudicing the seriousness of the other things that we haven't cited as fact, that's the problem.

COMMISSIONER ALVAREZ: "Be strengthened and clarify."

COMMISSIONER ALVAREZ: Then you continue to, "and shall the Board of Ethics be renamed and restructured" and include Judah's recommendation you have now given two examples of those words, and it flows.

THE CHAIRMAN: I think that's a good suggestion.

MS. DYKSTRA: I think that makes
sense.

COMMISSIONER RICHLAND: I think that's what you get when you are overimpressed by editorials written by Jack McKenzie in the New York Times.

I think that the question that we originally presented was the same and a simple one. I think that's what we should have adhered to.

MS. DYKSTRA: I think Aida's suggestion is a good one, to reverse the strengthen with the clarify and find an example for clarification.

COMMISSIONER GRIBETZ: First there are four things. In two of the four we can be specific. Just for discussion, okay. "Shall the Board of Ethics be renamed," the conflict of interest instead of being renamed, we say what it's being renamed. We will start it off by saying what we are renaming. "Be made up of three independent citizens appointed by the mayor and confirmed by the city council with no ties to government or political parties,"
that handles two of the four problems, okay?

The next two problems are clarification and strengthening.

MR. LANE: So we should leave in, "given the power to enforce"?

THE CHAIRMAN: That's clearly descriptive.

COMMISSIONER GRIBETZ: Okay, then, we have the issue, let's put aside the issues of clarification and strengthening. Let's say, that we could say, "with power to enforce such prohibitions with appropriate penalty including fines up to $10,000." That's specific, that's right out of the handbook.

MS. DYKSTRA: Say that again, "with the power to enforce such prohibition"?

COMMISSIONER GRIBETZ: "With power to enforce such provision prohibition."

MS. DYKSTRA: "Prohibition."

COMMISSIONER GRIBETZ: "With appropriate penalty including fines of up
to $10,000."

COMMISSIONER GRIBETZ: I am copying from your handbook, okay?

MR. LANE: We want to read it back.

COMMISSIONER GRIBETZ: Now I still, I am faced with clarification and strengthening, okay? And here we have a dilemma.

MR. LANE: Clarification, we can do easily.

There are some other minor ones, but this is crucial.

COMMISSIONER GRIBETZ: Clarified by prohibited business interest, and then strengthen, okay, by --

MS. DYKSTRA: Do what Aida suggests, then reverse them.

COMMISSIONER GRIBETZ: All right. So let's -- you read back to me what I have been fumbling forward on.

I tell you what I am going to suggest after she tells me what I said.

MS. DYKSTRA: I think, "Shall the
Board of Ethics be renamed The Conflicts of Interest Board, would be made up of three independent citizens appointed by the mayor and confirmed by City council and with no ties to government or political parties with power to enforce such prohibitions with appropriate penalties and fines up to $10,000, and shall the prohibition be strengthened and clarified, for example, by defining a prohibited business interest."

COMMISSIONER RICHLAND: You are omitting the misdemeanors.

COMMISSIONER GRIBETZ: Let's put the prohibition, and put the clarification before the penalties, put the penalties last.

MS. DYKSTRA: "With power to enforce such prohibitions."

COMMISSIONER GRIBETZ: Put the prohibition clarification first, and then put the enforcement last.

MR. LANE: I think we have to move it up first, then.

COMMISSIONER WAGNER: You have to
get in scope of what the penalty is going to be.

MS. DYKSTRA: No, I think not.

COMMISSIONER WAGNER: Don't you think we can take out what the penalty is, and so on and so forth.

COMMISSIONER GRIEBETZ: You don't want it?

COMMISSIONER TRAGER: I don't think the $10,000 fine is going to be the power of the Board. I think it's going to be recommendations.

THE CHAIRMAN: I agree.

COMMISSIONER GRIEBETZ: Well, let's cut it down.

COMMISSIONER RICHLAND: Let's go back to the original one which we sent to the Board of Elections.

THE CHAIRMAN: Let's read it now.

MS. DYKSTRA: I am not sure, I was playing with it. "Shall the Board of Ethics be renamed the Conflicts of Interest Board, would be made up of three independent citizens appointed by the mayor
and confirmed by city council with no ties to government or political parties."

COMMISSIONER WAGNER: Period.

MS. DYKSTRA: "With power to enforce prohibitions that have been both strengthened and clarified, for example, by defining a prohibited business interest."

THE CHAIRMAN: That, I think, makes a great deal of sense.

COMMISSIONER TRAGER: The only part that I would object to is the business renamed, because would he ask why they are changing the ethics to conflicts of interest.

COMMISSIONER GRIBETZ: You have to speak for the people who are not here, and he would say that if he was here.

COMMISSIONER WAGNER: Who is he, father?

COMMISSIONER GRIBETZ: Fred Friendly.

COMMISSIONER ALVAREZ: I like the idea of including the Conflicts of Interest Board. So people know what it's being
renamed to.

COMMISSIONER RICHLAND: You think there is going to be enough room on the ballot for the presidential election?

MS. DYKSTRA: I will keep in the "Conflicts of Interest Board", and "Shall the Board of Ethics be renamed, the Conflicts of Interest Board, be made up of three independent citizens appointed by the mayor and confirmed by City council with no ties to government or political parties with power to enforce prohibitions that shall be both strengthened and clarified for example by defining a prohibited business interest."

MR. LANE: Do you think we should have another example?

COMMISSIONER GRIBETZ: I would again just --

THE CHAIRMAN: It seems to me that that meets the question that Bob Wagner raised.

Does that makes more sense to you, Bob?
COMMISSIONER GRIEBETZ: Can I throw out one last thing for your consideration? What troubles me is that we may have other people saying to us, we picked the wrong example so if we could leave, if we could --

COMMISSIONER WAGNER: Leave the example out.

COMMISSIONER GRIEBETZ: Yes, and just say "clarified and strengthened," okay. Without the example would be, in my judgment, less subject of people saying we are selective.

THE CHAIRMAN: I think that's correct.

COMMISSIONER ALVAREZ: We are back to where we started with the description of what new Board is, with the description of what the new Board is.

THE CHAIRMAN: What Judah has done to me, I think what is done to meet Mayor Wagner's concern and it doesn't say positively what we are doing, doing it simply describes it as self-congratulatory
language, and I think Judah is rephrasing
it. We are creating an independent Board
and describing what it is.

Let's take the example out, and I
strongly urge that we conclude this, and I
know that a number of people are looking at
their watches.

COMMISSIONER GRIEBETZ: Let's
reread the last thing.

MS. DYKSTRA: "Shall the Board of
Ethics be renamed the Conflicts of Interest
Board, would be made up of three
independent citizens appointed by the mayor
and confirmed by city council with no ties
to government or political parties," and
here is the change, "and be given the power
to enforce prohibitions that shall both be
strengthened and clarified."

COMMISSIONER WAGNER: Period.

MS. DYKSTRA: Period. "As
proposed by the Charter Revision
Commission:

THE CHAIRMAN: Is everybody
satisfied enough with that to entertain a
motion on the questions?

COMMISSIONER TRAGER: I move that the questions be presented to the voters in a manner in which we have in this document dated September 19, 1988 afternoon draft as modified by our meeting.

COMMISSIONER MURPHY: Second.

THE CHAIRMAN: All in favor, please indicate by raising your hands.

(Whereupon, there was a show of hands)

All opposed?

COMMISSIONER RICHLAND: I oppose on the ground that I stated, I think the original version that was sent to the Board of Elections was sufficient and appropriate, and the charges that have been made might, short of spelling out and writing out the entire charter provision and --

(Continued on next page)
THE CHAIRMAN: Are you objecting or abstaining? Are you abstaining or voting against?

COMMISSIONER RICHLAND: I am voting against.

THE CHAIRMAN: So the vote is eight to one.

Thank you very much.

(Time noted: 9:30 a.m.)

* * * * *
CERTIFICATE

STATE OF NEW YORK )
) ss.:  
COUNTY OF NEW YORK)

I, MICHELE BERKEY, a Hearing Reporter and Notary Public within and for the State of New York, do hereby certify: That the within is a true and accurate transcript of the proceedings taken on the 20th day of September, 1988.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 4th day of October, 1988.

MICHELE BERKEY

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